

**JOURNAL**  
OF THE  
**SENATE**  
OF THE  
**STATE OF GEORGIA**



**REGULAR SESSION**  
**2005**  
**VOLUME TWO**

Commenced at Atlanta, Georgia, Monday, January 10, 2005  
and adjourned March 31, 2005



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OF THE  
**STATE SENATE**  
**2005**

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ERIC JOHNSON ..... President Pro Tempore  
**CHATHAM COUNTY**  
FRANK ELDRIDGE, JR ..... Secretary of the Senate  
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MATTHEW HILL ..... Sergeant at Arms  
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**GWINNETT COUNTY**

Senate Chamber, Atlanta, Georgia  
Tuesday, March 22, 2005  
Thirty-sixth Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Pearson of the 51st 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 and Senate:

HB 817. By Representative Burns of the 157th:

A BILL to be entitled an Act to amend an Act to provide for the election of the members of the board of education of Screven County, approved April 1, 2002 (Ga. L. 2002, p. 3659), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 818. By Representatives Dickson of the 6th, Williams of the 4th and Forster of the 3rd:

A BILL to be entitled an Act to create the Dalton-Whitfield Economic Development Authority as a public body corporate and politic, a political subdivision of the state, and a public corporation, to have the responsibility and authority to promote economic development in Dalton and Whitfield County, Georgia; to provide for the creation and organization of the authority; to provide for the appointment of the membership of the authority and their terms of office, compensation, and qualifications; to

provide for meetings; to provide for legislative findings and declaration of purpose; to provide for general powers; to provide for regulations; to provide for other matters relative to the foregoing and relative to the general purposes of this Act; to repeal conflicting laws; and for other purposes.

HB 819. By Representative Ralston of the 7th:

A BILL to be entitled an Act to provide for a homestead exemption from Gilmer County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for certain residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 820. By Representative Ralston of the 7th:

A BILL to be entitled an Act to provide for a homestead exemption from certain Gilmer County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 822. By Representative Sims of the 169th:

A BILL to be entitled an Act to amend an Act establishing a board of education of Coffee County, approved March 10, 1970 (Ga. L. 1970, p. 2441), as amended, particularly by an Act approved October 25, 2001 (Ga. L. 2001, Ex. Sess., p. 755), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to provide for preclearance of this Act pursuant to the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 823. By Representative Morris of the 155th:

A BILL to be entitled an Act to amend an Act providing for the election of the members of the Treutlen County Board of Education, approved March 23, 1972 (Ga. L. 1972, p. 2340), as amended, particularly by an Act approved March 29, 1994 (Ga. L. 1994, p. 4414), so as to provide for the compensation of the members of the Treutlen County Board of Education; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 15. By Senators Thompson of the 5th, Shafer of the 48th, Unterman of the 45th and Butler of the 55th:

A BILL to be entitled an Act to authorize Gwinnett County to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII(b) of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

SB 41. By Senator Smith of the 52nd:

A BILL to be entitled an Act to amend Article 3 of Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state symbols, so as to designate the green tree frog as the official state amphibian; to provide for legislative findings; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 52. By Senators Smith of the 52nd, Harp of the 29th, Carter of the 13th, Hill of the 32nd, Wiles of the 37th and others:

A BILL to be entitled an Act to amend Code Section 19-11-5 of the Official Code of Georgia Annotated, relating to debt to state created by payment of public assistance, so as to provide for the waiver, reduction, or negotiation of the payment of unreimbursed public assistance under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 68. By Senators Seabaugh of the 28th, Johnson of the 1st, Stephens of the 27th, Balfour of the 9th, Brown of the 26th and others:

A BILL to be entitled an Act to amend Chapter 39A of Title 43 of the O.C.G.A., relating to real estate appraisers, so as to change certain

definitions; to provide for board member recusals under certain circumstances; to provide for board approval of schools and instructors offering continuing education courses; to change certain provisions relating to hearings and investigations; to amend Chapter 40 of Title 43 of the O.C.G.A., relating to real estate brokers and salespersons, so as to change certain definitions; to provide for recusal of a commission member in certain circumstances; to change a provision relating to removal of a commission member; to provide for the appointment of a director or coordinator for each approved school; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 81. By Senators Hudgens of the 47th, Carter of the 13th, Kemp of the 46th, Grant of the 25th and Meyer von Bremen of the 12th:

A BILL to be entitled an Act to amend Article 2 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated, known as the "Patient Access to Eye Care Act" and further relating to the blindness education, screening, and treatment program, and Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance generally, so as to recodify the provisions relating to patient access to eye care as a portion of Title 33, the "Georgia Insurance Code"; to provide for enforcement by the Commissioner of Insurance and the powers of the Commissioner related thereto; to repeal conflicting laws; and for other purposes.

SB 119. By Senators Chapman of the 3rd, Thomas of the 2nd, Johnson of the 1st, Tolleson of the 20th and Hill of the 4th:

A BILL to be entitled an Act to amend Code Section 27-4-150 of the Official Code of Georgia, relating to taking, possessing, and dealing in crabs and peelers and related record requirements, so as to postpone the date of an automatic repeal of certain provisions related to sponge crabs; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 141. By Senator Balfour of the 9th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling and related offenses, so as to prohibit pyramid promotional schemes; to provide definitions; to provide for penalties and procedures; to provide for other related matters; to repeal conflicting laws; and for other purposes.

SB 173. By Senators Unterman of the 45th, Thomas of the 54th, Smith of the 52nd and Henson of the 41st:

A BILL to be entitled an Act to amend Code Section 43-34-103 of the Official Code of Georgia Annotated, relating to application for physician's assistant and scope of duties, so as to authorize physician's assistants to enter into certain temporary practice agreements to provide services at certain facilities; to provide conditions and limitations on such temporary practice agreements; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 235. By Senators Hamrick of the 30th and Reed of the 35th:

A BILL to be entitled an Act to amend an Act to create a new judicial circuit for the State of Georgia, to be known as the Douglas Judicial Circuit, to be composed of the County of Douglas, approved March 20, 1980 (Ga. L. 1980, p. 563), as amended, so as to provide for the employment by the district attorney with the approval of the board of commissioners of certain personnel; to provide that investigators employed by the district attorney shall have the powers of peace officers and shall be qualified as peace officers; to provide for related matters; to provide for applicability and automatic termination of such provision; to repeal conflicting laws; and for other purposes.

SB 290. By Senator Bulloch of the 11th:

A BILL to be entitled an Act to amend Part 1 of Article 3 of Chapter 4 of Title 10, relating to leaf tobacco sales and storage, so as to repeal Code Section 10-4-114.1, relating to grading of leaf tobacco by the Agriculture Marketing Service and alternatives if graders are unavailable; to repeal conflicting laws; and for other purposes.

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

SB 155. By Senators Tolleson of the 20th, Whitehead, Sr. of the 24th, Cagle of the 49th, Johnson of the 1st, Starr of the 44th and others:

A BILL to be entitled an Act to amend provisions of the O.C.G.A. relating to recreational vehicles; to amend Part 1 of Article 22 of Chapter 1 of Title 10 of the O.C.G.A., relating to general considerations regarding motor vehicle franchises, so as to exempt recreational vehicles from the definition of motor vehicle; to amend Chapter 1 of Title 10 of the O.C.G.A., relating

to selling and other trade practices, so as to provide for definitions; to provide purposes and policies to protect recreational vehicle dealers; to provide for sales areas; to provide for changing or terminating sales areas only for good cause; to provide for notice of termination or substantial change to a sales area; to provide for repurchase of inventories by the grantor upon termination of a dealership; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 166. By Senators Rogers of the 21st, Hudgens of the 47th, Stephens of the 27th, Harbison of the 15th and Stoner of the 6th:

A BILL to be entitled an Act to amend Code Section 33-31-7 of the Official Code of Georgia Annotated, relating to issuance of policy or certificate of credit life insurance, so as to provide that the insurer shall deliver the policy or certificate to the insured within 90 days after the indebtedness is incurred; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has passed, as amended, by the requisite constitutional majority the following Bill of the Senate:

SB 43. By Senators Wiles of the 37th and Douglas of the 17th:

A BILL to be entitled an Act to amend Part 3 of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Student Finance Authority, so as to establish the Georgia HERO (Helping Educate Reservist Offspring) Scholarship; to provide for definitions; to provide for scholarship grants; to provide for application procedures; to provide for rules and regulations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitute to the following Bill of the House:

HB 166. By Representatives Channell of the 116th, Keen of the 179th, Fleming of the 117th, Cooper of the 41st, Brown of the 69th and others:

A BILL to be entitled an Act to amend Chapter 8 of Title 31 of the O.C.G.A., relating to the care and protection of indigent and elderly patients, so as to enact the "Health Share' Volunteers in Medicine Act"; to provide for a short title; to provide for legislative findings; to provide for definitions; to provide for contracts between health care providers and governmental contractors; to provide uncompensated health care services to

low-income persons; to provide for notice requirements to patients; to provide for volunteers providing support services; to provide for applicability of benefits; to provide for a report on claim statistics; to provide for an annual report by the Department of Community Health to certain legislative officers; to provide for liability coverage for claims and defense of litigation; to provide for the establishment of rules and regulations; 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 362. By Senator Douglas of the 17th:

A BILL to be entitled an Act to provide for an alternative method of distribution of the net proceeds of the sales and use tax for educational purposes authorized under Article VIII, Section VI, Paragraph IV of the Constitution among the Newton County School District and the City of Social Circle School District; to provide for automatic repeal; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 363. By Senator Smith of the 52nd:

A BILL to be entitled an Act to provide that future elections for the office of judge of the Probate Court of Floyd County shall be nonpartisan elections; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 364. By Senator Shafer of the 48th:

A BILL to be entitled an Act to create the office of county manager of Gwinnett County; to provide a short title; to authorize the Board of Commissioners of Gwinnett County to establish the qualifications, method of selection, and related matters for such office; to establish the responsibilities and duties of such office; to provide for appointment, removal, and fixing the compensation of officers and employees of Gwinnett County; to require a bond and oath; to prohibit certain political activity; to amend an Act creating the

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Board of Commissioners of Gwinnett County, approved January 31, 1968 (Ga. L. 1968, p. 2003), as amended, particularly by an Act approved March 24, 1988 (Ga. L. 1988, p. 4658); to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SR 494. By Senators Starr of the 44th and Seay of the 34th:

A RESOLUTION creating a local commission to study the possibility of restructuring the Clayton County government; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SR 497. By Senators Stephens of the 27th, Wiles of the 37th and Staton of the 18th:

A RESOLUTION creating the Senate Study Committee on Election Laws; and for other purposes.

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

SR 499. By Senator Tolleson of the 20th:

A RESOLUTION creating the Senate Coastal Georgia Sound Science Initiative Study Committee; and for other purposes.

Referred to the Natural Resources and the Environment Committee.

SR 503. By Senators Mullis of the 53rd, Williams of the 19th, Whitehead, Sr. of the 24th and Pearson of the 51st:

A RESOLUTION urging the Department of Transportation to proceed with the initiation in 2005 of a pilot performance based asset maintenance project for highway maintenance; and for other purposes.

Referred to the Transportation Committee.

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

HB 817. By Representative Burns of the 157th:

A BILL to be entitled an Act to amend an Act to provide for the election of the members of the board of education of Screven County, approved April 1, 2002

(Ga. L. 2002, p. 3659), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 818. By Representatives Dickson of the 6th, Williams of the 4th and Forster of the 3rd:

A BILL to be entitled an Act to create the Dalton-Whitfield Economic Development Authority as a public body corporate and politic, a political subdivision of the state, and a public corporation, to have the responsibility and authority to promote economic development in Dalton and Whitfield County, Georgia; to provide for the creation and organization of the authority; to provide for the appointment of the membership of the authority and their terms of office, compensation, and qualifications; to provide for meetings; to provide for legislative findings and declaration of purpose; to provide for general powers; to provide for regulations; to provide for other matters relative to the foregoing and relative to the general purposes of this Act; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 819. By Representative Ralston of the 7th:

A BILL to be entitled an Act to provide for a homestead exemption from Gilmer County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for certain residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 820. By Representative Ralston of the 7th:

A BILL to be entitled an Act to provide for a homestead exemption from certain Gilmer County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for

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definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 822. By Representative Sims of the 169th:

A BILL to be entitled an Act to amend an Act establishing a board of education of Coffee County, approved March 10, 1970 (Ga. L. 1970, p. 2441), as amended, particularly by an Act approved October 25, 2001 (Ga. L. 2001, Ex. Sess., p. 755), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to provide for preclearance of this Act pursuant to the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 823. By Representative Morris of the 155th:

A BILL to be entitled an Act to amend an Act providing for the election of the members of the Treutlen County Board of Education, approved March 23, 1972 (Ga. L. 1972, p. 2340), as amended, particularly by an Act approved March 29, 1994 (Ga. L. 1994, p. 4414), so as to provide for the compensation of the members of the Treutlen County Board of Education; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Higher Education 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 25            Do Pass  
HB 553            Do Pass

Respectfully submitted,  
Senator Harp of the 29th District, Chairman

Mr. President:

The Regulated Industries and Utilities 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 444      Do Pass  
HB 470      Do Pass by substitute

Respectfully submitted,  
Senator Seabaugh of the 28th District, Chairman

Mr. President:

The Retirement 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 355      Do Pass                  HB 460      Do Pass  
HB 373      Do Pass                  HB 492      Do Pass  
HB 381      Do Pass

Respectfully submitted,  
Senator Heath of the 31st District, Chairman

Mr. President:

The Rules 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 488      Pursuant to Senate Rule 2-1.10(b), referred by the Senate Rules Committee  
                  to the Senate Finance Committee from the General Calendar.

Respectfully submitted,  
Senator Balfour of the 9th 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 186      Do Pass by substitute      HB 766      Do Pass  
HB 244      Do Pass by substitute      HB 767      Do Pass

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HB 262	Do Pass	HB 768	Do Pass
HB 382	Do Pass	HB 769	Do Pass
HB 449	Do Pass	HB 774	Do Pass
HB 450	Do Pass	HB 786	Do Pass
HB 616	Do Pass	HB 795	Do Pass
HB 671	Do Pass	HB 798	Do Pass
HB 706	Do Pass	SB 328	Do Pass as amended
HB 748	Do Pass	SB 354	Do Pass
HB 752	Do Pass	SB 358	Do Pass
HB 757	Do Pass	SB 359	Do Pass

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

The following Minority Report on HB 244 was filed with the Secretary:

The State Senate  
Atlanta, GA 30034

March 21, 2005

Honorable Frank Eldridge, Jr.  
Secretary of the Senate  
353 State Capitol  
Atlanta, GA 30334

Re: Minority Report

Dear Mr. Eldridge,

Pursuant to Senate Rule 2-1.6 (a), Please accept this Minority Report regarding HB 244 to be included in the Senate Journal. The passage of this measure from the Senate State and Local Governmental Operations Committee is contrary to the public interest. The objections and/or proper amendments are attached to this report.

Senate rules allow for the engrossment of bills after the passage from the Committee preventing the duly elected representatives of over 3.3 million Georgians from representation during open debate on this legislation.

A vote for engrossment and passage from the Committee should be considered as a vote against all amendments attached hereto. All 3 pages of attachments to this letter shall be considered part of this Minority Report.

Respectfully Submitted,

/s/ Emanuel Jones  
State Senator District 10

The Senate State and Local Government Committee has unfairly dealt with House Bill 244. Few would deny the great debate surrounding this bill, yet the Committee has refused to allow a true debate and discussion on this piece of legislation. A number of my fellow Senators believe that this bill violates the Voting Rights Act, disproportionately affects Hispanic and African American voters, and completely ignores the real issue of Absentee Ballot voter fraud. We must take far more time and consideration on this issue, and allow the input of the general public and experts in the field.

No specific reason was given for this legislation, except for the general accusation of voter fraud. However, not a single shred of evidence was presented showing that a large number of cases of voting fraud exists, nor was any empirical evidence provided to show that photo identification would substantially reduce any cases of voter fraud. A plethora of evidence exists proving that those most affected by a photo identification requirement would be the elderly, the poor, African Americans and Hispanics. Even Harry MacDougald, a Fulton County election official who provided favorable testimony to the bill, admitted that even one voter disenfranchised by this legislation would be too many. Furthermore, he stated that preventing voter disenfranchisement is equally as important as preventing voter fraud. Therefore, a legitimate argument can be made that HB 244 violates the voting rights act, yet the Committee failed to seriously take this argument into account. Indeed, the sponsor of the legislation, Representative Sue Burmeister, testified in the hearing that she did not believe Georgia needs the Voting Rights Act. More empirical and statistical evidence must be considered by this legislative body before this bill goes forward.

Nor did the Committee listen to those affected the most by this legislation: the general public. The NAACP, AARP, League of Women Voters and other mainstream, bi-partisan organizations representing a large and diverse population of Georgia have come out against this legislation. With so many constituents in my district and throughout the state with very strong opinions on this legislation, the Committee and the bill's sponsors should have conducted numerous public hearings throughout the state to allow our citizens to speak on this bill. Moreover, greater time should have been given for the public to hear about and learn about this legislation, so that they could have attended this Committee hearing. In fact, this public hearing began hours after its 5 P.M. start time,

and a number of our concerned citizens may have attempted to attend this hearing only to find it rescheduled without any public notice.

The office of the Secretary of State has strongly come out against this bill, finding the requirements of HB 244 far too onerous to a substantial number of citizens. A large number of voter registration offices throughout the state have also come out against this bill, as have quite a few Probate Judges. Representatives from both organizations repeatedly expressed concern that HB 244 offered no funding to alert voters of the change in requirements to vote. This is in sharp contrast to the recent change to electronic voting, where the legislation also provided full funding to repeatedly alert voters of the change in voting practices. It is rather odd that a change to electronic voting, which could also be explained to each voter when they arrive at their polling location, shall receive funding to notify the public. Yet a substantial change in voting requirements that cannot simply be corrected when a voter arrives at a polling place shall not receive a penny in funds to notify voters. The Committee instead chose to ignore the experience, wisdom and advice provided by the foremost experts in the field of Georgia elections, and instead chose to adopt a bill supported by a partisan bloc.

The largest cases of voter fraud involve absentee balloting and voter registration, yet this bill does nothing to correct this. Instead, this bill achieves something I thought impossible when I entered this esteemed chamber: it turns back the clock in Georgia, and begins a new era of Jim Crow in the 21st Century. This bill is illegal, irresponsible and indefensible, and this Committee failed to do its duty in properly examining this bill. I feel that this Committee should have instead suggested to do not pass this bill.

The Chairman of the State and Local Government Committee and its members have refused to allow a roll call vote on HB 244. The people of Georgia have the right to know the true feelings of their Senators on this important piece of legislation, and I have included my own recording of the vote. Senator Kasim Reed has verified this to be a fully truthful and accurate record of the vote.

Name	Attended	Yea	Nay
John Wiles	X		
Jeff Mullis	X	X	
Dan Weber	X	X	
James Whitehead	X	X	
Johnny Grant	X	X	
Renee Unterman			
Horacena Tate			
Kasim Reed	X		X
Emanuel Jones	X		X

I, Senator Kasim Reed find this to be a fully truthful and accurate record of the vote.

/s/ Kasim Reed

The following legislation was read the second time:

HB 5	HB 244	HB 431	HB 509	HB 558	HR 166
HB 25	HB 254	HB 437	HB 521	HB 559	HR 173
HB 50	HB 341	HB 444	HB 530	HB 577	HR 201
HB 97	HB 355	HB 460	HB 538	HB 613	HR 231
HB 170	HB 364	HB 470	HB 553	HR 91	HR 239
HB 172	HB 373	HB 492	HB 556	HR 94	HR 269
HB 186	HB 381	HB 501	HB 557	HR 108	HR 295
HB 221	HB 420	HB 505			

Senator Carter of the 13th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Staton of the 18th be excused. The consent was granted, and Senator Staton was excused.

Senator Chance of the 16th asked unanimous consent that Senator Douglas of the 17th be excused. The consent was granted, and Senator Douglas was excused.

Senator Bulloch of the 11th asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

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

Adelman	Heath	Seay
Balfour	Henson	Shafer,D
Brown	Hill,Jack	Smith
Bulloch	Hill,Judson	Starr
Butler	Hooks	Stephens
Cagle	Hudgens	Stoner
Carter	Johnson	Tate
Chance	Jones	Thomas,D
Chapman	Kemp	Thomas,R
Fort	Me V Bremen	Thompson,C
Goggans	Miles	Thompson,S
Golden	Moody	Unterman
Grant	Mullis	Weber
Hamrick	Pearson	Whitehead

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Harbison	Powell	Wiles
Harp	Rogers	Zamarripa

Not answering were Senators:

Douglas (Excused)	Reed	Schaefer
Seabaugh (Excused)	Staton (Excused)	Tolleson (Excused)
Walker	Williams	

The following members were off the floor of the Senate when the roll was called and wish to be recorded as present:

Senators: Reed Schaefer

The members pledged allegiance to the flag.

Senator Butler of the 55th introduced the chaplain of the day, Pastor Keith Lawrence of Lithonia, Georgia, who offered scripture reading and prayer.

The following resolutions on a Consent Calendar for Privileged Resolutions were read and adopted:

SR 480. By Senator Douglas of the 17th:

A RESOLUTION commending Jess Ross Grogan; and for other purposes.

SR 484. By Senators Kemp of the 46th and Hudgens of the 47th:

A RESOLUTION recognizing and commending Ms. Shelby Lacy; and for other purposes.

SR 485. By Senator Grant of the 25th:

A RESOLUTION commending Sydney McRee; and for other purposes.

SR 486. By Senators Chapman of the 3rd and Goggans of the 7th:

A RESOLUTION expressing regret at the passing of Noah Herschel Stokes II; and for other purposes.

SR 487. By Senator Shafer of the 48th:

A RESOLUTION recognizing and commending Northview High School, winner of the 2004 Class AAAA Governor's Cup; and for other purposes.

SR 488. By Senator Goggans of the 7th:

A RESOLUTION recognizing and commending Jerrian Waters for outstanding contributions to public education in the State of Georgia; and for other purposes.

SR 489. By Senator Goggans of the 7th:

A RESOLUTION recognizing and commending Pam Brooks for outstanding contributions to public education in the State of Georgia; and for other purposes.

SR 490. By Senator Goggans of the 7th:

A RESOLUTION recognizing and commending Dee Treadwell for outstanding contributions to public education in the State of Georgia; and for other purposes.

SR 491. By Senator Goggans of the 7th:

A RESOLUTION recognizing and commending Michael Murray for outstanding contributions to public education in the State of Georgia; and for other purposes.

SR 492. By Senator Goggans of the 7th:

A RESOLUTION recognizing and commending Len Knowlton for outstanding contributions to public education in the State of Georgia; and for other purposes.

SR 493. By Senators Pearson of the 51st, Schaefer of the 50th, Cagle of the 49th, Kemp of the 46th and Rogers of the 21st:

A RESOLUTION honoring Major Leon Millholland; and for other purposes.

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SR 495. By Senators Johnson of the 1st and Thomas of the 2nd:

A RESOLUTION congratulating Erin Heidel and Dave Kartunen; and for other purposes.

SR 496. By Senators Wiles of the 37th, Hill of the 32nd, Rogers of the 21st, Thompson of the 33rd and Stoner of the 6th:

A RESOLUTION recognizing and commending Dr. Robert A. Lipson and WellStar Health System; and for other purposes.

SR 498. By Senator Tolleson of the 20th:

A RESOLUTION recognizing and commending Dr. Kathleen E. Toomey for excellence in the field of public health; and for other purposes.

SR 500. By Senators Miles of the 43rd, Butler of the 55th, Seay of the 34th, Jones of the 10th and Fort of the 39th:

A RESOLUTION congratulating and commending Eldrin Bell on the occasion of his ordination; and for other purposes.

SR 501. By Senator Fort of the 39th:

A RESOLUTION recognizing and commending the Georgia Department of Human Resources, Division of Public Health's Tuberculosis Program; and for other purposes.

SR 502. By Senators Miles of the 43rd, Butler of the 55th, Jones of the 10th and Adelman of the 42nd:

A RESOLUTION congratulating CrossRoadsNews; and for other purposes.

SR 504. By Senators Jones of the 10th, Butler of the 55th and Miles of the 43rd:

A RESOLUTION honoring Reverend Daniel L. Edwards, Jr., for his outstanding community service and spiritual leadership; and for other purposes.

SR 505. By Senator Zamarripa of the 36th:

A RESOLUTION honoring and commending the Henry W. Grady High School Mock Trial team; and for other purposes.

SR 506. By Senator Tolleson of the 20th:

A RESOLUTION commending the Macon Bears; and for other purposes.

SR 507. By Senators Thompson of the 33rd, Seabaugh of the 28th and Meyer von Bremen of the 12th:

A RESOLUTION recognizing and commending GBI forensic artist Marla Lawson for her outstanding service and dedication to Georgia's criminal justice community; and for other purposes.

SR 508. By Senators Thompson of the 33rd, Hill of the 32nd, Adelman of the 42nd and Butler of the 55th:

A RESOLUTION remembering and honoring the life of Mrs. Alexandra Maria Williams Winzeler; and for other purposes.

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**

Tuesday, March 22, 2005  
Thirty-sixth Legislative Day

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

**Pursuant to Article VII, Section II, Paragraph IV of the Constitution, the following four local bills relating to homestead exemptions require a two-thirds roll-call vote for passage:**

HB 382 Chapman of the 3rd  
**MCINTOSH COUNTY**

A BILL to be entitled an Act to provide for a homestead exemption from McIntosh County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

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HB 450

Chapman of the 3rd  
**MCINTOSH COUNTY**

A BILL to be entitled an Act to provide for a homestead exemption from McIntosh County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

SB 358

Grant of the 25th  
**BALDWIN COUNTY**

A BILL to be entitled an Act to provide for a homestead exemption from Baldwin County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for residents of that county who are 65 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

SB 359

Grant of the 25th  
**BALDWIN COUNTY**

A BILL to be entitled an Act to provide for a homestead exemption from Baldwin County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for residents of that school district who are 65 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 774

Golden of the 8th  
**VALDOSTA-LOWNDES COUNTY**

A BILL To be entitled an Act to amend an Act establishing the Valdosta-Lowndes County Airport Authority, approved March 19, 1987 (Ga. L. 1987, p. 4495), so as to change the membership of the authority; to change the appointing authority for one member; to add one member; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 786

Rogers of the 21st  
**CITY OF WOODSTOCK**

A BILL to be entitled an Act to authorize the City of Woodstock to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII(b) of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 795

Whitehead of the 24th  
Hudgens of the 47th  
**ELBERT COUNTY**

A BILL to be entitled an Act to amend an Act reconstituting and recreating the board of education of Elbert County, approved February 13, 1986 (Ga. L. 1986, p. 3578), as amended, particularly by an Act approved February 9, 1990 (Ga. L. 1990, p. 3508), so as to provide for compensation of board members; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 798

Schaefer of the 50th  
Pearson of the 51st  
**WHITE COUNTY**

A BILL to be entitled an Act to provide that the board of education of White County shall reimburse any member of the board for any increase in contributions to the state health benefit plan he or she is required to pay as a result of the board's decision to allow such coverage for its members; to repeal conflicting laws; and for other purposes.

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SB 328

Thompson of the 5th  
Jones of the 10th  
Weber of the 40th  
Henson of the 41st  
Adelman of the 42nd  
Miles of the 43rd  
Butler of the 55th

**DEKALB COUNTY**

A BILL to be entitled an Act to create the DeKalb County Court Technology Fund; to authorize the imposition and collection of a technology fee for the filing of certain cases and the imposition of surcharges to certain fines; to specify the uses to which such fees and surcharges may be put; to provide for the auditing and accounting for such fund; to provide for a supervising board for such fund and the membership, composition, authority, powers, and duties thereof; to provide for related matters; to provide an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

(AMENDMENT)

SB 354

Mullis of the 53rd  
**DADE COUNTY**

A BILL to be entitled an Act to create a board of elections and registration for Dade County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for certain expenditures of public funds; to provide for compensation of members of the board and personnel; to provide for offices and equipment; to provide for the board's performance of certain functions and duties for certain municipalities; to repeal conflicting laws; and for other purposes.

HB 262

Johnson of the 1st  
Thomas of the 2nd  
**CITY OF SAVANNAH-CHATHAM COUNTY**

A BILL to be entitled an Act to amend an Act relating to the school system of the City of Savannah and Chatham County, approved March 21, 1968 (Ga. L. 1968, p. 2636), as amended, so as to provide for nonpartisan election of the members of the board of education; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 449

Chapman of the 3rd  
**MCINTOSH COUNTY**

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of McIntosh County, approved February 26, 1876 (Ga. L. 1876, p. 283), as amended, particularly by an Act approved May 1, 2002 (Ga. L. 2002, p. 5207), so as to provide for the election of members of the board of commissioners to staggered, four-year terms of office; to provide for related matters; to require the submission of this Act for preclearance; to repeal conflicting laws; and for other purposes.

HB 616

Goggans of the 7th  
**ECHOLS COUNTY**

A BILL to be entitled an Act to provide that future elections for the office of probate judge of Echols County shall be nonpartisan elections; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 671

Hill of the 32nd  
Reed of the 35th  
Zamarripa of the 36th  
Tate of the 38th  
Fort of the 39th  
Shafer of the 48th  
Moody of the 56th  
**FULTON COUNTY**

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A BILL to be entitled an Act to amend an Act providing for the appointment of magistrates in Fulton County, approved March 18, 1983 (Ga. L. 1983, p. 4373), as amended, particularly by an Act approved April 9, 1999 (Ga. L. 1999, p. 3783), so as to change the number of magistrates in Fulton County; to provide the procedure in connection with the appointment of new magistrates and provide for terms of office; to repeal conflicting laws; and for other purposes.

HB 706

Seay of the 34th

Starr of the 44th

**CLAYTON COUNTY WATER AUTHORITY**

A BILL to be entitled an Act to amend an Act creating the Clayton County Water Authority, approved March 7, 1955 (Ga. L. 1955, p. 3344), as amended, particularly by an Act approved April 16, 1999 (Ga. L. 1999, p. 4675), so as to change the compensation of the chairperson, secretary, and other members of the authority; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 748

Schaefer of the 50th

**CITY OF TOCCOA**

A BILL to be entitled an Act to amend an Act incorporating the City of Toccoa, approved December 20, 1897 (Ga. L. 1897, p. 341), as amended, so as to change and extend the corporate limits of said city; to repeal conflicting laws; and for other purposes.

HB 752

Meyer von Bremen of the 12th

**CITY OF BACONTON-MITCHELL COUNTY**

A BILL to be entitled an Act to amend an Act reincorporating and providing a new charter for the City of Baconton in Mitchell County, approved February 13, 1976 (Ga. L. 1976, p. 2552), as amended, so as to change the provisions relating to the time of election, taking of office, and terms of office of the mayor and councilmembers; to provide for authority for this Act; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 757

Meyer von Bremen of the 12th  
**GEORGETOWN-QUITMAN COUNTY**

A BILL to be entitled an Act to create and establish the Georgetown-Quitman County Charter and Unification Commission; to provide for a short title; to provide for definitions; to provide for the appointment of the members of said commission; to provide for the organizational meeting of the charter and unification commission and for the election of a chairperson; to provide for the powers and duties of said commission; to provide that the charter and unification commission shall be authorized to employ a staff to assist it in carrying out its powers and duties; to provide for the expenses of the charter and unification commission and for the payment of those expenses by the governing authorities of the City of Georgetown and the County of Quitman; to provide for all procedures and other matters connected with the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 766

Meyer von Bremen of the 12th  
**DOUGHERTY COUNTY**

A BILL to be entitled an Act to amend an Act creating the Small Claims Court of Dougherty County, now the Magistrate Court of Dougherty County, approved March 24, 1976 (Ga. L. 1976, p. 3164), as amended, particularly by an Act approved March 27, 1998 (Ga. L. 1998, p. 3844), so as to change the number of full-time magistrates serving in such court; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 767

Meyer von Bremen of the 12th  
**DOUGHERTY COUNTY**

A BILL to be entitled an Act to amend an Act creating the office of the County Administrator of Dougherty County, Georgia, approved March 11, 1975 (Ga. L. 1975, p. 2651), as amended, particularly by an Act approved March 24, 1988 (Ga. L. 1988, p. 4751), so as to change the contract purchase power of the county administrator; to repeal conflicting laws; and for other purposes.

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HB 768

Meyer von Bremen of the 12th  
**CITY OF ALBANY-DOUGHERTY COUNTY**

A BILL to be entitled an Act to amend an Act creating the State Court of Dougherty County, formerly known as the City Court of Albany, approved December 16, 1897 (Ga. L. 1897, p. 408), as amended, so as to change the provisions relating to the compensation of the judge of the state court; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 769

Golden of the 8th  
**VALDOSTA-LOWNDES COUNTY**

A BILL to be entitled an Act to amend an Act establishing the Valdosta-Lowndes County Conference Center and Tourism Authority, approved April 9, 1999 (Ga. L. 1999, p. 4072), so as to change the membership of the authority; to change the method of appointment for one member; to add one member; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The amendment to the following bill was put upon its adoption:

\*SB 328:

The Senate State and Local Governmental Operations Committee offered the following amendment:

Amend SB 328 by striking line 13 on page 1 and inserting in lieu thereof the following:  
"a surcharge of".

By striking "fees and" on line 16 of page 1.

By striking "2008" and inserting in its place "2006" on line 17 of page 3.

On the adoption of the amendment, the yeas were 50, nays 0, and the amendment was adopted.

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

On the passage of the bills on the Local Consent Calendar, a roll call was taken, and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans Golden	Y Pearson Y Powell	Y Unterman Y Walker
Y Grant Hamrick	Y Reed Y Rogers	Y Weber Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the local bills, the yeas were 50, nays 0.

The bills on the Local Consent Calendar, except SB 328, having received the requisite constitutional majority, were passed.

SB 328, having received the requisite constitutional majority, was passed as amended.

Senator Grant of the 25th asked unanimous consent that all Senate bills on today's Local Consent Calendar be immediately transmitted to the House.

The consent was granted and all Senate bills on today's Local Consent Calendar were immediately transmitted.

Senator Moody of the 56th introduced the doctor of the day, Dr. Paul Evans.

Senator Johnson of the 1st asked unanimous consent that Senate Rule 9-1.4(d) be suspended in order to allow recognition of the Governor's Cup winners.

Senator Moody of the 56th recognized Georgia High School Governor's Cup winners, commended by SR 475, SR 477, SR 482, SR 483 and SR 487, adopted previously.

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SENATE RULES CALENDAR  
TUESDAY, MARCH 22, 2005  
THIRTY-SIXTH LEGISLATIVE DAY

- HB 275 State employees; certain deferred compensation plans; transfer administration (I&L-21st) Cole-125th
- HB 312 State departments; revisions and transfer of powers and duties (Amendment)(FIN-49th) Freeman-140th
- SR 431 Security for State/County Buildings; create Senate study committee (Substitute)(PS&HS-13th)
- SR 353 Georgia Veterans; urging Congress to oppose current budget proposals (V&MA-4th)
- HB 298 Georgia Higher Education Assistance Corporation and Georgia Student Finance Authority; certain powers (Substitute)(H ED-46th) Hembree-67th
- HB 366 Indigents; legal defense; amend certain provisions (JUDY-21st) Murphy-23rd
- HB 216 Pseudoephedrine sales; limitations and restrictions (Substitute) (JUDY-53rd) Neal-1st
- HB 201 Veterinarians; boarders of animals; liens for treatment (AG&CA-11th) McCall-30th
- HB 17 Private detective and security businesses; license renewal; continuing education (RI&Util-32nd) Hill-21st
- HB 643 Long-Term Care Partnership Program; establish (H&HS-7th) Sheldon-105th
- HB 54 Septic tank waste; regulation and permitting; certain land disposal sites (NR&E-49th) Powell-29th
- HB 200 Subsequent Injury Trust Fund; reimbursement; dissolution (Substitute)(I&L-9th) Coan-101st
- HB 291 Insurance; amend Code Chapters 20A, 27, 29, and 30 (I&L-47th) Rogers-26th

- HB 327 Workers' compensation; electronic documents; injuries; designation; computation (I&L-47th) Coan-101st
- HB 520 Employment security; amend certain provisions; Department of Labor; supplemental appropriation (Substitute)(I&L-47th) Coan-101st
- HR 142 Committee on the Implementation of Textile Agreements; request approval of safeguard petitions(ECD-53rd) Smith-131st
- HB 58 Working Against Recidivism Act; enact (Amendment) (SI&P-25th) Powell-29th
- SR 376 Senate Atlanta County Study Committee; create (Substitute) (SLGO(G)-36th)
- HB 372 Georgia Education Authority; private schools lease public property; prohibit (ED&Y-56th) Coan-101st
- HB 1 Bona fide conservation use property; breach of covenant; exceptions (Substitute)(NR&E-11th) Royal-171st
- HB 662 Game and fish; three-day nonresident big game license and fee (NR&E-14th) Hanner-148th
- HB 211 Ad valorem tax; aircraft held in inventory; exclude (FIN-9th) Heard-104th
- HB 487 Sales tax exemption; electricity sales for crop irrigation; amend (Substitute)(FIN-49th) Roberts-154th
- HB 389 Income tax credits; certain businesses; less developed areas (FIN-49th) Roberts-154th
- HB 196 Common-sense Consumption Act; amend provisions (AG&CA-11th) Smith-113th
- HB 404 Unemployment due to military reassignment of spouse; allow benefits (V&MA-17th) Yates-73rd
- HB 438 Georgia War Veterans Nursing Homes; executive directors; appointment (V&MA-17th) Yates-73rd
- HB 390 State Commission on the Efficacy of the Certificate of Need Program; create (H&HS-37th) Scott-153rd

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| HB 347 | State crime laboratory; private contract laboratories; reports<br>(JUDY-30th) Ralston-7th   |
| HB 195 | Parental rights; petitions to terminate; change provisions<br>(JUDY-17th) Fleming-117th   |
| HB 394 | Disabled adults and elder persons; protective services; discharge and transfer from facilities (Substitute)(H&HS-45th) Walker-107th |
| HB 678 | Private schools; prayer at athletic events; public school participation<br>(ED&Y-37th) Burkhalter-50th                              |
| HB 367 | Driver training and commercial driver training schools; licensing provisions (Substitute)(PS&HS-46th) Rice-51st                     |
| HB 306 | Sales tax; certain tangible property used by contractors; amend provisions (Amendment)(FIN-49th) Rice-51st                          |
| HB 608 | License to practice medicine; certain graduates; change licensure requirement (Substitute)(H&HS-52nd) Reece-27th                    |

Respectfully submitted,

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

Senator Kemp of the 46th asked unanimous consent that Senator Hudgens of the 47th be excused. The consent was granted, and Senator Hudgens was excused.

Senator Staton of the 18th asked unanimous consent that Senator Douglas of the 17th be excused. The consent was granted, and Senator Douglas was excused.

Senator Staton of the 18th asked unanimous consent that Senator Williams of the 19th be excused. The consent was granted, and Senator Williams was excused.

Senator Butler of the 55th asked unanimous consent that Senator Moody of the 56th be excused. The consent was granted, and Senator Moody was excused.

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

HB 275. By Representatives Cole of the 125th, Mumford of the 95th, Golick of the 34th, Roberts of the 154th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to state employees' insurance and benefits plans, so as to transfer administration of certain deferred compensation plans from the State Personnel Board to the Board of Trustees of the Employees' Retirement System of Georgia; to provide for transfer of accounts, funds, and information; to provide for investment advisors and counselors; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

Senator Thomas of the 2nd offered the following amendment:

Amend HB 275 by adding after 'services.' on line 18 pg 1

Any employee desiring not to participate in this plan shall be given the option of opting out.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	Y Starr
Y Brown	Y Hooks	N Staton
N Bulloch	E Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
E Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Golden	Y Powell	Walker
N Grant	Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	Schaefer	N Wiles
N Harp	N Seabaugh	E Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

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On the adoption of the amendment, the yeas were 20, nays 27, and the Thomas of the 2nd amendment was lost.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	E Hudgens	Y Stephens
N Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Thompson,C
E Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	N Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 7.

HB 275, having received the requisite constitutional majority, was passed.

Senator Wiles of the 37th recognized Dr. Robert A. Lipson and Wellstar Health System, commended by SR 496, adopted previously.

Senator Thompson of the 5th asked unanimous consent that Senator Stoner of the 6th be excused. The consent was granted, and Senator Stoner was excused.

Senator Heath of the 31st asked unanimous consent that Senator Hill of the 32nd be excused. The consent was granted, and Senator Hill was excused.

Senator Stephens of the 27th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

The Calendar was resumed.

HB 312. By Representatives Freeman of the 140th, May of the 111th, Roberts of the 154th, Golick of the 34th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Title 50 of the O.C.G.A., relating to state government, and Title 45 of the O.C.G.A., relating to public officers and employees, so as to provide for the substantial revision and transfer of certain powers, duties, and authority of the Department of Administrative Services, the Georgia Technology Authority, the Office of Planning and Budget, the Board of Regents of the University System of Georgia, the Department of Agriculture, the Department of Veterans Service, and the state accounting officer; to change certain provisions regarding the establishment, powers, purchasing authority, procedures, and limitations and vendor qualification of the Georgia Technology Authority; to change certain provisions regarding powers, purchasing personnel, competitive bidding, emergency purchasing, and prohibited practices with respect to the Department of Administrative Services; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

The Senate Finance Committee offered the following amendment:

Amend HB 312 by striking lines 23, 24, and 25 of page 25 and inserting in their place the following:

"(c) Except as authorized by Article 3 of Chapter 5 of Title 50, the The department is prohibited from entering into any contract for the purchase of supplies, materials, and equipment, except as authorized by Article 3 of Chapter 5 of Title 50 or services, except those services ancillary to the construction and maintenance of a public road."

On the adoption of the amendment, the yeas were 33, nays 1, and the committee amendment was adopted.

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

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

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	E Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens

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Y Butler	E Johnson	E Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
E Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	N Walker
Y Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 43, nays 6.

HB 312, having received the requisite constitutional majority, was passed as amended.

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 and Senate:

HB 828. By Representatives Fleming of the 117th, Harbin of the 118th and Burmeister of the 119th:

A BILL to be entitled an Act to make provisions for the Magistrate Court of Columbia County; to provide for qualifications for the office of chief magistrate and magistrate; to provide for exceptions; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 829. By Representative Jamieson of the 28th:

A BILL to be entitled an Act to amend an Act providing for a new charter for the Town of Martin, approved March 18, 1980 (Ga. L. 1980, p. 3215), as amended, so as to repeal term limitations for the mayor and the members of the city council; to repeal conflicting laws; and for other purposes.

HB 830. By Representative Ray of the 136th:

A BILL to be entitled an Act to create a board of elections and registration for Crawford County and provide for its powers and duties, to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for personnel, including a chief election official, and compensation; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 835. By Representatives Brown of the 69th and Smith of the 70th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Heard County, approved April 4, 1991 (Ga. L. 1991, p. 3976), as amended, particularly by an Act approved September 18, 1991 (Ga. L. 1991, Ex. Sess., p. 479), so as to provide for the election of members of the board of commissioners and the county chairman to staggered, four-year terms of office; to provide for related matters; to require the submission of this Act for preclearance; to repeal conflicting laws; and for other purposes.

HB 836. By Representative Bridges of the 10th:

A BILL to be entitled an Act to amend an Act providing for the election of the members of the board of education of Habersham County, approved March 5, 1976 (Ga. L. 1976, p. 2708), as amended, so as to provide for the compensation of the members of such board; to provide for the automatic repeal of this Act; to repeal conflicting laws; and for other purposes.

HB 837. By Representative Jamieson of the 28th:

A BILL to be entitled an Act to create the Stephens County School Building Authority and to provide for the appointment of members of the authority; to confer powers upon the authority; to authorize the issuance of revenue bonds of the authority payable from the revenues, tolls, fees, charges, and earnings of the authority, contract payments to the authority, and other moneys pledged therefor and to authorize the collection and

pledging of the revenues, tolls, fees, charges, and earnings of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; to make the revenue bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for the validation of bonds; to repeal conflicting laws; and for other purposes.

HB 838. By Representative Jamieson of the 28th:

A BILL to be entitled an Act to amend an Act creating the Banks County Family Connection Commission, approved April 13, 2001 (Ga. L. 2001, p. 4134), so as to change the membership of the commission; to change certain provisions requiring an oath of office; to repeal conflicting laws; and for other purposes.

HB 839. By Representatives Fleming of the 117th, Harbin of the 118th and Burmeister of the 119th:

A BILL to be entitled an Act to amend an Act providing for the election of the Board of Education of Columbia County, approved March 21, 1968 (Ga. L. 1968, p. 2708), as amended, particularly by an Act approved September 21, 1995 (Ga. L. 1995, Ex. Sess., p. 336), and by an Act approved April 25, 2002 (Ga. L. 2002, p. 4528), so as to change provisions relating to education districts for the board; to define certain terms; to provide for the manner and dates of election of members of the board; to provide for related matters; to provide for the submission of this Act to the United States Department of Justice; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 840. By Representatives Setzler of the 35th, Tumlin of the 38th, Teilhet of the 40th, Cooper of the 41st, Johnson of the 37th and others:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Kennesaw, approved April 10, 1971 (Ga. L. 1971, p. 3620), as amended, particularly by an Act approved June 30, 2003 (Ga. L. 2003, p. 4373), so as to change the provisions relating to the corporate limits of said city; to repeal conflicting laws; and for other purposes.

HB 844. By Representative Coleman of the 144th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Dodge County, approved March 6, 1996 (Ga. L. 1996, p. 3507), as amended, so as to reapportion the education districts for election of the members of said board of education; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 845. By Representatives Hill of the 21st and Murphy of the 23rd:

A BILL to be entitled an Act to amend an Act known as the "Cherokee County Water and Sewerage Authority Act," approved March 7, 1955 (Ga. L. 1955, p. 2943), as amended, so as to change the provisions relating to compensation of the chairperson and members; to repeal conflicting laws; and for other purposes.

SB 297. By Senator Grant of the 25th:

A BILL to be entitled an Act to provide that future elections for the office of judge of the probate court of Baldwin County shall be nonpartisan elections; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 309. By Senators Golden of the 8th and Bulloch of the 11th:

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Thomasville, approved March 30, 1990 (Ga. L. 1990, p. 5051), as amended, so as to change the method of filling vacancies on the board of education of the independent school district of the City of Thomasville; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitute to the following Bill of the House:

HB 146. By Representatives Channell of the 116th, Parham of the 141st and Hudson of the 124th:

A BILL to be entitled an Act to create a board of elections and registration for Putnam County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for

meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for certain expenditures of public funds; to provide for compensation of members of the board and personnel; to provide for offices and equipment; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate amendment to the following Bill of the House:

HB 396. By Representatives Manning of the 32nd, Setzler of the 35th, Tumlin of the 38th, Cooper of the 41st, Jones of the 44th and others:

A BILL to be entitled an Act to amend an Act creating the State Court of Cobb County, approved March 26, 1964 (Ga. L. 1964, p. 3211), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4749), so as to change the compensation of the clerk and the chief deputy clerk of the State Court of Cobb County; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Chance of the 16th asked unanimous consent that Senator Whitehead of the 24th be excused. The consent was granted, and Senator Whitehead was excused.

The Calendar was resumed.

SR 431. By Senators Carter of the 13th, Zamarripa of the 36th, Kemp of the 46th, Mullis of the 53rd, Hill of the 32nd and others:

A RESOLUTION creating the Senate Study Committee on Security for State and County Buildings; and for other purposes.

The Senate Public Safety and Homeland Security Committee offered the following substitute to SR 431:

#### A RESOLUTION

Creating the Senate Study Committee on Security for State and County Buildings; and for other purposes.

WHEREAS, Superior Court Judge Rowland Barnes, a court reporter, and a deputy sheriff were murdered and another deputy was shot at the Fulton County courthouse in downtown Atlanta on March 11, 2005; and

WHEREAS, the husband and mother of a judge in another city were recently murdered; and

WHEREAS, these deaths and injuries are only part of an apparent increase in violence against public officials; and

WHEREAS, new technology may be available to increase security at buildings that are open to the public; and

WHEREAS, it is imperative that the government provide adequate security to protect members of the public and public officials conducting official business at state and county buildings.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that there is created the Senate Study Committee on Security for State and County Buildings to be composed of seven members of the Senate to be appointed by the Senate Committee on Assignments. The Senate Committee on Assignments shall designate a member of the committee as chairperson of the committee. The chairperson shall call all meetings of the committee.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend any actions or legislation which the committee deems necessary or appropriate. The committee shall seek the advice and opinions of public building security experts and state and local officials. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The members of the committee shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than three days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the Senate. In the event the committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2005. The committee shall stand abolished on December 31, 2005.

On the adoption of the substitute, the yeas were 32, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

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Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	E Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	E Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
E Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	E Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 46, nays 0.

The resolution, having received the requisite constitutional majority, was adopted by substitute.

Senator Seay of the 34th asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

SR 353. By Senators Hill of the 4th and Douglas of the 17th:

A RESOLUTION urging Congress to oppose current budget proposals which would be damaging to Georgia veterans who depend on the state veterans homes; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	E Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens

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Y Butler	E Johnson	E Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
E Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 48, nays 0.

SR 353, having received the requisite constitutional majority, was adopted.

HB 298. By Representatives Hembree of the 67th, Ehrhart of the 36th, Martin of the 47th and Smith of the 113th:

A BILL to be entitled an Act to amend Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to scholarships, grants, and loans, so as to allow the Georgia Higher Education Assistance Corporation and the Georgia Student Finance Authority to exercise powers possessed by private corporations performing similar functions; to increase the amount of bonds that the Georgia Student Finance Authority may issue; to provide the Georgia Student Finance Authority with collection tools to collect unpaid service cancelable loans that are in cash repayment status; to provide the Georgia Student Finance Commission with collection tools to collect unpaid HOPE scholarship and grant funds; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Kemp of the 46th.

The Senate Higher Education Committee offered the following substitute to HB 298:

A BILL TO BE ENTITLED  
AN ACT

To amend provisions of the Official Code of Georgia Annotated relating to education; to

amend Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to scholarships, grants, and loans, so as to allow the Georgia Higher Education Assistance Corporation and the Georgia Student Finance Authority to exercise powers possessed by private corporations performing similar functions; to increase the amount of bonds that the Georgia Student Finance Authority may issue; to provide the Georgia Student Finance Authority with collection tools to collect unpaid service cancelable loans that are in cash repayment status; to provide the Georgia Student Finance Commission with collection tools to collect unpaid HOPE scholarship and grant funds; to amend Chapter 15 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Medical Center Authority, so as to change certain provisions relating to establishment of the authority, appointment of members, terms of office, vacancies, removal from office, compensation, authority's existence, accountability of members, and assignment; 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 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to scholarships, grants, and loans, is amended by striking subparagraph (JJ) of paragraph (1) of Code Section 20-3-266, relating to powers and duties of the Georgia Higher Education Assistance Corporation, and inserting in lieu thereof a new subparagraph (JJ) to read as follows:

"(JJ) To do any and all things necessary, desirable, convenient, or incidental for the accomplishment of the objectives of this chapter and to exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the public purposes of the corporation or the Constitution and laws of this state, including, but not limited to:

- (i) The power to retain accounting and other financial services;
- (ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;
- (iii) The power to indemnify and hold harmless any parties contracting with the corporation or its agents from damage to persons or property; and
- (iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves;".

**SECTION 2.**

Said article is further amended by striking subparagraph (W) of paragraph (1) of Code Section 20-3-316, relating to the powers and duties of the Georgia Student Finance Authority, and inserting in lieu thereof a new subparagraph (W) to read as follows:

"(W) To do any and all things necessary, desirable, convenient, or incidental for the accomplishment of the objectives of this chapter and to exercise any power usually possessed by private corporations performing similar functions which is not in

conflict with the public purposes of the authority or the Constitution and laws of this state, including, but not limited to:

- (i) The power to retain accounting and other financial services;
- (ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;
- (iii) The power to indemnify and hold harmless any parties contracting with the authority or its agents from damage to persons or property; and
- (iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves; and".

### SECTION 3.

Said article is further amended by striking subsection (a) of Code Section 20-3-344, relating to issuance of bonds and notes of authority, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The authority is authorized to provide for the issuance of bonds of the authority not to exceed ~~\$150~~ \$300 million aggregate principal amount outstanding at any one time excluding bonds issued to refund outstanding bonds of the authority to carry out and effectuate its purposes and powers under this subpart. In anticipation of the issuance of such bonds, the authority also is authorized to provide for the issuance of notes. Such bonds or notes may be issued at one time or from time to time, provided the aggregate principal amount of such bonds and notes outstanding at any one time shall not exceed the amount authorized by this subsection, excluding bonds or notes issued to refund outstanding bonds or notes of the authority. The principal of, premium, if any, and the interest on such bonds or notes shall be payable solely from the funds provided for in this subpart for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, such notes may be paid from revenues or assets available to the authority for this purpose under this subpart in accordance with resolutions or other agreements with holders of any outstanding bonds or other obligations of the authority. The bonds or notes of each issue shall be dated, shall bear interest at such rates, may be redeemable before maturity at the option of the authority at such price or prices as may be determined by the authority, and shall be under such other terms and conditions as may be determined by the authority. Notes shall mature at such time or times, not exceeding five years from their date or dates, and bonds shall mature at such time or times, not exceeding 40 years from their date or dates, as may be determined by the authority. The authority shall determine the form of such bonds or notes, including coupon form, registered form, registration as to principal only, or all of the foregoing forms, and shall determine the right of reconversion or interchange into other forms. The authority shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. All such bonds shall be executed in the name of the authority by the chairperson and the secretary of authority and shall be sealed with the official seal of the authority or a facsimile thereof. Coupons shall be executed in the name of the authority by the

chairperson of the authority. The facsimile signature of either the chairperson or the secretary of the authority may be imprinted in lieu of the manual signature if the authority so directs and the facsimile of the chairperson's signature shall be used on coupons. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, his or her signature or facsimile signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. Prior to the preparation of definitive bonds, the board of directors may issue interim receipts, interim certificates, or temporary bonds exchangeable for definitive bonds upon the issuance of the latter. The authority may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, and things which are specified or required by this part. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be in the best interests of the authority and to effectuate best its purposes under this subpart."

#### **SECTION 4.**

Said article is further amended by striking subsection (c) of Code Section 20-3-374, relating to service cancelable loan fund, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) All students receiving loans under this Code section shall execute, prior to the disbursement of any loan proceeds to or for the benefit of that student, a promissory note containing the terms and conditions of the service repayment and cash repayments. Except as prohibited by federal or other state laws, individuals that fail to fulfill the terms and conditions of cash repayment may, without judicial action, be subject to garnishment of their pay, loss of a professional license, offset of lottery winnings, and offset of a state tax refund in accordance with rules and regulations promulgated by the authority not inconsistent with the provisions of this part."

#### **SECTION 5.**

Said article is further amended by striking subsection (b) of Code Section 20-3-519.11, relating to Georgia Student Finance Commission, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) Notwithstanding any provision of this part, the Georgia Student Finance Commission is authorized to promulgate rules and regulations restricting eligibility for the scholarships and grants described in this part or reducing the dollar amount of scholarships and grants described in this part in accordance with the provisions of Code Section 50-27-13. In addition to other remedies available at law and equity, the

Georgia Student Finance Commission is authorized to enter into repayment agreements with students that owe refunds to the Georgia Student Finance Commission of any scholarship or grant described in this part. Except as prohibited by federal or other state laws, individuals that owe refunds and fail to enter into repayment agreements with the Georgia Student Finance Commission are, without judicial action, subject to garnishment of their pay, loss of a professional license, offset of lottery winnings, and offset of a state tax refund in accordance with rules and regulations promulgated by the Georgia Student Finance Commission not inconsistent with the provisions of this part. As used in this subsection, the term 'refund' shall mean scholarship and grant amounts paid to or on behalf of students subsequently, in accordance with rules and regulations promulgated by the Georgia Student Finance Commission, determined to be ineligible to receive such funds."

#### SECTION 6.

Chapter 15 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Medical Center Authority, is amended by striking Code Section 20-15-3, relating to establishment of the authority, appointment of members, terms of office, vacancies, removal from office, compensation, authority's existence, accountability of members, and assignment and inserting in lieu thereof the following:

"20-15-3.

(a) There is created a body corporate and politic to be known as the Georgia Medical Center Authority which shall be deemed to be an instrumentality of the State of Georgia and a public corporation; and by that name, style, and title such body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of this state.

(b) The authority shall consist of 15 members. Eleven members shall be appointed by the Governor for staggered initial terms of office as follows: four members for two years, and seven members for three years. Two members shall be appointed by the Speaker of the House of Representatives to serve initial terms of office of two years and two members shall be appointed by the President of the Senate to serve initial terms of office of two years. The authority shall consist of seven members as follows:

(1) Those persons appointed to the authority prior to July 1, 2005, and serving for terms to expire in June, 2006, shall continue to serve for the remainder of the terms to which they were appointed;

(2)(A) In 2005 and quadrennially thereafter, the Governor shall appoint two members.

(B) In 2006 and quadrennially thereafter, the Governor shall appoint three members;

(3) In 2005 and quadrennially thereafter, the Senate Committee on Assignments shall appoint one member; and

(4) In 2006 and quadrennially thereafter, the Speaker of the House of Representatives shall appoint one member.

After their initial terms of office, members Except as otherwise provided by paragraph (1) of this subsection, members shall serve for terms of office of four years each. Members shall serve for the terms of office specified and until the appointment and

qualification of their respective successors. ~~No person may be appointed as a member of the authority unless that person has been a resident of this state for at least two years and is at least 21 years of age.~~ Any elected or appointed state, county, municipal, or school board official or employee, except members of the board of regents and officials and employees of the legislative or judicial branches of state government, are authorized to be appointed as members of the authority, and any person so appointed is authorized to serve as a member of the authority.

(c) All successors shall be appointed in the same manner as original appointments. Members may be eligible for reappointment. Vacancies in office shall be filled in the same manner as original appointments. An appointment to fill a vacancy shall be for the unexpired term. The authority shall elect its own officers. A majority of the membership of the authority ~~constitutes shall constitute~~ a quorum. No action shall be taken by the authority except in the presence of a quorum and upon approval of a majority of those members present. No vacancy on the authority shall impair the right of the quorum to exercise all rights and perform all duties of the authority. The authority shall otherwise provide for its own organization and conduct of business according to *Robert's Rules of Order*.

(d) The Governor, after notice and opportunity for hearing, may remove from office any member of the authority for any of the following reasons:

- (1) Inability or neglect to perform the duties required of members;
- (2) Failure to attend, without prior approval of the chairperson of the authority, four consecutive regularly scheduled meetings of the authority;
- (3) Incompetence; or
- (4) Dishonest conduct.

(e) The members of the authority shall receive a daily expense allowance and reimbursement for transportation costs as provided for in Code Section 45-7-21; and the members of the authority shall not receive any other compensation for their services as such.

(f) The authority shall have perpetual existence. Any change in name or composition of the authority shall in no way affect the vested rights of any person under this chapter or impair the obligations of any contracts existing under this chapter.

(g) The members of the authority shall be accountable in all respects as trustees. The authority shall keep suitable and proper books and records of all receipts, income, and expenditures of every kind and shall submit for inspection all the books, together with the proper statement of the authority's financial position, to the state auditor.

(h) The authority is assigned to the Department of ~~Community Affairs~~ Economic Development for administrative purposes only."

## SECTION 7.

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

On the adoption of the substitute, the yeas were 36, nays 1, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

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

HB 298, having received the requisite constitutional majority, was passed by substitute.

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

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Senators Rogers of the 21st, Stephens of the 27th and Pearson of the 51st offered the following amendment #1:

Amend HB 366 by striking lines 5 and 6 on page 1 and inserting in lieu thereof the following:

"the Georgia Public Defender Standards Council development of standards;"

By deleting Section 2 and by redesignating Sections 3 through 5 as Sections 2 through 4, respectively.

Senator Rogers of the 21st asked unanimous consent that his amendment #1 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Rogers of the 21st offered the following amendment #2:

Amend HB 366 by deleting lines 13-16 of page 3

On the adoption of the amendment, the yeas were 33, nays 3, and the Rogers amendment #2 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 47, nays 5.

HB 366, having received the requisite constitutional majority, was passed as amended.

HB 216. By Representatives Neal of the 1st, Ralston of the 7th, Miller of the 106th, Burmeister of the 119th, Sheldon of the 105th and others:

A BILL to be entitled an Act to amend Chapter 13 of Title 16 of the O.C.G.A., relating to controlled substances, so as to limit the sale and manner of sale of products containing pseudoephedrine; to provide for exceptions; to provide for mitigation of punishment under certain circumstances; to provide for penalties; to restrict the sale, transfer, manufacture, purchase for resale, and furnishing of certain precursor chemicals; to provide for definitions; to authorize the State Board of Pharmacy to promulgate certain rules and regulations regarding precursor chemicals and licenses and permits; to provide for licensing and permitting of persons who sell, transfer, manufacture, purchase for resale, or otherwise furnish or possess precursor chemicals; to require certain records to be maintained; to provide for exceptions; to provide for certain forfeitures; to provide for penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Mullis of the 53rd.

The Senate Judiciary Committee offered the following substitute to HB 216:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, so as to limit the sale and manner of sale of products containing pseudoephedrine; to provide for exceptions; to provide for mitigation of punishment under certain circumstances; to provide for penalties; to restrict the sale, transfer, manufacture, purchase for resale, and furnishing of certain substances; to provide for definitions; to authorize the State Board of Pharmacy to promulgate certain rules and regulations; to provide for licensing and permitting of persons who sell, transfer, purchase for resale, or otherwise furnish or possess certain chemicals; to require certain records to be maintained; to provide for exceptions; to provide for certain forfeitures; to provide for penalties; to provide for certain reports; to provide that it is illegal for a

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person to possess any substance with the intent to use such substance in the manufacture of a Schedule I or Schedule II controlled substance or to knowingly convey such substance to another for use in the manufacture of a Schedule I or Schedule II controlled substance; to provide for certain considerations with regard to determining whether such substances were possessed illegally; to provide for exceptions; to provide for penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, is amended by adding a new subsection (b.1) to Code Section 16-13-30.3, relating to possession of substances containing ephedrine, pseudoephedrine, and phenylpropanolamine, to read as follows:

- "(b.1)(1) Products whose sole active ingredient is pseudoephedrine may be offered for retail sale only if sold in blister packaging. Such products may not be offered for retail sale by self-service, but only from behind a counter or other barrier so that such products are not directly accessible by the public but only by a retail store employee or agent.
- (2) No person shall deliver in any single over the counter sale more than three packages of any product containing pseudoephedrine as the sole active ingredient or in combination with other active ingredients or any number of packages that contain a combined total of more than nine grams of pseudoephedrine or its base, salts, optical isomers, or salts of its optical isomers.
- (3) It shall be unlawful for a retail distributor to purchase any product containing pseudoephedrine from any person or entity other than a manufacturer or a wholesaler licensed by the Georgia Board of Pharmacy.
- (4) This subsection shall not apply to:
  - (A) Pediatric products labeled pursuant to federal regulation as primarily intended for administration to children under 12 years of age according to label instructions; and
  - (B) Products that the Georgia Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors.
- (5) This subsection shall preempt all local ordinances or regulations governing the retail sale of over the counter products containing pseudoephedrine by a retail business.
- (6)(A) Except as otherwise provided herein, it shall be unlawful for any person knowingly to violate any prohibition contained in paragraph (1), (2), or (3) of this subsection.
- (B) Any person convicted of a violation of paragraph (1) or (2) of this subsection

shall be guilty of a misdemeanor which, upon the first conviction, shall be punished by a fine of not more than \$500.00, and, upon the second or subsequent conviction, shall be punished by not more than six months' imprisonment or a fine of not more than \$1,000.00, or both.

(C) Any person convicted of a violation of paragraph (3) of this subsection shall, upon the first conviction, be guilty of a misdemeanor and, upon the second or subsequent conviction, be guilty of a misdemeanor of a high and aggravated nature.

(D) It shall be a defense to a prosecution of a retail business or owner or operator thereof for violation of paragraph (1) or (2) of this subsection that, at the time of the alleged violation, all of the employees of the retail business had completed training under Georgia Meth Watch, the retail business was in compliance with Georgia Meth Watch, and the defendant did not knowingly, willfully, or intentionally violate paragraph (1) or (2) of this subsection. For purposes of this subsection only, the term 'Georgia Meth Watch' shall mean that program entitled 'Georgia Meth Watch' or similar program which has been promulgated, approved, and distributed by the Georgia Council on Substance Abuse.

(7) Except as otherwise provided in this subsection, the State Board of Pharmacy may adopt reasonable rules and regulations to effectuate the provisions of this subsection. The board is further authorized to charge reasonable fees to defray expenses incurred in maintaining any records or forms necessitated by this subsection or otherwise administering any other provisions of this subsection."

## SECTION 2.

Said chapter is further amended by adding a new Code Section 16-13-30.4 to read as follows:

### "16-13-30.4.

(a) As used in this Code section and unless otherwise specified, the term 'board' or 'Board of Pharmacy' shall mean the Georgia State Board of Pharmacy.

(b)(1) A wholesaler who sells, transfers, purchases for resale, or otherwise furnishes any product containing pseudoephedrine must first obtain a license from the Board of Pharmacy. Such license shall be renewable biennially upon payment of the renewal fee prescribed by the board so long as such wholesaler continues to meet the licensing requirements of this Code section.

(2) The content of the application for a license shall include, but not be limited to, the following information:

(A) Name of business;

(B) Physical address and mailing address of business;

(C) Telephone number of business;

(D) Names and physical home addresses of business owners;

(E) Location of all storage facilities used by the business for products whose sole active ingredient is pseudoephedrine; and

(F) Criminal history of all business owners.

(3) Every wholesaler licensed as provided in this Code section shall:

- (A) Submit reports, upon verbal or written request from the Georgia Drugs and Narcotics Agency, the Georgia Bureau of Investigation, or the sheriff of a county or the police chief of a municipality located in this state, to account for all transactions with persons or firms located within this state; such reportable transactions shall include all sales, distribution, or transactions dealing with products containing pseudoephedrine; and
- (B) Within seven days, notify the Georgia Drugs and Narcotics Agency of any purchases of products containing pseudoephedrine from the wholesaler which the wholesaler judges to be excessive.
- (4) Whenever any firm or person located in this state receives, purchases, or otherwise gains access to products containing pseudoephedrine from any wholesaler, whether located in or outside this state, such firm or person shall maintain a copy of such wholesaler's license issued by the Georgia State Board of Pharmacy. Such firm or person shall maintain copies of all invoices, receipts, and other records regarding such products containing pseudoephedrine for a minimum of three years from the date of receipt, purchase, or access. Failure to maintain records to verify the presence of any and all products containing pseudoephedrine being held by a firm or person shall subject such products containing pseudoephedrine to being embargoed or seized by proper law enforcement authorities until such time as proof can be shown that such products containing pseudoephedrine were obtained from a Georgia licensed wholesaler.
- (5) Agents of the Georgia Drugs and Narcotics Agency, agents of the Georgia Bureau of Investigation, and the sheriff of a county or the police chief of a county or municipality in this state in which a firm or person that receives, purchases, or otherwise gains access to products containing pseudoephedrine is located may request to review the receiving records for such products. Failure to provide such records within five business days following such request to account for the presence of such products shall result in the embargo or seizure of such products.
- (c) A license or permit obtained pursuant to this Code section shall be denied, suspended, or revoked by the Board of Pharmacy upon finding that the licensee or permit holder has:
- (1) Furnished false or fraudulent material information in any application filed under this Code section;
  - (2) Been convicted of a crime under any state or federal law relating to any controlled substance;
  - (3) Had his or her federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;
  - (4) Violated the provisions of Chapter 4 of Title 26; or
  - (5) Failed to maintain effective controls against the diversion of products containing pseudoephedrine to unauthorized persons or entities.
- (d) The Board of Pharmacy may adopt reasonable rules and regulations to effectuate the provisions of this Code section. The board is further authorized to charge reasonable fees to defray expenses incurred in issuing any licenses or permits,

maintaining any records or forms required by this Code section, and the administration of the provisions of this Code section.

(e) Notwithstanding any other provision of this Code section to the contrary, no person shall be required to obtain a license or permit for the sale, receipt, transfer, or possession of a product containing pseudoephedrine when:

- (1) Such lawful distribution takes place in the usual course of business between agents or employees of a single regulated person or entity; or
- (2) A product containing pseudoephedrine is delivered to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman.

(f) All products containing pseudoephedrine that have been or that are intended to be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation of a provision of this Code section shall be subject to forfeiture to the state and no property right shall exist in them.

(g)(1) Any person who sells, transfers, receives, or possesses a product containing pseudoephedrine violates this Code section if the person:

- (A) Knowingly fails to comply with the reporting requirements of this Code section;
- (B) Knowingly makes a false statement in a report or record required by this Code section or the rules adopted thereunder; or
- (C) Is required by this Code section to have a license or permit and knowingly or deliberately fails to obtain such a license or permit.

(2) It shall be illegal for a person to possess, sell, transfer, or otherwise furnish a product containing pseudoephedrine if such person possesses, sells, transfers, or furnishes the substance with the knowledge or intent that the substance will be used in the unlawful manufacture of a controlled substance.

(3)(A) A person who violates paragraph (2) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 15 years or by a fine not to exceed \$100,000.00, or both.

(B) A person who violates any provision of this Code Section other than paragraph (2) of this subsection shall be guilty of a misdemeanor on the first offense and a misdemeanor of a high and aggravated nature on the second and subsequent offenses."

### SECTION 3.

Said chapter is further amended by adding a new Code Section 16-13-30.5 to read as follows:

"16-13-30.5.

(a) It shall be illegal for a person to possess, whether acquired through theft or other means, any substance with the intent to:

- (1) Use such substance in the manufacture of a Schedule I or Schedule II controlled substance; or

- (2) Knowingly convey such substance to another for use in the manufacture of a Schedule I or Schedule II controlled substance.
- (b) In determining whether a particular substance is possessed with the intent required to violate subsection (a) of this Code section, the court or other authority making such a determination may, in addition to all other logically relevant factors, consider the following:
- (1) Statements by the owner or anyone in control of the substances concerning its use;
  - (2) Prior convictions, if any, of the owner or of anyone in control of the substances for violation of any state or federal law relating to the sale or manufacture of controlled substances;
  - (3) Instructions or descriptive materials of any kind accompanying the substance or found in the owner's or controlling person's possession concerning, explaining, or depicting its use;
  - (4) The manner in which the substance is displayed or offered for sale;
  - (5) The quantity and location of the substance considered in relation to the existence and scope of legitimate uses for the substance in the community; and
  - (6) Expert testimony concerning the substance's use.
- (c) This Code section shall not apply where possession was by a person authorized by law to dispense, prescribe, manufacture, or possess the substance in question.
- (d) A person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than fifteen years or by a fine not to exceed \$100,000.00, or both."

#### **SECTION 4.**

This Act shall become effective on July 1, 2005.

#### **SECTION 5.**

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

Senators Mullis of the 53rd, Stephens of the 27th and Starr of the 44th offered the following amendment #1:

Amend the Senate Judiciary Committee substitute to HB 216 (LC 29 1867S) by striking "wholesaler" on line 7 on page 2, on line 25 on page 3, on line 33 on page 3, on line 36 on page 3, and on line 9 on page 4 and inserting in lieu thereof "wholesale distributor".

By striking lines 11 through 24 on page 3 and inserting in lieu thereof the following:

"(b)(1) A wholesale distributor who sells, transfers, purchases for resale, or otherwise furnishes any product containing pseudoephedrine must first obtain a license from the Board of Pharmacy; provided, however, that a wholesale distributor that has a valid license as a wholesale distributor under Code Section 26-4-113 shall not be required to obtain an additional license under this Code section.

(2) Wholesale distributors licensed under Code Section 26-4-113 shall be subject to the provisions of this Code section in the same manner as wholesale distributors licensed under this Code section."

By striking "wholesaler's" on line 2 on page 4 and inserting in lieu thereof "wholesale distributor's".

On the adoption of the amendment, the yeas were 42, nays 0, and the Mullis et al. amendment #1 was adopted.

Senators Hamrick of the 30th and Mullis of the 53rd offered the following amendment #2:

Amend the Senate Judiciary Committee substitute to HB 216 by striking lines 15 and 16 of page 2 and inserting in lieu thereof the following:

"(5) Until January 1, 2006, this subsection shall preempt all local ordinances or regulations governing the retail sale of over the counter products containing pseudoephedrine by a retail business except such local ordinances or regulations that existed on or before December 31, 2004."

Senator Hamrick of the 30th asked unanimous consent that his amendment #2 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senators Hamrick of the 30th and Mullis of the 53rd offered the following amendment #3:

Amend the Senate Judiciary Committee substitute to HB 216 by striking lines 15 and 16 of page 2 and inserting in lieu thereof the following:

"(5) This subsection shall preempt all local ordinances or regulations governing the retail sale of over the counter products containing pseudoephedrine by a retail business except such local ordinances or regulations that existed on or before December 31, 2004. Effective January 1, 2006 the subsection shall preempt all local ordinances."

On the adoption of the amendment, the yeas were 43, nays 3, and the Hamrick, Mullis amendment #3 was adopted.

On the adoption of the substitute, the yeas were 44, nays 0, 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.

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

Y Adelman	Y Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 53, nays 0.

HB 216, having received the requisite constitutional majority, was passed by substitute.

Senator Hill of the 4th asked unanimous consent that Senator Chapman of the 3rd be excused. The consent was granted, and Senator Chapman was excused.

HB 201. By Representatives McCall of the 30th, Crawford of the 127th, Scott of the 153rd, Roberts of the 154th and Ray of the 136th:

A BILL to be entitled an Act to amend Part 9 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to liens of veterinarians and boarders of animals, so as to change certain provisions relating to liens for treatment, board, or care of animals and right to retain possession; to define certain terms; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Bulloch of the 11th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Henson	Y Shafer,D	

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

HB 201, having received the requisite constitutional majority, was passed.

Senator Johnson of the 1st asked unanimous consent that Senator Bulloch of the 11th be excused. The consent was granted, and Senator Bulloch was excused.

Senator Weber of the 40th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

HB 17. By Representatives Hill of the 21st, Murphy of the 23rd, Scheid of the 22nd and Byrd of the 20th:

A BILL to be entitled an Act to amend Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to operators of private detective businesses and private security businesses, so as to authorize the Georgia Board of Private Detective and Security Agencies to establish requirements of continuing education as a condition of license renewal; to provide for

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conditions, limitations, and waiver; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hill of the 32nd.

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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
E Chapman	Y Miles	Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 1.

HB 17, having received the requisite constitutional majority, was passed.

Senator Brown of the 26th asked unanimous consent that Senator Thomas of the 2nd be excused. The consent was granted, and Senator Thomas was excused.

Senator Rogers of the 21st asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

HB 643. By Representatives Sheldon of the 105th, Cooper of the 41st, Keen of the 179th, Knox of the 24th and Murphy of the 23rd:

A BILL to be entitled an Act to amend Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance, so as to establish the Georgia Long-Term Care Partnership Program; to provide a short title; to provide definitions; to provide for the administration of the program; to provide for certain duties and responsibilities; to provide that certain assets of persons not be considered when certain determinations concerning eligibility for Medicaid assistance are made; to provide for criteria for asset disregard; to provide for reciprocal agreements with other states; to authorize the Department of Community Health and the Commissioner of Insurance to promulgate certain rules and regulations; to provide for certain contingencies; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Goggans of the 7th.

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	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	E Thomas,R
E Chapman	Miles	Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Reed	Y Weber
Y Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Henson	Shafer,D	

On the passage of the bill, the yeas were 39, nays 0.

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HB 643, having received the requisite constitutional majority, was passed.

Senator Stephens of the 27th asked unanimous consent that Senator Goggans of the 7th be excused. The consent was granted, and Senator Goggans was excused.

HB 54. By Representatives Powell of the 29th, Rogers of the 26th and McCall of the 30th:

A BILL to be entitled an Act to amend Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits for land disposal of septic tank waste, so as to provide an exception to such Code section; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	E Thomas,R
Y Chapman	Miles	Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
E Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 54, having received the requisite constitutional majority, was passed.

Senator Whitehead of the 24th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

Senator Shafer of the 48th asked unanimous consent that Senator Cagle of the 49th be excused. The consent was granted, and Senator Cagle was excused.

Senator Stoner of the 6th asked unanimous consent that Senator Thompson of the 5th be excused. The consent was granted, and Senator Thompson was excused.

HB 200. By Representatives Coan of the 101st, Ehrhart of the 36th, Knox of the 24th, Keen of the 179th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Article 9 of Chapter 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, so as to provide that the Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for an injury occurring after April 15, 2005, for which a claim is made after April 15, 2005; to provide that the fund shall continue to reimburse self-insured employers and insurers for claims made prior to April 15, 2005; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Balfour of the 9th.

The Senate Insurance and Labor Committee offered the following substitute to HB 200:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 9 of Chapter 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, so as to provide that the Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for an injury occurring after December 31, 2006, for which a claim is made after December 31, 2006; to provide that the fund shall continue to reimburse self-insured employers and insurers for claims made prior to December 31, 2006; to provide an 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 the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, is amended striking Code Section 34-9-368, relating to the dissolution of the Subsequent Injury Trust Fund, and inserting in lieu thereof the following:

"34-9-368.

- (a) The Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for a subsequent injury for which a claim is made for an injury occurring after June 30, 2008 December 31, 2006. The Subsequent Injury Trust Fund shall continue to reimburse self-insured employers or insurers for claims for injuries occurring on and prior to June 30, 2008 December 31, 2006, which qualify for reimbursement.
- (b) Self-insured employers and insurers shall continue to pay assessments pursuant to Code Section 34-9-358 to the extent necessary to fund claims for injuries occurring on and prior to June 30, 2008 December 31, 2006.
- (e) ~~The Subsequent Injury Trust Fund is directed to complete an actuarial study not later than January 1, 2005.~~
- (d)(c) Upon or in contemplation of the final payment of all claims filed for subsequent injuries for which claims are filed for injuries occurring on and prior to June 30, 2008 December 31, 2006, the board of trustees shall adopt and implement resolutions providing for the final dissolution of the Subsequent Injury Trust Fund. Such resolutions shall become effective when all claims made for injuries occurring on and prior to June 30, 2008 December 31, 2006, have been fully paid or otherwise resolved and shall include provisions for:

- (1) The termination of assessments against insurers or self-insurers;
- (2) The pro rata refund of assessments previously collected and unexpended;
- (3) The termination of employment of the employees of the fund or the transfer of employment of any employees to any other state agency desiring to accept them;
- (4) A final accounting of the financial affairs of the fund; and
- (5) The transfer of the books, records, and property of the fund to the custody of the State Board of Workers' Compensation.

Upon the completion of all matters provided for in such resolutions, but not later than December 31, 2020, the Subsequent Injury Trust Fund and the members of its board of trustees shall be discharged from their duties except for such personnel necessary to administer any remaining claims."

## SECTION 2.

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

## SECTION 3.

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

On the adoption of the substitute, the yeas were 29, nays 0, 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	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
E Bulloch Butler	Y Hudgens Johnson	Y Stephens Y Stoner
E Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	E Thomas,R
Y Chapman	Miles	E Thompson,C
Y Douglas Fort	Y Moody Y Mullis	Y Thompson,S E Tolleson
E Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 0.

HB 200, having received the requisite constitutional majority, was passed by substitute.

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

HB 828. By Representatives Fleming of the 117th, Harbin of the 118th and Burmeister of the 119th:

A BILL to be entitled an Act to make provisions for the Magistrate Court of Columbia County; to provide for qualifications for the office of chief magistrate and magistrate; to provide for exceptions; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 829. By Representative Jamieson of the 28th:

A BILL to be entitled an Act to amend an Act providing for a new charter for the Town of Martin, approved March 18, 1980 (Ga. L. 1980, p. 3215), as

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amended, so as to repeal term limitations for the mayor and the members of the city council; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 830. By Representative Ray of the 136th:

A BILL to be entitled an Act to create a board of elections and registration for Crawford County and provide for its powers and duties, to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for personnel, including a chief election official, and compensation; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 835. By Representatives Brown of the 69th and Smith of the 70th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Heard County, approved April 4, 1991 (Ga. L. 1991, p. 3976), as amended, particularly by an Act approved September 18, 1991 (Ga. L. 1991, Ex. Sess., p. 479), so as to provide for the election of members of the board of commissioners and the county chairman to staggered, four-year terms of office; to provide for related matters; to require the submission of this Act for preclearance; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 836. By Representative Bridges of the 10th:

A BILL to be entitled an Act to amend an Act providing for the election of the members of the board of education of Habersham County, approved March 5, 1976 (Ga. L. 1976, p. 2708), as amended, so as to provide for the compensation of the members of such board; to provide for the automatic repeal of this Act; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 837. By Representative Jamieson of the 28th:

A BILL to be entitled an Act to create the Stephens County School Building Authority and to provide for the appointment of members of the authority; to confer powers upon the authority; to authorize the issuance of revenue bonds of the authority payable from the revenues, tolls, fees, charges, and earnings of the authority, contract payments to the authority, and other moneys pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, and earnings of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; to make the revenue bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for the validation of bonds; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 838. By Representative Jamieson of the 28th:

A BILL to be entitled an Act to amend an Act creating the Banks County Family Connection Commission, approved April 13, 2001 (Ga. L. 2001, p. 4134), so as to change the membership of the commission; to change certain provisions requiring an oath of office; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 839. By Representatives Fleming of the 117th, Harbin of the 118th and Burmeister of the 119th:

A BILL to be entitled an Act to amend an Act providing for the election of the Board of Education of Columbia County, approved March 21, 1968 (Ga. L. 1968, p. 2708), as amended, particularly by an Act approved September 21, 1995 (Ga. L. 1995, Ex. Sess., p. 336), and by an Act approved April 25, 2002 (Ga. L. 2002, p. 4528), so as to change provisions relating to education districts for the board; to define certain terms; to provide for the manner and dates of election of members of the board; to provide for related matters; to provide for the submission of this Act to the United States Department of Justice; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

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- HB 840. By Representatives Setzler of the 35th, Tumlin of the 38th, Teilhet of the 40th, Cooper of the 41st, Johnson of the 37th and others:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Kennesaw, approved April 10, 1971 (Ga. L. 1971, p. 3620), as amended, particularly by an Act approved June 30, 2003 (Ga. L. 2003, p. 4373), so as to change the provisions relating to the corporate limits of said city; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

- HB 844. By Representative Coleman of the 144th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Dodge County, approved March 6, 1996 (Ga. L. 1996, p. 3507), as amended, so as to reapportion the education districts for election of the members of said board of education; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

- HB 845. By Representatives Hill of the 21st and Murphy of the 23rd:

A BILL to be entitled an Act to amend an Act known as the "Cherokee County Water and Sewerage Authority Act," approved March 7, 1955 (Ga. L. 1955, p. 2943), as amended, so as to change the provisions relating to compensation of the chairperson and members; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The Calendar was resumed.

- HB 291. By Representatives Rogers of the 26th, Knox of the 24th, Meadows of the 5th and Dodson of the 75th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to remove the requirement that managed care plans obtain certain acknowledgments; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to

require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hudgens of the 47th.

Senators Shafer of the 48th, Hudgens of the 47th and Moody of the 56th offered the following amendment #1:

Amend HB 291 by striking lines 10 through 25 on page 5 and inserting in lieu thereof the following:

"(c) It is the intent of the General Assembly to mitigate geographic discrimination in the delivery of health care by recognizing the application of and payment for covered medical care provided by means of telemedicine, provided that such services are provided by a physician or by another health care practitioner or professional acting within the scope of practice of such health care practitioner or professional and in accordance with the provisions of Code Section 43-34-31.1.

(d) On and after July 1, 2005, every health benefit policy that is issued, amended, or renewed shall include payment for services that are covered under such health benefit policy and are appropriately provided through telemedicine in accordance with Code Section 43-34-31.1 and generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this Code section may be subject to all terms and conditions of the applicable health benefit plan."

On the adoption of the amendment, the yeas were 29, nays 0, and the Shafer et al. amendment #1 was adopted.

Senators Shafer of the 48th, Hudgens of the 47th and Moody of the 56th offered the following amendment #2:

Amend HB 291 by inserting after "deductibles;" on line 3 on page 1 "to authorize the Commissioner of Insurance to establish by rule or regulation a standard or uniform explanation of benefits form and remittance advice form relating to certain health insurance policies and contracts;".

By inserting after line 23 on page 4 the following:

**"SECTION 3.**

Said title is further amended by striking Code Section 33-24-10.1, relating to standard or uniform claim form, and inserting in lieu thereof a new Code Section 33-24-10.1 to read as follows:

'33-24-10.1.

(a) The Commissioner is authorized to establish by rule or regulation a standard or uniform claim form to be supplied by insurers on and after January 1, 1994, to their insureds for the purpose of filing claims under policies or contracts of accident and sickness insurance.

(b)(1) The Commissioner is authorized to establish by rule or regulation a standard or uniform explanation of benefits form and a standard or uniform remittance advice form to be supplied by an insurer or plan or any agent thereof to an insured, provider, beneficiary, claimant, or enrollee on and after July 1, 2005, for the purpose of paying or resolving claims filed under policies or contracts of accident and sickness insurance other than limited benefit insurance plans or policies. This authorization shall also apply to any explanation of benefits form and remittance advice form issued by a managed care plan as defined in Code Section 33-20A-3 or issued by the state health benefit plan or the board of regents health plan operated by the Department of Community Health pursuant to Code Section 31-5A-4.

(2) For purposes of this Code section, "explanation of benefits" or "remittance advice" means any written or electronic communication from an insurer or plan or any agent thereof to an insured, provider, beneficiary, claimant, or enrollee which explains or attempts to explain the benefits paid or to be paid by the insurer, the plan, or other persons related to any claim submitted by or on behalf of the insured, provider, beneficiary, claimant, or enrollee.

(3) Such rule or regulation shall, at a minimum, require the explanation of benefits form and the remittance advice form to be easily understood by a reasonable consumer and to contain:

(A) The amount of the claim to be paid by the insurer or plan;

(B) The amount of the claim to be paid by any other person;

(C) The amount of the claim for which the insured, beneficiary, claimant, or enrollee is personally responsible; and

(D) Any additional information deemed by the Commissioner to be necessary to reduce confusion and promote the prompt payment and adjudication of claims.

(c) The Commissioner shall file and maintain on file in the office of the Commissioner a true copy of the standard or uniform claim form and explanation of benefits form and remittance advice form designated as such and bearing the Commissioner's authenticating signature and the date of filing."

By redesignating Sections 3 through 16 as Sections 4 through 17, respectively.

On the adoption of the amendment, the yeas were 32, nays 0, and the Shafer et al. amendment #2 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 Hill,Jack	Smith
Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	E Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
E Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	E Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 1.

HB 291, having received the requisite constitutional majority, was passed as amended.

HB 327. By Representatives Coan of the 101st, Fleming of the 117th, Carter of the 159th, Williams of the 4th, Teilhet of the 40th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to authorize the State Board of Workers' Compensation to issue rules relating to the electronic submission and transmission of documents; to provide for schedule of hearings relating to determination of noncatastrophic injury status; to change a provision relating to the designation process for a catastrophic injury by creating a rebuttable presumption; to change the compensation for

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temporary total disability; to change the compensation for temporary partial disability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hudgens of the 47th.

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	Hill,Jack	Y Smith
Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
E Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	E Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
E Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 0.

HB 327, having received the requisite constitutional majority, was passed.

HB 520. By Representatives Coan of the 101st, Williams of the 4th, Horne of the 71st, Carter of the 159th, Butler of the 18th and others:

A BILL to be entitled an Act to amend Chapter 8 of Title 34 of the O.C.G.A., relating to employment security, so as to provide a change to the definition of the term "employment"; to identify certain business acquisitions with respect to which the succession of experience tax rates shall not be permitted and to impose civil and criminal penalties with regard thereto; to extend suspension of

adjustments based upon the State-wide Reserve Ratio for the calendar year 2006 and to provide for a reduced adjustment in contribution rates through December 31, 2006; to continue provisions relating to administrative assessments; to provide for a change in the weekly benefit amount over a two-year period; to provide for the Department of Labor a supplemental appropriation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hudgens of the 47th.

The Senate Insurance and Labor Committee offered the following substitute to HB 520:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, so as to provide a change to the definition of the term "employment"; to identify certain business acquisitions with respect to which the succession of experience tax rates shall not be permitted and to impose civil and criminal penalties with regard thereto; to extend suspension of adjustments based upon the State-wide Reserve Ratio for the calendar year 2006 and to provide for a reduced adjustment in contribution rates through December 31, 2006; to continue provisions relating to administrative assessments; to provide for a change in the weekly benefit amount over a two-year period; to provide for the Department of Labor a supplemental appropriation, pursuant to and in accordance with the provisions of Code Section 34-8-81, relating to the creation and purposes of the Employment Security Administration Fund, and Code Section 34-8-85, relating to certain withdrawals from the Unemployment Trust Fund, of additional funds which are otherwise available to the Department of Labor out of funds credited to and held in this state's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to Section 903 of the Social Security Act, as amended, for the purpose of providing for the payment of expenses of administration of Chapter 8 of Title 34 of the Official Code of Georgia Annotated, the "Employment Security Law," as amended, including personal services and operating and other expenses incurred in the administration of said law, as well as for the procurement, through purchase or rental, either or both, of offices, lands, buildings or parts of buildings, fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the construction of buildings or parts of buildings suitable for use in this state by the Department of Labor, and for the payment of expenses incurred for the construction, maintenance, improvements, or repair of or alterations to such real or personal property; to authorize the Commissioner of Labor to direct the obligation and expenditure of said funds and to employ workers, contract with persons, public and private agencies, corporations, and other entities, and to do all other things necessary to accomplish such purposes; to provide for related matters; to provide an effective date; to

repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, is amended by striking the word "or" at the end of paragraph (15) and by striking the period and inserting ";" or" at the end of paragraph (16) of subsection (n) of Code Section 34-8-35, relating to employment, and inserting at the end of said subsection a new paragraph (17) to read as follows:

- "(17) Services performed for a common carrier of property by an individual consisting of the pickup, transportation, and delivery of property; provided that:
- (A) The individual is free to accept or reject assignments from the common carrier;
  - (B) Remuneration for the individual is on the basis of commissions or deliveries accomplished;
  - (C) Such individual personally provides the vehicle used in the pickup, transportation, and delivery of the property;
  - (D) Such individual has a written contract with the common carrier;
  - (E) The written contract states expressly and prominently that the individual knows:
    - (i) Of the responsibility to pay estimated social security taxes and state and federal income taxes;
    - (ii) That the social security tax the individual must pay is higher than the social security tax the individual would pay if he or she were an employee; and
    - (iii) That the work is not covered by the unemployment compensation laws of Georgia; and
  - (F) The written contract does not prohibit such individual from the pickup, transportation, or delivery of property for more than one common carrier or any other person or entity."

**SECTION 2.**

Said chapter is further amended by striking in its entirety Code Section 34-8-151, relating to the rate of employer contributions, and inserting in lieu thereof the following:

"34-8-151.

- (a) For periods prior to April 1, 1987, or after December 31, 2005 2011, each new or newly covered employer shall pay contributions at a rate of 2.7 percent of wages paid by such employer with respect to employment during each calendar year until the employer is eligible for a rate calculation based on experience as defined in this chapter, except as provided in Code Sections 34-8-158 through 34-8-162.
- (b) For periods on or after April 1, 1987, but on or before December 31, 1999, each new or newly covered employer shall pay contributions at a rate of 2.64 percent of wages paid by such employer with respect to employment during each calendar year until the employer is eligible for a rate calculation based on experience as defined in this chapter, except as provided in Code Sections 34-8-158 through 34-8-162.

(c) For periods on or after January 1, 2000, but on or before December 31, 2005, 2011 each new or newly covered employer shall pay contributions at a rate of 2.62 percent of wages paid by such employer with respect to employment during each calendar year until the employer is eligible for a rate calculation based on experience as defined in this chapter, except as provided in Code Sections 34-8-158, 34-8-159, 34-8-160, 34-8-161, and 34-8-162."

### SECTION 3.

Said chapter is further amended by striking in its entirety Code Section 34-8-153, relating to the liability of succeeding employers and computation of rate of contributions, and inserting in lieu thereof the following:

"34-8-153.

(a) Subject to the provisions of subsections (g) and (h) of this Code section, any Any corporation, partnership, individual, or other legal entity who acquires by purchase, merger, consolidation, or other means substantially all of the trade, business, or assets of any employer and who thereafter continues the acquired trade or business shall be deemed to be a successor to the employer from whom the trade or business was acquired. The successor shall acquire the experience rating record of the predecessor except as otherwise provided in this Code section or in the rules and regulations of the Department of Labor. If the successor is not already an employer at the time of the acquisition, the rate of contributions applicable to the predecessor shall continue to be applicable to the successor; provided, however, if the existing rate of contributions of the predecessor exceeds the new employer rate as specified in Code Section 34-8-151, the successor shall be assigned a new employer rate of contributions; in such event, the experience of the predecessor shall not be considered for purposes of rate calculations and the successor shall be otherwise treated as a new employer.

(b) Subject to the provisions of subsections (g) and (h) of this Code section, if the successor is already an employer at the time of the acquisition, the rate of contributions applicable to the successor shall continue until the end of the quarter in which the acquisition occurred. The rate of contributions applicable to the successor beginning on the first day of the quarter following the acquisition will be determined by the combined experience of the predecessor and successor as of the applicable computation date; provided, however, the experience of the predecessor shall not be combined with that of the successor for purposes of rate calculation if the predecessor's rate of contributions immediately preceding the acquisition exceeded the rate already in effect for the successor; in such event, the experience of the predecessor shall not be considered for purposes of rate calculations unless this combination of experience results in a reduction of rates.

(c) Subject to the provisions of subsections (g) and (h) of this Code section, any Any employing unit which acquires by any means any clearly identifiable or separable portion of the trade or business of an employer and is an employer at the time of the acquisition or becomes an employer within six months from the end of the quarter in which the acquisition is made may be deemed to be a partial successor to the employer

from whom the portion of the trade or business was acquired. A portion of the predecessor's experience rating records which are attributable to the portion of trade or the business which was acquired may be transferred to the successor. Mutual consent of both parties must be given to effectuate the partial transfer. The Commissioner shall prescribe by regulation the time frame for notification to the department of partial acquisitions and the method by which the portion of the experience rating record to be transferred will be determined.

(d) Subject to the provisions of subsections (g) and (h) of this Code section, if the conditions of subsection (c) of this Code section are met and the partial successor is not already an employer at the time of the acquisition, the rate of contributions applicable to the predecessor shall be applicable to the successor. Future rates will be determined by combining the transferred portion of the predecessor's experience rating record with the successor's own experience rating record as of the applicable computation date.

(e) Subject to the provisions of subsections (g) and (h) of this Code section, if the conditions of subsection (c) of this Code section are met and the partial successor is already an employer at the time of the acquisition, the rate of contributions applicable to the successor shall continue until the end of the quarter in which the acquisition occurred. The rate of contributions applicable to the successor beginning on the first day of the quarter following the acquisition will be determined by combining the transferred portion of the predecessor's experience rating record with the successor's own experience rating record as of the applicable computation date.

(f) Nothing in this Code section shall be construed to affect liens which are created pursuant to Code Section 34-8-167.

(g) Notwithstanding any other provision in this chapter to the contrary, effective July 1, 2006:

(1) If an employer transfers its trade or business, or any portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers then the rate of contributions attributable to the predecessor shall be transferred to the successor employer to whom such business is so transferred. The rates of contributions of both employers shall be recalculated and made effective immediately upon the date of the transfer of the trade or business.

(2) Whenever the successor is not already an employer at the time of the acquisition, the unemployment experience of the acquired business shall not be transferred to the successor if the Commissioner determines that the successor acquired the business solely or primarily for the purpose of obtaining a lower rate of contribution. Instead, the successor shall be assigned the new employer rate under Code Section 34-8-151. In determining whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the Commissioner shall use objective factors which may include the following:

(A) The cost of acquiring the trade or business;

(B) Whether the successor actually continued the business enterprise of the acquired trade or business;

- (C) How long the acquired trade or business was continued; and  
(D) Whether or not a substantial number of new employees were hired for the performance of duties unrelated to the business activity conducted by the predecessor prior to acquisition.
- (h)(1) Any person would knowingly violates or attempts to violate subsection (g) or any other provision of this chapter related to determining the assignment of a rate of contributions or any person who knowingly advises another person in a manner that results in a violation of such provision shall be subject to the following penalties.
- (A) If the person is an employer, then such employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and the three rate years immediately following that rate year; provided, however, that if:
- (i) The person's business is already at the highest rate; or  
(ii) If the amount of increase in the rate of contributions for such person would be less than 2 percent for such year,  
then a penalty rate of contributions of 2 percent of taxable wages shall be imposed for such year;
- (B) If the person is not an employer, such person shall be subject to a civil money penalty of not more than \$5,000.00 per violation. Any such fine collected shall be deposited in the penalty and interest account established under Code Section 34-8-92.
- (2) For the purposes of this Code section, the term 'knowingly' means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibited act or omission.
- (3) For the purposes of this Code section, the term 'violates or attempts to violate' includes, but is not limited to, intent to evade, misrepresentation, and willful nondisclosure.
- (4) For the purposes of this Code section, the term 'person' shall have the meaning given such term by Section 7701(a)(1) of the Internal Revenue Code of 1986, as amended.
- (5) For the purposes of this Code section and administration of the Employment Security Law, the terms 'trade, business, or assets' and 'trade or business' shall include:
- (A) The employer's work force or any part of the employer's work force; and  
(B) Any part of the employer's trade, business, or assets, whether or not clearly identifiable or separable within the meaning of subsection (c) of this Code section.
- Tax liability under Chapter 7 of Title 48 shall not be affected by the definitions of 'trade, business, or assets' and 'trade or business' in this Code section.
- (6) In addition to the penalty imposed by paragraph (1) of this subsection, any violation of this Code section may be prosecuted as a felony under Code Section 16-10-20.
- (7) The Commissioner shall establish procedures to identify the occurrence of any transfer or acquisition of a business that violates any provision of this Code section."

#### SECTION 4.

Said chapter is further amended by striking in its entirety subparagraph (B) of paragraph (4) of subsection (d) of Code Section 34-8-156, relating to State-wide Reserve Ratio, and inserting in lieu thereof the following:

"(B) Except for any year or portion of a year during which the provisions of paragraph (1) of subsection (f) of Code Section 34-8-155 apply, when the State-wide Reserve Ratio, as calculated above, is less than 1.7 percent, there shall be an overall increase in the rate, as of the computation date, for each employer whose rate is computed under a rate table in Code Section 34-8-155 in accordance with the following table:

If the State-wide Reserve  
Ratio:

<u>Equals or Exceeds</u>	<u>But Is Less Than</u>	<u>Overall Increase</u>
1.5 percent	1.7 percent	25 percent
1.25 percent	1.5 percent	50 percent
0.75 percent	1.25 percent	75 percent
Under 0.75 percent		100 percent

provided, however, that for the period of January 1 through December 31, ~~2005~~  
2006, the overall increase in the rate required under this subparagraph shall be suspended and the provisions of this subparagraph shall be null and void, except in the event the State-wide Reserve Ratio, as calculated above, is less than 1.00 percent, then the Commissioner of Labor shall have the option of imposing an increase in the overall rate of up to 35 percent, as of the computation date, for each employer whose rate is computed under a rate table in Code Section 34-8-155."

#### SECTION 5.

Said chapter is further amended by striking in its entirety Code Section 34-8-180, relating to an administrative assessment on all wages, and inserting in lieu thereof the following:

"34-8-180.

(a) For the periods on or after April 1, 1987, but on or before January 1, 2000, there is created an administrative assessment of .06 percent to be assessed upon all wages, as defined in Code Section 34-8-49, except wages of the following employers:

- (1) Those employers who have elected to make payments in lieu of contributions as provided by Code Section 34-8-158 or who are liable for the payment of contributions as provided in said Code section; or
- (2) Those employers who, by application of the State-wide Reserve Ratio as provided in Code Section 34-8-156, have been assigned the minimum positive reserve rate or the maximum deficit reserve rate.

- (b) For the periods on or after January 1, 2000, but on or before December 31, ~~2005~~ 2011, there is created an administrative assessment of 0.08 percent to be assessed upon all wages as defined in Code Section 34-8-49, except the wages of:
- (1) Those employers who have elected to make payments in lieu of contributions as provided by Code Section 34-8-158 or who are liable for the payment of contributions as provided in said Code section; or
  - (2) Those employers who, by application of the State-wide Reserve Ratio as provided in Code Section 34-8-156, have been assigned the minimum positive reserve rate or the maximum deficit reserve rate.
- (c) Assessments pursuant to this Code section shall become due and shall be paid by each employer and must be reported on the employer's quarterly tax and wage report according to such rules and regulations as the Commissioner may prescribe. The assessments provided in this Code section shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this subsection is unlawful."

#### **SECTION 6.**

Said chapter is further amended by striking in its entirety Code Section 34-8-181, relating to an additional administrative assessment for new or newly covered employers, and inserting in lieu thereof the following:

"34-8-181.

- (a) For the periods on or after April 1, 1987, but on or before December 31, 1999, in addition to the rate paid under Code Section 34-8-151, each new or newly covered employer shall pay an administrative assessment of .06 percent of wages payable by it with respect to employment during each calendar year until it is eligible for a rate calculation based on experience as defined in this chapter, except as provided in Code Section 34-8-158.
- (b) For the periods on or after January 1, 2000, but on or before December 31, ~~2005~~ 2011, in addition to the rate paid under Code Section 34-8-151, each new or newly covered employer shall pay an administrative assessment of 0.08 percent of wages payable by it with respect to employment during each calendar year until it is eligible for a rate calculation based on experience as defined in this chapter, except as provided in Code Section 34-8-158."

#### **SECTION 7.**

Said chapter is further amended by striking in its entirety Code Section 34-8-185, relating to the automatic repeal of Article 6, and inserting in lieu thereof the following:

"34-8-185.

This article shall stand repealed in its entirety on December 31, ~~2005~~ 2011."

#### **SECTION 8.**

Said chapter is further amended by striking in their entirety subsections (a), (b), and (c) of Code Section 34-8-193, relating to determination of the weekly benefit amount, and

inserting in lieu thereof the following:

- "(a) The weekly benefit amount of an individual's claim shall be that amount computed by dividing the two highest quarters of wages paid in the base period by ~~46~~ 44. Any fraction of a dollar shall then be disregarded. Wages must have been paid in at least two quarters of the base period and total wages in the base period must equal or exceed 150 percent of the highest quarter base period wages. For claims that fail to establish entitlement due to failure to meet the 150 percent requirement, an alternative computation shall be made. In such event, the weekly benefit amount shall be computed by dividing the highest single quarter of base period wages paid by ~~23~~ 22. Any fraction of a dollar shall then be disregarded. Under this alternative computation, wages must have been paid in at least two quarters of the base period and total base period wages must equal or exceed 40 times the weekly benefit amount. Regardless of the method of computation used, wages must have been paid for insured work, as defined in Code Section 34-8-41.
- (b) Weekly benefit amount entitlement as computed in this Code section shall be no less than \$27.00 per week for benefit years beginning on or after July 1, 1983; provided, however, that for benefit years beginning on or after July 1, 1987, when the weekly benefit amount, as computed, would be more than \$26.00 but less than \$37.00, the individual's weekly benefit amount will be \$37.00, and no weekly benefit amount shall be established for less than \$37.00; provided, further, that for benefit years beginning on or after July 1, 1997, when the weekly benefit amount, as computed, would be more than \$26.00 but less than \$39.00, the individual's weekly benefit amount will be \$39.00, and no weekly benefit amount shall be established for less than \$39.00; provided, further, that for benefit years beginning on or after July 1, 2002, when the weekly benefit amount, as computed, would be more than \$26.00 but less than \$40.00, the individual's weekly benefit amount will be \$40.00, and no weekly benefit amount shall be established for less than \$40.00; provided, further, that for benefit years beginning on or after July 1, 2005, when the weekly benefit amount, as computed, would be more than \$26.00 but less than \$42.00, the individual's weekly benefit amount will be \$42.00, and no weekly benefit amount shall be established for less than \$42.00.
- (c) Weekly benefit amount entitlement as computed in this Code section shall not exceed these amounts for the applicable time period:
- (1) For claims filed on or after July 1, 1990, but before July 1, 1994, the maximum weekly benefit amount shall not exceed \$185.00;
  - (2) For claims filed on or after July 1, 1994, but before July 1, 1995, the maximum weekly benefit amount shall not exceed \$195.00;
  - (3) For claims filed on or after July 1, 1995, but before July 1, 1996, the maximum weekly benefit amount shall not exceed \$205.00;
  - (4) For claims filed on or after July 1, 1996, but before July 1, 1997, the maximum weekly benefit amount shall not exceed \$215.00;
  - (5) For claims filed on or after July 1, 1997, but before July 1, 1998, the maximum weekly benefit amount shall not exceed \$224.00;

- (6) For claims filed on or after July 1, 1998, but before July 1, 1999, the maximum weekly benefit amount shall not exceed \$244.00;
- (7) For claims filed on or after July 1, 1999, but before July 1, 2000, the maximum weekly benefit amount shall not exceed \$264.00;
- (8) For claims filed on or after July 1, 2000, but before July 1, 2001, the maximum weekly benefit amount shall not exceed \$274.00;
- (9) For claims filed on or after July 1, 2001, but before July 1, 2002, the maximum weekly benefit amount shall not exceed \$284.00;
- (10) For claims filed on or after July 1, 2002, but before July 1, 2003, the maximum weekly benefit amount shall not exceed \$295.00; and
- (11) For claims filed on or after July 1, 2003, but before July 1, 2005, the maximum weekly benefit amount shall not exceed \$300.00;
- (12) For claims filed on or after July 1, 2005, but before July 1, 2006, the maximum weekly benefit amount shall not exceed \$310.00; and
- (13) For claims filed on or after July 1, 2006, the maximum weekly benefit amount shall not exceed \$320.00."

#### SECTION 8A.

Said chapter is further amended by striking in its entirety division (iii) of subparagraph (B) of paragraph (2) of Code Section 34-8-194, relating to the grounds for disqualification of benefits, and inserting in lieu thereof the following:

"(iii) The discharge occurred because of absenteeism and the absences were caused by illness of the claimant or a family member, unless the claimant has without justification failed to notify the employer or the absence for such illness which led to discharge followed a series of absences, the majority of which were attributable to fault on the part of the claimant in direct violation of the employer's attendance policy and regarding which the claimant has been advised in writing, prior to any of the absences, that unemployment benefits may be denied due to such violations of the employer's policy on attendance; provided, however, that no waiver of an employee's rights under the federal Family and Medical Leave Act of 1993, as amended, or any other applicable state or federal law shall be construed under this division;".

#### SECTION 9.

There is appropriated to the Department of Labor out of funds credited to and held in this state's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with Section 903 of the Social Security Act, as amended, an additional amount of \$1,642,647.11. Of said additional amount, the sum of \$1,642,647.11 is authorized to be allocated for expenses incurred in the administration of Chapter 8 of Title 34 of the Official Code of Georgia Annotated, the "Employment Security Law" as amended, including personal services and operating and other expenses incurred in the administration of said law, as well as for the purchase or rental, either or both, of improvements, repairs, or alterations to and of offices, lands, buildings or parts

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of buildings, fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the construction of buildings or parts of buildings suitable for use in this state by the Department of Labor, and for the payment of expenses incurred for the acquisition, purchase, rental, construction, maintenance, improvements, repairs, or alterations of and to such real or personal property. Notwithstanding any other provision of this section, the amount appropriated in this Act shall not exceed the amount in the Unemployment Trust Fund, which may be obligated for expenditure for such purposes as provided in Code Section 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the Unemployment Trust Fund, and the amount which may be obligated shall not exceed the limitations provided in Code Section 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the Unemployment Trust Fund; provided, however, that said additional funds shall not be obligated for expenditure, as provided in this Act, after the close of the two-year period which begins on the date of enactment of this Act.

#### **SECTION 9A.**

The Commissioner of Labor is authorized, pursuant to and in accordance with Section 903 of the Social Security Act, as amended, to requisition, and to direct the obligation and expenditure for use in such locations in this state as the Commissioner finds to be economical and desirable, such money as authorized in this Act and in Code Section 34-8-81 of the Official Code of Georgia Annotated, relating to the creation and purposes of the Employment Security Administration Fund, and Code Section 34-8-85 of the Official Code of Georgia Annotated, relating to certain withdrawals from the Unemployment Trust Fund, and, in the manner and for the purposes authorized in this Act, including personal services and operating and other expenses incurred in the administration of said laws, as well as for the procurement, through purchase or rental, either or both, of offices, lands, buildings or parts of buildings, fixtures, furnishings, equipment, technology, data, reports and studies, supplies, and the construction of buildings or parts of buildings suitable for use by the Department of Labor, for the payment of expenses incurred for the construction, maintenance, improvements, or repair of or alterations to such real or personal property, to employ workers, contract with persons, public and private agencies, corporations, and other entities, to allocate any unexpended amounts appropriated by this Act, and to do all other things necessary to accomplish the purposes of this Act. The acquisition of any real or personal property and the expenditure of any funds appropriated by this Act shall be in accordance with this state's applicable laws existing on the effective date of this Act.

#### **SECTION 10.**

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

#### **SECTION 11.**

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

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

Amend the Senate Insurance and Labor Committee substitute to HB 520 by inserting after "regard thereto;" on line 4 on page 1 "to extend certain contribution rates and credits;".

By redesignating Sections 4, 5, 6, 7, 8, 9, 10, and 11 as Sections 5, 6, 7, 8, 9, 10, 11, and 12 and inserting after line 16 on page 6 the following:

**"SECTION 4.**

Said chapter is further amended by striking the introductory language to subsections (c) and (e) of Code Section 34-8-155, relating to benefit experience, and inserting in lieu thereof new introductory language to read as follows:

'(c) For the periods prior to April 1, 1987, or after December 31, 2005 2011, variations from the standard rate of contributions shall be determined in accordance with the following requirements:'

'(e) For the periods on or after January 1, 2000, but on or before December 31, 2005 2011, variations from the standard rate of contributions shall be determined in accordance with the following requirements:'."

On the adoption of the amendment, the yeas were 38, nays 1, and the Hudgens amendment #1 was adopted.

Senator Henson of the 41st offered the following amendment #2:

Amend the Senate Insurance and Labor Committee substitute to HB 520 (LC 28 2459S) by striking "employer or" on line 17 of page 10 and inserting in its place the following:

"employer where the employer provides a sick leave policy or"

Senator Henson of the 41st asked unanimous consent that his amendment #2 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Henson of the 41st offered the following amendment #3:

Amend the Senate Insurance and Labor Committee substitute to HB 520 (LC 28 2459S) by striking lines 11 through 24 on page 10.

Senator Henson of the 41st asked unanimous consent that his amendment #3 be withdrawn. The consent was granted, and the amendment was withdrawn.

On the adoption of the substitute, the yeas were 36, nays 1, and the committee substitute was adopted as amended.

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1975

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Hooks	Y Staton
E Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 51, nays 1.

HB 520, having received the requisite constitutional majority, was passed by substitute.

HR 142. By Representatives Smith of the 131st, Smith of the 129th, Buckner of the 130th, Reece of the 11th, Crawford of the 127th and others:

A RESOLUTION requesting that the Committee on the Implementation of Textile Agreements approve the safeguard petitions filed by the United States textile industry; and for other purposes.

Senate Sponsor: Senator Mullis of the 53rd.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

1976

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Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 52, nays 0.

HR 142, having received the requisite constitutional majority, was adopted.

HB 58. By Representatives Powell of the 29th and Rice of the 51st:

A BILL to be entitled an Act to enact the "Working Against Recidivism Act"; to provide a short title and legislative findings; to amend Chapters 1, 5, and 10 of Title 42 of the O.C.G.A., relating respectively to general provisions relative to penal institutions, state and county correctional institutions, and correctional industries, so as to authorize work programs employing inmates as voluntary, paid labor for privately owned profit-making employers producing goods, services, or goods and services for sale to public or private purchasers under certain circumstances; to provide for rules and regulations; to provide for federal certification and state operation of such programs; to provide for compensation for state costs and use of state resources; to provide for compliance with federal law; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Grant of the 25th.

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1977

The Senate State Institutions and Property Committee offered the following amendment:

Amend HB 58 by striking lines 14 and 15 of page 1 and inserting in lieu thereof the following:

"Correctional Industries Administration to use inmate labor to provide services; to provide for related matters; to provide".

By striking line 31 of page 3 and inserting in lieu thereof the following:

"(1) Assurance that inmates' work is voluntary and that there shall be no retribution against inmates who do not volunteer".

By striking lines 15 through 24 of page 6.

By renumbering Sections 7 and 8 as Sections 6 and 7, respectively.

On the adoption of the amendment, the yeas were 34, nays 0, and the committee amendment was adopted.

Senators Grant of the 25th and Thomas of the 2nd offered the following amendment #1:

Amend House Bill 58 by striking from line 28 of page 3 the following:  
"or the Georgia Correctional Industries Administration".

On the adoption of the amendment, the yeas were 38, nays 0, and the Grant, Thomas of the 2nd amendment #1 was adopted.

The report of the committee, which was favorable to the passage of the bill as amended, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Goggans	Y Pearson	Y Unterman

1978

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Y Golden	Y Powell	Walker
Y Grant	Y Reed	Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

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

HB 58, having received the requisite constitutional majority, was passed as amended.

The following communication was received by the Secretary:

Senator Bill Hamrick  
District 30  
121-H State Capitol  
Atlanta, GA 30334

**Committees:**  
Banking and Financial Institutions  
Rules  
Appropriations  
Judiciary

The State Senate  
Atlanta, Georgia 30334

I vote Yes on HB 58.

3/22/05  
1:41 p.m.

/s/ Bill Hamrick

Senator Hooks of the 14th asked unanimous consent that Senator Meyer von Bremen of the 12th be excused. The consent was granted, and Senator Meyer von Bremen was excused.

Senator Jones of the 10th asked unanimous consent that Senator Golden of the 8th be excused. The consent was granted, and Senator Golden was excused.

Senator Hudgens of the 47th asked unanimous consent that Senator Kemp of the 46th be excused. The consent was granted, and Senator Kemp was excused.

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1979

SR 376. By Senators Zamarripa of the 36th, Moody of the 56th, Weber of the 40th and Hill of the 32nd:

A RESOLUTION creating the Senate Atlanta County Study Committee, and for other purposes.

The Senate State and Local Governmental Operations Committee offered the following substitute to SR 376:

A RESOLUTION

Creating the Senate Atlanta County and Milton County Study Committee, and for other purposes

WHEREAS, Fulton County encompasses many different and diverse communities; and

WHEREAS, there currently exist within Fulton County ten separate municipalities, including the Cities of Atlanta, Alpharetta, College Park, East Point, Fairburn, Hapeville, Mountain Park, Palmetto, Roswell, and Union City; and

WHEREAS, the municipalities within Fulton County are individually of historic importance to their communities and to the State of Georgia; and

WHEREAS, rising property taxes and the desire for more efficient government are concerns for many citizens of Fulton County; and

WHEREAS, the services offered by Fulton County and these municipalities are often duplicative; and

WHEREAS, the residents of Fulton County and the municipalities therein would benefit from a consolidation of certain services; and

WHEREAS, it is desirable the historic nature of the municipalities in Fulton County be preserved in the event of consolidation; and

WHEREAS, certain aspects of government and services can be best served by local governments and organizations; and

WHEREAS, there are numerous residents in Georgia and in the United States that have been well served by the consolidation of services and governments, including the residents of Athens-Clarke County, Columbus-Muscogee County, and Augusta-Richmond County in Georgia, and also residents of Miami-Dade County in Florida and the five Boroughs of New York City, including, without limitation, the creation of the

new counties potentially named Atlanta County in the south and Milton County in the north portions of present Fulton County; and

WHEREAS, there are many possibilities for consolidation of governments or services in Fulton County, which ought to be discussed so as to provide the residents of Fulton County with the best form of government and the most efficient delivery of services possible.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that there is created the Senate Atlanta County and Milton County Study Committee to be composed of five members of the Senate to be appointed by the Senate Committee on Assignments. The Senate Committee on Assignments shall designate one member of the committee from each major political party as cochairpersons of the committee. The chairpersons shall call all meetings of the committee.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the issues discussed above and other related matters and recommend any action or legislation which the committee deems necessary or appropriate. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The members of the committee shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. The allowances authorized by this resolution shall not be received by any member of the committee for more than three days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the Senate. In the event the committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2005. The committee shall stand abolished on December 31, 2005.

On the adoption of the substitute, the yeas were 34, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner

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1981

Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 48, nays 1.

SR 376, having received the requisite constitutional majority, was adopted by substitute.

HB 372. By Representatives Coan of the 101st, Brooks of the 63rd, Keen of the 179th, Richardson of the 19th, Porter of the 143rd and others:

A BILL to be entitled an Act to amend Code Section 20-2-553 of the Official Code of Georgia Annotated, relating to the powers of the Georgia Education Authority (schools), so as to remove a provision that allows the authority to lease public property to private schools; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Moody of the 56th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R

1982

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Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick Harbison	Y Rogers Y Schaefer	Y Whitehead
Y Harp	Y Seabaugh	Y Wiles
Y Heath	Y Seay	Y Williams
Y Henson	Shafer,D	E Zamarripa

On the passage of the bill, the yeas were 47, nays 1.

HB 372, having received the requisite constitutional majority, was passed.

The following communication was received by the Secretary:

Senator Vincent Fort  
District 39  
305-B Legislative Office Building  
Atlanta, GA 30334

**Committees:**  
Appropriations  
Education and Youth  
Retirement  
Reapportionment and Redistricting  
Special Judiciary

The State Senate  
Atlanta, Georgia 30334  
3/22/05

To: Secretary of the Senate

I inadvertently voted against HB 372 when I meant to vote for it. I am requesting that my vote be recorded as a yes vote.

/s/ Vincent Fort

Senator Kemp of the 46th asked unanimous consent that Senator Moody of the 56th be excused. The consent was granted, and Senator Moody was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Williams of the 19th be excused. The consent was granted, and Senator Williams was excused.

Senator Miles of the 43rd asked unanimous consent that Senator Henson of the 41st be excused. The consent was granted, and Senator Henson was excused.

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1983

HB 1. By Representative Royal of the 171st:

A BILL to be entitled an Act to amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to provide for additional acts which shall not constitute a breach of a conservation use covenant; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Bulloch of the 11th.

The Senate Natural Resources and the Environment Committee offered the following substitute to HB 1:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to change certain provisions regarding qualification of conservation use property for current use assessment; to provide for additional acts which shall not constitute a breach of a conservation use covenant; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, is amended by striking paragraph (1) of subsection (b) and inserting in its place a new paragraph (1) to read as follows:

"(1) When one-half or more of the area of a single tract of real property is used for a qualifying purpose, then such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the unused portion; provided, however, that such unused portion must be minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems. The lease of hunting rights or the use of the property for hunting purposes shall not constitute another type of business. The charging of admission for use of the property for fishing purposes shall not constitute another type of business;"

**SECTION 2.**

Said Code section is further amended by striking subsection (p) and inserting in its place a new subsection (p) to read as follows:

"(p) The following shall not constitute a breach of a covenant:

(1) Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith production from or on the land of

agricultural products;

(2) Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes;

(3) Allowing all or part of the property subject to the covenant to lie fallow or idle due to economic or financial hardship if the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county where the land lying fallow or idle is located and if such owner does not allow the land to lie fallow or idle for more than two years of any five-year period; or

(4)(A) Any property which is subject to a covenant for bona fide conservation use being transferred to a place of religious worship or burial or an institution of purely public charity if such place or institution is qualified to receive the exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41. No person shall be entitled to transfer more than 25 acres of such person's property in the aggregate under this paragraph.

(B) Any property transferred under subparagraph (A) of this paragraph shall not be used by the transferee for any purpose other than for a purpose which would entitle such property to the applicable exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration of the term of the covenant period. Any such use or transfer shall constitute a breach of the covenant; or

(5) Leasing a portion of the property subject to the covenant, but in no event more than six acres, for the purpose of placing thereon a cellular telephone transmission tower. Any such portion of such property shall cease to be subject to the covenant as of the date of execution of such lease and shall be subject to ad valorem taxation at fair market value; or

(6) Allowing all or part of the property subject to the covenant on which a corn crop is grown to be used for the purpose of constructing and operating a maze so long as the remainder of such corn crop is harvested."

### SECTION 3.

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

On the adoption of the substitute, the yeas were 30, nays 0, 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 Balfour

Y Hill,Jack  
Y Hill,Judson

Y Smith  
Y Starr

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Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

HB 1, having received the requisite constitutional majority, was passed by substitute.

HB 662. By Representatives Hanner of the 148th and Shaw of the 176th:

A BILL to be entitled an Act to amend Code Section 27-2-23 of the Official Code of Georgia Annotated, relating to game and fish license, permit, tag, and stamp fees, so as to establish a three-day nonresident big game license and the fee therefor; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hooks of the 14th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D

1986

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Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 52, nays 0.

HB 662, having received the requisite constitutional majority, was passed.

Senator Hill of the 32nd asked unanimous consent that HB 200 be immediately transmitted to the House.

The consent was granted and HB 200 was immediately transmitted.

Senator Wiles of the 37th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

Senator Rogers of the 21st asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

Senator Tolleson of the 20th asked unanimous consent that Senator Kemp of the 46th be excused. The consent was granted, and Senator Kemp was excused.

The Calendar was resumed.

HB 211. By Representatives Heard of the 104th, Smith of the 129th, Stephens of the 164th, Burkhalter of the 50th, Coan of the 101st and others:

A BILL to be entitled an Act to amend Article 10 of Chapter 48 of the Official Code of Georgia Annotated, relating to the ad valorem taxation of motor vehicles and mobile homes, so as to provide that aircraft held in inventory for resale shall be exempt from taxation; to provide for definitions; to

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provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Balfour of the 9th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 17, 2005

Honorable Larry O'Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 211 (LC 18 4021)

Dear Chairman O'Neal:

This bill would exempt from ad valorem taxation aircraft that are for sale and held in inventory by aircraft dealers. The exemption would be effective for all tax years beginning after January 1, 2006.

The Georgia State University Fiscal Research Center determined that the estimated revenue loss to the state is very small (under \$20,000) for FY 2007 and FY 2008. Most of the revenue loss will be borne by local governments and is estimated to be approximately \$2 million for FY 2007 and FY 2008.

The data used comes from the current sales inventories gathered from the websites of Georgia-based aircraft dealers. In most cases, asking prices were obtained from these online advertisements. Where asking prices were not available, they were estimated using the price of identical models of similar age for sale in other states. Where comparable models were not available, the average price of current Georgia inventories was used. Asking prices range from \$33,500 to \$19,995,000. It was estimated that there is currently \$178 million in aircraft inventories in the state of Georgia. Note that it is common practice to fly aircraft out state at the time inventory would be valued for property tax purposes. Assuming that 40 percent of the asking price is the assessed value, and using

an average property tax rate of 28 mills, the resulting revenue is estimated to be \$2.0 million in FY 2007. We expect the loss would be the same in FY 2008. Since the state's property tax rate is only 0.25 mills, the revenue loss to the state would be less than one percent of the total revenue loss.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	Y Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Pearson	Y Unterman
E Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Williams
Y Heath	Y Seay	E Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 1.

HB 211, having received the requisite constitutional majority, was passed.

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Senator Thompson of the 5th asked unanimous consent that Senator Stoner of the 6th be excused. The consent was granted, and Senator Stoner was excused.

Senator Reed of the 35th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

HB 487. By Representatives Roberts of the 154th, McCall of the 30th, Floyd of the 147th, Royal of the 171st, Ray of the 136th 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 change the exemption regarding electricity sales for irrigation of farm crops; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 14, 2005

Honorable Larry O'Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 487 (LC 18 4102)

Dear Chairman O'Neal:

This bill would change the sales tax exemption on the sale of electricity for operation of irrigation systems used on farm crops. The exemption would be broadened to refer to "electricity or other fuel".

The Georgia State University Fiscal Research Center indicates that the exemption of these fuel expenditures from the sales tax would reduce Georgia tax revenue by \$204,000

per year. The Center indicated that based on the latest data available, fuel expenses for on-farm pumping of irrigation water in the State of Georgia totaled \$10,905,000 in 2003. Of this total, expenditures on fuels other than electricity equaled \$5,100,000. This data was reported by the USDA National Agricultural Statistics Service, 2002 Census of Agriculture, 2003 Farm and Ranch Irrigation Survey.

This estimate was calculated by multiplying the 4% state sales tax rate times \$5,100,000, the additional expenditures on fuels that would be exempt under the proposed legislation. The long range impact of this proposed legislation is expected to remain in the range of this estimate. Energy consumption for irrigation is not projected to increase substantially over time. While prices for petroleum products increased substantially in late 2004, they are likely to moderate somewhat over the near term and then, on average, rise gradually.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

The Senate Finance Committee offered the following substitute to HB 487:

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 clarify the sales and use tax exemption for a qualified child-caring institution, child-placing agency, or maternity home; to change the exemption regarding electricity sales for irrigation of certain crops; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use tax, is amended by striking paragraph (41) of said Code section and inserting in its place a new paragraph (41) to read as follows:

"(41)(A) Sales of tangible personal property and services to ~~or by~~ a child-caring institution as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home as defined in paragraph (14) of Code Section 49-5-3, as amended, when such institution, agency, or home is engaged primarily in providing child

services and is a nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter from the commissioner; and

(B) Sales by an institution, agency, or home as described in subparagraph (A) of this paragraph when:

- (i) The sale results from a specific charitable fund-raising activity;
- (ii) The number of days upon which the fund-raising activity occurs does not exceed 30 in any calendar year;
- (iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and
- (iv) The gross sales or net profits from the sales are used purely for charitable purposes in providing child services.".

## **SECTION 2.**

Said Code section is further amended by striking paragraph (64) and inserting in its place a new paragraph (64) to read as follows:

"(64) The sale of electricity or other fuel for the operation of an irrigation system which is used on a farm exclusively for the irrigation of ~~farm~~ crops;".

## **SECTION 3.**

This Act shall become effective on July 1, 2005.

## **SECTION 4.**

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

On the adoption of the substitute, the yeas were 32, nays 1, 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 Hill,Jack	Y Smith
Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S

1992

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Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 43, nays 1.

HB 487, having received the requisite constitutional majority, was passed by substitute.

HB 389. By Representatives Roberts of the 154th, Smith of the 129th, Golick of the 34th, Smith of the 131st, Burns of the 157th and others:

A BILL to be entitled an Act to amend Code Section 48-7-40 of the Official Code of Georgia Annotated, relating to designation of counties as less developed areas for the purpose of tax credits with respect to certain business enterprises, so as to provide a definition; to provide for an additional tax credit for certain existing business enterprises; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 14, 2005

Honorable Larry O'Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

TUESDAY, MARCH 22, 2005

1993

SUBJECT: Fiscal Note  
House Bill 389 (LC 18 4111-EC)

Dear Chairman O'Neal:

This bill modifies the existing job tax credit program. The bill provides for an additional state income tax credit for certain businesses that have operated within the state for the immediately preceding three years. These businesses would be allowed, under certain conditions, a one year tax credit of \$500 for each new full-time employee job. The credit would be claimed in year two after the job was created and would apply only to new jobs created in taxable years beginning on or after January 1, 2006, and ending no later than taxable years beginning prior to January 1, 2011. The additional tax credit cannot be carried forward. Eligible industries and the required minimum number of jobs created are the same as for the current job tax credit.

The Georgia State University Fiscal Research Center indicates that for the five tax years 2007 through 2011, the total estimated revenue loss is \$21.2 million, or \$4.24 million per year. This assumes that the additional credit is allowed for only one year. The modification to paragraph (e)(2) in Section 1 of the bill states that the additional credit is allowed for one year after the creation of the job. This paragraph also states that the credit shall not be allowed during a year if the employment increase falls below the required number of new jobs. This seems to imply that the credit can be taken for more than one year.

The Center provided the following narrative regarding the calculation of their revenue estimate:

Using employment security records, an estimate of the number of jobs that would have been eligible for each year 1996 through 2004 was determined. To be eligible, a firm had to be in an eligible industry, had to be in existence for three years, and had to have created the minimum number of jobs. Employment growth over the past four years has been low. To be more reflective of future job growth, the estimated number of jobs determined to have been eligible for the period 1996 through 2000 was used for the revenue estimation.

Experience with the job tax credit program suggests that not all firms that appear to be eligible take the job tax credit. The most recent estimate of the participation rate is 30 percent. Multiplying the number of eligible jobs by \$500 times the participation rate yields the revenue estimate. Table 1 presents the annual estimated revenue loss.

For the five tax years, 2007 through 2011, the total estimated revenue loss is \$21.2 million, or \$4.24 million per year.

Table 1. Annual Estimated Revenue Loss	
Year	Revenue Loss (in millions)
2007	\$ 3.8
2008	\$ 4.2
2009	\$ 4.4
2010	\$ 4.8
2011	\$ 4.0
Total	\$21.2

Note that if the credit can be taken for five years, then the estimated revenue loss for the next five years would be as seen in Table 2.

Table 2. Annual Estimated Revenue Loss	
Year	Revenue Loss (in millions)
2007	\$ 3.8
2008	\$ 8.0
2009	\$12.4
2010	\$17.2
2011	\$21.2

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

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	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
N Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S

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1995

Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 3.

HB 389, having received the requisite constitutional majority, was passed.

Senator Eric Johnson, President Pro Tempore, assumed the Chair.

HB 196. By Representatives Smith of the 113th, Ehrhart of the 36th, Willard of the 49th, Fleming of the 117th, Parrish of the 156th and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, so as to change certain provisions relating to common-sense consumption; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Bulloch of the 11th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman

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Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 0.

HB 196, having received the requisite constitutional majority, was passed.

HB 404. By Representatives Yates of the 73rd, Orrock of the 58th, Lakly of the 72nd, Freeman of the 140th, Warren of the 122nd and others:

A BILL to be entitled an Act to amend Code Section 34-8-194 of the Official Code of Georgia Annotated, relating to grounds for disqualification of unemployment benefits, so as to provide that leaving an employer because of the transfer of a spouse from one military assignment to another shall not disqualify a person from such benefits; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Douglas of the 17th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 21, 2005

The Honorable John Yates, Chairman  
Defense and Veterans Affairs Committee  
State Capitol, Room 217  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 404 (LC 21 8121)

TUESDAY, MARCH 22, 2005

1997

Dear Chairman Yates:

This bill would amend unemployment benefit insurance provisions to provide that persons leaving an employer to accompany a spouse who has been reassigned from one military assignment to another are not disqualified from receiving benefits by that fact alone.

Depending on Georgia's economy and the related number of unemployment insurance beneficiaries, the fiscal impact of this bill to the Unemployment Insurance Trust Fund could approximate from \$2.1 million to \$3.7 million annually. The assumptions used to calculate these amounts are described below.

The Georgia Department of Labor (DOL) does not maintain data on the number of persons who do not qualify for unemployment benefits for the reason cited in this bill. However, DOL obtained information from another state, which indicates the number of persons receiving unemployment insurance benefits there increased by  $\frac{1}{2}$  of 1 percent after implementation of similar legislation. Assuming that Georgia would have a similar experience, this percentage increase was applied to the total number of unemployment insurance beneficiaries in Georgia. DOL noted that the state providing unemployment data has only three military bases so the extent to which this percentage would approximate actual experience in Georgia cannot be determined.

The low estimate of \$2.1 million is based on data from 1999 which, according to DOL, was a non-recession year. In 1999, DOL data shows that there were 199,853 persons in Georgia who received unemployment insurance benefits for an average of 9 weeks. Consequently, if Georgia experiences a similar non-recession year in the future, this bill could increase the number of beneficiaries by 999 ( $199,853 \times 0.5\%$ ). Multiplying this potential number of new beneficiaries (999) by the average number of benefit weeks (9) and by the current average weekly benefit of \$235 would yield a fiscal impact of approximately \$2.1 million.

The high estimate of \$3.7 million is based on year 2004 DOL data. In 2004, this data shows that there were 265,324 persons in Georgia who received unemployment insurance benefits for an average of 12 weeks. Using these figures, this bill could increase the number of beneficiaries by 1,327 ( $265,324 \times 0.5\%$ ). Multiplying the number of new beneficiaries (1,327) by the average number of benefit weeks (12) and the current average weekly benefit of \$235 would yield a fiscal impact of approximately \$3.7 million.

1998

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Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Tim Connell, Director  
Office of Planning and Budget

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	E Kemp	Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 404, having received the requisite constitutional majority, was passed.

HB 438. By Representatives Yates of the 73rd, Lakly of the 72nd, Freeman of the 140th, Warren of the 122nd and Thomas of the 100th:

A BILL to be entitled an Act to amend Code Section 38-4-2 of the Official Code of Georgia Annotated, relating to the powers of the Department of Veterans Service and the Veterans Service Board and the appointment of the

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administrator and director of the Georgia War Veterans Nursing Homes, so as to change the method of appointment of the executive directors of the veterans' homes; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Douglas of the 17th.

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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 438, having received the requisite constitutional majority, was passed.

HB 390. By Representatives Scott of the 153rd and Brown of the 69th:

A BILL to be entitled an Act to amend Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health planning and development, so as to create a State Commission on the Efficacy of the Certificate of Need Program; to provide for legislative intent; to provide for composition of the commission and the commission's powers and duties; to provide for compensation of the members of the commission; to provide for officers of the

commission; to provide for a quorum for the transaction of business; to provide for a final report; to provide for related matters; to provide an effective date; to provide for automatic repeal on a certain date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Wiles of the 37th.

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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Jones	Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans Golden	Y Pearson Powell	Y Unterman Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 0.

HB 390, having received the requisite constitutional majority, was passed.

Senator Bulloch of the 11th asked unanimous consent that HB 487 be immediately transmitted to the House.

The consent was granted and HB 487 was immediately transmitted.

The Calendar was resumed.

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2001

HB 347. By Representatives Ralston of the 7th and Bearden of the 68th:

A BILL to be entitled an Act to amend Code Section 35-3-154.1 of the Official Code of Georgia Annotated, relating to admission of reports from state crime laboratory, so as to make such Code section applicable to certain private laboratories under contract to the state crime laboratory; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 347, having received the requisite constitutional majority, was passed.

Senator Douglas of the 17th asked unanimous consent that Senator Chance of the 16th be excused. The consent was granted, and Senator Chance was excused.

HB 195. By Representatives Fleming of the 117th, Setzler of the 35th, Burmeister of the 119th, Freeman of the 140th, Loudermilk of the 14th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to termination of parental rights, so as to change provisions relating to the time frame for hearings and orders on petitions to terminate parental rights; to provide for legislative findings; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Douglas of the 17th.

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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	E Kemp	Y Thomas,D
E Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	N Schaefer	Y Wiles
Y Harp	E Seabaugh	N Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

On the passage of the bill, the yeas were 42, nays 3.

HB 195, having received the requisite constitutional majority, was passed.

TUESDAY, MARCH 22, 2005

2003

HB 394. By Representatives Walker of the 107th, Willard of the 49th and O'Neal of the 146th:

A BILL to be entitled an Act to amend Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the protection of disabled adults and elder persons, so as to revise a definition; to revise certain provisions relating to investigation of reports of need for protective services; to amend Code Section 31-8-116 of the Official Code of Georgia Annotated, relating to involuntary transfer of residents discharged from a facility and return to facility after transfer, so as to revise the notification provisions; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Unterman of the 45th.

The Senate Health and Human Services Committee offered the following substitute to HB 394:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 29 and Title 30 of the Official Code of Georgia Annotated, relating to guardians and wards, as such title was amended by an Act approved May 5, 2004 (Ga. L. 2004, p. 161), which Act becomes effective July 1, 2005, and to handicapped persons, respectively, so as to change certain provisions relating to the Department of Human Services; to add a definition for "public guardian"; to change certain provisions relating to qualifications of guardians of adults; to change certain provisions relating to order of preference in selection of guardians of adults; to provide for the appointment of a public guardian or the Department of Human Resources as a guardian of an adult in certain circumstances; to change certain provisions relating to the role of the director of a county department of family and children services; to enact a new chapter relating to public guardians; to provide for an oath of guardianship; to provide for qualifications and requirements of a public guardian; to provide for registration of a public guardian with the probate court; to provide for a bond by the public guardian; to provide for letters of guardianship; to provide for recordkeeping and reporting; to provide for additional security on a bond; to provide for revocation of letters of guardianship; to provide for compensation; to provide for the appropriation of funds for compensation in certain circumstances; to revise the definition of "director"; to revise certain provisions relating to investigation of reports of need for protective services; to amend Code Section 31-8-116 of the Official Code of Georgia Annotated, relating to involuntary transfer of residents discharged from a facility and return to facility after transfer, so as to revise the notification to go to the Department of Human Resources; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:****SECTION 1.**

Title 29 of the Official Code of Georgia Annotated, relating to guardians and wards, as such title was amended by an Act approved May 5, 2004 (Ga. L. 2004, p. 161), which Act becomes effective July 1, 2005, is amended in Code Section 29-1-1, relating to definitions, by inserting after paragraph (16) a new paragraph to read as follows:

"(16.1) 'Public guardian' means an individual or private entity, including a nonprofit entity, appointed pursuant to Chapter 10 of this title."

**SECTION 2.**

Said title, as amended by an Act approved May 5, 2004 (Ga. L. 2004, p. 161), is further amended by striking Code Section 29-4-2, relating to qualifications of guardians selected for adults, in its entirety and inserting in lieu thereof the following:

"29-4-2.

(a) Only an individual may serve as guardian of an adult, except in the event a public guardian or the Department of Human Resources is appointed pursuant to subsection (b.1) of Code Section 29-4-3.

(b) No individual may be appointed as guardian of an adult who:

(1) Is a minor, a ward, or a protected person;

(2) Has a conflict of interest with the adult unless the court determines that the conflict of interest is insubstantial or that the appointment would be in the adult's best interest; or

(3) Is an owner, operator, or employee of a long-term care or other caregiving institution or facility at which the adult is receiving care, unless related to the adult by blood, marriage, or adoption.

(c) No entity may be appointed as guardian of an adult which:

(1) Has a conflict of interest with the adult unless the court determines that the conflict of interest is insubstantial or that the appointment would be in the adult's best interest; or

(2) Is a long-term care or other caregiving institution or facility at which the adult is receiving care."

**SECTION 3.**

Said title, as amended by an Act approved May 5, 2004 (Ga. L. 2004, p. 161), is further amended in Code Section 29-4-3, relating to order of preference in selection of guardians of adults, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

"(b) Individuals who are eligible have preference in the following order:

(1) The individual last nominated by the adult in accordance with the provisions of subsection (c) of this Code section;

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- (2) The spouse of the adult or an individual nominated by the adult's spouse in accordance with the provisions of subsection (d) of this Code section;
  - (3) An adult child of the adult or an individual nominated by an adult child of the adult in accordance with the provisions of subsection (d) of this Code section;
  - (4) A parent of the adult or an individual nominated by a parent of the adult in accordance with the provisions of subsection (d) of this Code section;
  - (5) A guardian appointed during the minority of the adult;
  - (6) A guardian previously appointed in Georgia or another state;
  - (7) A friend, relative, or any other individual; and
  - (8) Any other person, including a volunteer to the court, found suitable and appropriate who is willing to accept the appointment; and
  - (9) The county guardian or the director of the department of family and children services of the county of domicile of the adult or of the county in which the adult is found; provided, however, that the director of the county department of family and children services may delegate the guardianship duties to responsible employees of the department.
- (b.1) If no other person is available to serve as guardian of the ward, the judge may appoint a public guardian in accordance with Chapter 10 of this title. In the event the court determines that there is no public guardian registered in accordance with Chapter 10 of this title appropriately available to serve as guardian for a ward, the court may appoint the Department of Human Resources as guardian. If so appointed, the department shall designate a representative of the department to provide guardian services who shall take the oath of guardianship. If, after having been so appointed, the department presents to the court a public guardian registered in accordance with Chapter 10 of this title or some other person suitable and appropriate to serve as guardian of a ward and willing to so serve, the court shall allow the department to resign and shall appoint such public guardian or such other person. If the department is appointed pursuant to this subsection, it shall be bound by all the requirements of this chapter, except that it shall not be required to post bond or pay any cost or fee of court associated with the guardianship proceeding. If the department is appointed pursuant to this subsection and enters into a contract with an independent contractor for the provision of guardianship services, the expense of providing such services may be paid for from state funds appropriated for public guardians under Chapter 10 of this title or, upon approval of the court, from the estate of the ward."

#### SECTION 4.

Said title, as amended by an Act approved May 5, 2004 (Ga. L. 2004, p. 161), is further amended by striking Code Section 29-9-10, relating to the role of the director of a county department of family and children services, in its entirety and inserting in lieu thereof the following:

"29-9-10.

The director of the county department of family and children services or When appointed pursuant to subsection (b.1) of Code Section 29-4-3, a duly appointed

delegate of the Department of Human Resources is authorized to take the oath of conservatorship or guardianship before the judge of the Probate Court of Fulton County or before the judge of the court making the appointment of conservatorship or guardianship any probate court of this state."

### SECTION 5.

Said title, as amended by an Act approved May 5, 2004 (Ga. L. 2004, p. 161), is further amended by inserting at the end of such title a new chapter to read as follows:

#### "CHAPTER 10

##### 29-10-1.

As used in this chapter, the term 'public guardian' means an individual or private entity, including a nonprofit entity, who meets the qualifications required in this chapter and has registered with and been duly approved by the probate court to serve as a public guardian of an adult pursuant to Code Section 29-4-3.

##### 29-10-2.

When appointed pursuant to subsection (b.1) of Code Section 29-4-3, a public guardian is authorized to take the oath of guardianship before the judge of any probate court of this state. In the event of a public guardian that is a private entity, the employee or agent of such entity who will have direct contact with the ward shall take the oath required by this Code section.

##### 29-10-3.

(a) To be eligible to serve as a public guardian, an individual must:

- (1) Be at least 18 years of age;
  - (2) Submit to a criminal background check with satisfactory results as prescribed by the Division of Aging Services of the Department of Human Resources;
  - (3) Submit to an investigation of the individual's credit history as prescribed by the Division of Aging Services of the Department of Human Resources;
  - (4) Attend and complete at least 20 hours of training approved by the Division of Aging Services of the Department of Human Resources, including but not limited to training conducted by such division, a professional association, or by the probate court;
  - (5) Demonstrate competency, education, and experience in guardianships, social work, or case management; and fiduciary integrity to perform the duties of a public guardian;
  - (6) Demonstrate competency and ability to carry out the values of the ward; and
  - (7) Agree to abide by the provisions of this chapter and to serve when appointed as public guardian without the ability to decline, except as provided for in Chapter 4 of this title.
- (b) To be eligible to serve as a public guardian, an entity must:

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- (1) Maintain an appropriate level of liability insurance covering all employees and agents who will have direct contact with a ward in an amount or amounts approved by the probate court;
  - (2) Maintain a record for each employee and agent who will have direct contact with a ward and ensure that each such employee and agent submits to and meets the requirements of subsection (a) of this Code section;
  - (3) Submit to an investigation of the entity's financial records; and
  - (4) Agree to abide by the provisions of this chapter and to serve when appointed as public guardian without the ability to decline, except as provided for in Chapter 4 of this title.
- (c) An individual or entity shall submit all required documentation as specified by the probate court to show that such individual or entity and such entity's employees and agents meet the requirements of this Code section.
- (d) After completion of the initial training, a public guardian or employee or agent of a public guardian who will have direct contact with a ward, if an entity, must complete at least 20 additional hours of training every two years. The initial and subsequent training shall include, but not be limited to, instruction in:
- (1) Basic principles of guardianship;
  - (2) Rights of the ward;
  - (3) Alternatives to guardianship;
  - (4) Court procedures;
  - (5) Legal duties, responsibilities, and roles of guardians;
  - (6) Fiduciary responsibilities, record keeping, reporting, administrative duties, intake process, and planning;
  - (7) Availability of resources, public benefits, and social services;
  - (8) Health care and end-of-life planning;
  - (9) Mental, developmental, and physical disabilities;
  - (10) Communications;
  - (11) Case management; and
  - (12) Property management.
- (e) Any costs incurred by a public guardian to comply with these requirements shall be at the expense of the individual or private entity and shall not be paid with the assets of any ward.

29-10-4.

- (a) An individual who meets the requirements of Code Section 29-10-3 may be registered as a public guardian in the probate court of the county in which he or she is domiciled upon approval by the probate court. Such individual may also be registered in the probate court of other counties within a reasonable distance of the county in which he or she is domiciled as approved by such other probate courts.
- (b) A private entity that meets the requirements of Code Section 29-10-3 may be registered as a public guardian in the probate court of any county upon approval by such probate court.

- (c) The probate court of a county shall have the sole discretion regarding the approval and registration of public guardians. Each probate court shall maintain a list of public guardians who have been registered and approved in its county. The Division of Aging Services of the Department of Human Resources shall maintain a master list of registered public guardians throughout the state; and the probate courts shall submit, on January 1 and July 1 of each year or more often as required by the division, the list of registered public guardians in each county to the Division of Aging Services.
- (d) The Division of Aging Services of the Department of Human Resources shall develop a standard form that may be used by probate courts in registering public guardians.

29-10-5.

A public guardian shall give bond with good security, to be judged by the court, in a sum of not less than \$10,000.00. The bond shall be payable to the court for the benefit of all concerned. It shall be attested by the judge or clerk of the court and shall be conditioned upon the faithful discharge of the public guardian's duty as such, as required by law. Actions on the bond may be brought by any person aggrieved by the misconduct of the public guardian as provided by law for actions on the bonds of other guardians.

29-10-6.

The court shall grant to the public guardian separate letters of guardianship upon each appointment. The public guardian shall be subject to all liabilities and entitled to all the rights and emoluments provided for other guardians and shall be governed by the law provided for other guardians.

29-10-7.

- (a) A public guardian shall keep and maintain proper financial, case control, and statistical records on all matters in which the public guardian serves as guardian.
- (b) No report or disclosure of the ward's personal or medical records shall be made except as required or authorized by law.
- (c) A public guardian shall file an annual report with the probate court on the operations of the public guardian for the preceding year, in writing, by August 1.
- (d) Within six months of appointment as a public guardian, such public guardian shall submit to the probate court for placement in the ward's guardianship file a report on the public guardian's efforts to locate a family member or friend or other individual included in subsection (b) of Code Section 29-4-3 to act as the guardian of the ward and a report on the ward's potential to be restored to capacity.
- (e) The public guardian or employee or agent of a public guardian, if a private entity, shall visit the ward at least four times per year and more often as necessary.
- (f) A public guardian who is an individual shall serve no more than five wards at any one time. A public guardian that is an entity shall serve no more than 30 wards at any one time. In the discretion of the probate court, these maximum ratios may be increased

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or decreased for a particular public guardian, in light of all relevant circumstances.

(g) Public guardians, county guardians, and conservators shall be required to work cooperatively together when appointed for the same ward.

29-10-8.

(a) The probate court may require a public guardian to give additional security on the bond or to give an additional bond with security. The court shall have the authority to fix the amount of the bond and shall cite the public guardian to appear and show cause, if any, why the additional bond or security should not be given.

(b) If upon the hearing the public guardian fails to show good cause why the additional bond or additional security should not be given, the court shall issue an order fixing the amount of the bond and direct the public guardian to give additional security on or before a certain date, which date shall be within 30 days of the date of the order.

(c) Should the public guardian fail, refuse, or neglect to give additional bond or additional security on or before the date fixed in the order of the court and fail to show good cause why further time should be allowed, it shall be the duty of the court to remove the public guardian and to appoint another public guardian for the unexpired term of office. The order of removal shall be recorded as provided for the order of appointment.

29-10-9.

The court may, for good cause shown, revoke the letters of guardianship of the public guardian, require additional security on the public guardian's bond, or issue any other order as is expedient and necessary for the good of any particular guardianship in the hands of the public guardian.

29-10-10.

Public guardians shall receive compensation for their services in accordance with the provisions of Chapter 4 of this title. However, for wards who have insufficient resources or income to pay the compensation provided for in Chapter 4 of this title, at the discretion of the probate court judge, a request for payment for the public guardian to the Division of Aging Services of the Department of Human Resources, as provided for in Code Section 29-10-11, shall be made. A public guardian shall be paid the compensation provided for in Chapter 4 of this title pursuant to Code Section 29-10-11 to the extent that the available funds can meet that expense or, at the discretion of the judge, the public guardian's actual expenses may be reimbursed from the funds pursuant to Code Section 29-10-11.

29-10-11.

(a) The General Assembly is authorized to appropriate state funds, by line item appropriation, for the purpose of providing compensation to public guardians for services to wards who have insufficient resources or income to pay the compensation provided for in Chapter 4 of this title.

(b) Any such funds appropriated shall be administered by the Division of Aging Services of the Department of Human Resources and paid, if funds are available, upon submission of appropriate documentation by the probate court pursuant to Code Section 29-10-10."

#### SECTION 6.

Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the protection of disabled adults and elder persons, is amended by striking paragraph (5) of Code Section 30-5-3, relating to definitions, and inserting in its place the following:

"(5) 'Director' means the director of the ~~county department of family and children services~~ Division of Aging Services of the Department of Human Resources, or the director's designee, in the county in which the disabled adult or elder person resides or is present."

#### SECTION 7.

Said chapter is further amended by striking subsections (a) and (h) of Code Section 30-5-5, relating to investigation of reports of need for protective services, and inserting in their respective places the following:

"(a) Any director receiving When the director receives a report that a disabled adult or elder person is in need of protective services, he or she shall conduct or have conducted a prompt and thorough investigation to determine whether the disabled adult or elder person is in need of protective services and what services are needed. The investigation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. Within ten days after receipt of the report, the director shall acknowledge receipt of the report, in writing, to the person making the report."

"(h) Notwithstanding any other provisions of this Code section, if any the director or adult protection agency employee receives a report or gains knowledge that a disabled adult or elder person is in need of protective services and such disabled adult or elder person may be in imminent danger resulting from abuse, exploitation, or neglect, the director or designee of the director may file a petition with the probate or superior court stating the grounds on which the director or designee of the director believes that the disabled adult or elder person may be in imminent danger and seeking immediate access to such person. The judge, in his or her discretion, may issue an ex parte order requiring the caretaker or any other person at the place where the disabled adult or elder person resides to afford an adult protection agency employee immediate access to such person to determine the person's well-being. If the adult protection agency employee is denied access to the disabled adult or elder person, the employee shall contact immediately a law enforcement officer to assist the employee in enforcing such order. Any person willfully violating any order issued pursuant to this subsection shall be in contempt of the court issuing such order and may be punished accordingly by the judge of the court. The adult protection agency employee shall conduct a brief investigation to determine the condition of the disabled adult or elder person."

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### **SECTION 8.**

Code Section 31-8-116 of the Official Code of Georgia Annotated, relating to involuntary transfer of residents discharged from a facility and return to facility after transfer, is amended by striking subsection (g) and inserting in its place the following:

"(g) Each resident shall be discharged from a facility after the resident or guardian gives the administrator or person in charge of the facility notice of the resident's desire to be discharged and the date of the expected departure. Where the resident appears to be incapable of living independently of the facility, the facility shall notify the ~~county department of family and children services~~ Department of Human Resources in order to obtain social or protective assistance for the resident immediately. The notice of the discharge by the resident or guardian, the expected and actual date thereof, and notice to the department, where required, shall be documented in the resident's records. Upon such discharge and, if required, notice to the department, the facility is relieved from any further responsibility for the resident's care, safety, or well-being."

### **SECTION 9.**

(a) Sections 1 through 5 of this Act shall become effective on July 1, 2005, and all appointments of guardians of the person made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act.

(b) Sections 6 through 10 of this Act shall become effective on July 1, 2005.

### **SECTION 10.**

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

On the adoption of the substitute, the yeas were 33, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C
Douglas	Y Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson

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Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Y Walker
Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 394, having received the requisite constitutional majority, was passed by substitute.

The following bill was taken up to consider House action thereto:

SB 43. By Senators Wiles of the 37th and Douglas of the 17th:

A BILL to be entitled an Act to amend Part 3 of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia Student Finance Authority, so as to establish the Georgia HERO (Helping Educate Reservist Offspring) Scholarship; to provide for definitions; to provide for scholarship grants; to provide for application procedures; to provide for rules and regulations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House amendment was as follows:

Representatives O'Neal of the 146th et al. move to amend SB 43 as follows:

On page 1, delete lines 13, 14 and 15, and renumber accordingly.

Senator Wiles of the 37th moved that the Senate agree to the House amendment to SB 43.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R

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Y Chapman	Y Miles	Y Thompson,C
Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Y Walker
Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 0; the motion prevailed, and the Senate agreed to the House amendment to SB 43.

The following bill was taken up to consider House action thereto:

SB 166. By Senators Rogers of the 21st, Hudgens of the 47th, Stephens of the 27th, Harbison of the 15th and Stoner of the 6th:

A BILL to be entitled an Act to amend Code Section 33-31-7 of the Official Code of Georgia Annotated, relating to issuance of policy or certificate of credit life insurance, so as to provide that the insurer shall deliver the policy or certificate to the insured within 90 days after the indebtedness is incurred; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 33-31-7 of the Official Code of Georgia Annotated, relating to issuance of policy or certificate of credit life insurance, so as to provide that the insurer shall deliver the policy or certificate to the insured within 60 days after the indebtedness is incurred; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 33-31-7 of the Official Code of Georgia Annotated, relating to issuance of policy or certificate of credit life insurance, is amended by striking subsection (d) and

inserting in lieu thereof a new subsection (d) to read as follows:

"(d) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred and if an identifiable charge is made to him or her for credit life insurance or credit accident and sickness insurance, a copy of the application for the policy signed by the debtor or a notice of proposed insurance setting forth the name and home office address of the insurer, the name or names of the debtor, the rate or amount of premium separately in connection with credit life insurance and credit accident and sickness insurance coverage, and a brief description of the coverage provided shall be delivered to the debtor at the time the indebtedness is incurred. The copy of the application or the notice of proposed insurance shall refer exclusively to insurance coverage and shall be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this subsection is prominently set forth in the application or the notice of proposed insurance. Upon acceptance of the insurance and within ~~30~~ 60 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance shall state when the insurance shall become effective, which shall be determined as provided in Code Section 33-31-5."

## SECTION 2.

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

## SECTION 3.

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

Senator Rogers of the 21st moved that the Senate agree to the House substitute to SB 166.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman

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Y Golden	Y Powell	Y Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 45, nays 5; the motion prevailed, and the Senate agreed to the House substitute to SB 166.

Senator Unterman of the 45th asked unanimous consent that HB 394 be immediately transmitted to the House.

The consent was granted and HB 394 was immediately transmitted.

Senator Staton of the 18th asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

Senator Jones of the 10th asked unanimous consent that Senator Golden of the 8th be excused. The consent was granted, and Senator Golden was excused.

The Calendar was resumed.

HB 678. By Representatives Burkhalter of the 50th, Lunsford of the 110th and Davis of the 109th:

A BILL to be entitled an Act to amend Part 14 of Article 6 of Chapter 2 of Title 20 of the O.C.G.A., relating to certain programs and activities under the "Quality Basic Education Act," so as to provide that state law shall not prohibit a private school from conducting a prayer prior to an athletic event held on the campus of the private school; to provide that athletic teams from public schools shall not be prohibited from participating in an athletic event held on the campus of a private school in this state for the reason that the hosting private school conducts a prayer prior to such athletic event; to provide that public schools shall not participate in interscholastic sports events which are conducted under the authority of, conducted under the rules of, or scheduled by any athletic association which prohibits or discourages a private school from

conducting a prayer prior to an athletic event held on the campus of the private school; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Wiles of the 37th.

Senator Zamarripa of the 36th offered the following amendment:

Amend HB 678 by inserting on line 21 before the period “unless the school has a policy to restrict prayer.”

Senator Zamarripa of the 36th asked unanimous consent that his amendment be withdrawn. The consent was granted, and the amendment was withdrawn.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Johnson (PRS)	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 678, having received the requisite constitutional majority, was passed.

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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 816. By Representatives Maddox of the 172nd and Keown of the 173rd:

A BILL to be entitled an Act to reincorporate and provide a new charter for the City of Cairo in Grady County, Georgia; to provide for boundaries and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for the office of mayor and certain duties and powers relative to the office of mayor; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, a city manager, and other personnel; to provide for other matters relative to the foregoing; to repeal a specific Act; to repeal conflicting laws; and for other purposes.

HB 826. By Representative Lord of the 142nd:

A BILL to be entitled an Act to amend an Act providing for a board of commissioners of Jefferson County, approved February 23, 1984 (Ga. L. 1984, p. 3627), as amended, so as to provide conditions for the board of commissioners to convey title to or lease county-owned real property which is being used as a solid waste landfill; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitute to the following Bill of the House:

HB 754. By Representative Ralston of the 7th:

A BILL to be entitled an Act to create and establish the Gilmer County Building Authority, a body corporate and politic and an instrumentality of the State of Georgia; to authorize the authority to acquire, construct, equip, maintain, and operate certain projects, including buildings and facilities for use by Gilmer County for its governmental, proprietary, and administrative functions; to provide for members of the authority and their terms,

organization, and reimbursement; to provide that the property of the authority shall not be subject to levy and sale; to provide that certain moneys are trust funds; to provide that this Act shall be liberally construed; to define the scope of the authority's operation; to provide for disposition of property upon authority dissolution; to provide for severability; to provide an effective date; to repeal conflicting laws; and for other purposes.

The President resumed the Chair.

Senator Thompson of the 5th asked unanimous consent that Senator Adelman of the 42nd be excused. The consent was granted, and Senator Adelman was excused.

The following bill was taken up to consider House action thereto:

SB 155. By Senators Tolleson of the 20th, Whitehead, Sr. of the 24th, Cagle of the 49th, Johnson of the 1st, Starr of the 44th and others:

A BILL to be entitled an Act to amend provisions of the O.C.G.A. relating to recreational vehicles; to amend Part 1 of Article 22 of Chapter 1 of Title 10 of the O.C.G.A., relating to general considerations regarding motor vehicle franchises, so as to exempt recreational vehicles from the definition of motor vehicle; to amend Chapter 1 of Title 10 of the O.C.G.A., relating to selling and other trade practices, so as to provide for definitions; to provide purposes and policies to protect recreational vehicle dealers; to provide for sales areas; to provide for changing or terminating sales areas only for good cause; to provide for notice of termination or substantial change to a sales area; to provide for repurchase of inventories by the grantor upon termination of a dealership; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend provisions of the Official Code of Georgia Annotated, relating to recreational vehicles; to amend Part 1 of Article 22 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to general considerations regarding motor vehicle franchises, so as to exempt recreational vehicles from the definition of motor vehicle; to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide for definitions; to provide purposes and policies to protect recreational vehicle dealers; to provide for sales areas; to provide for changing or terminating sales areas only for good cause; to provide for notice of termination or

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substantial change to a sales area; to provide for repurchase of inventories by the grantor or warrantor upon termination of a dealership; to provide that it is illegal for a grantor or warrantor to coerce a dealer to purchase its parts or accessories; to provide that a grantor or warrantor must approve a sale of a dealership if the terms are reasonable; to provide for succession of the dealership to the dealer's named beneficiaries; to provide for warranty obligations; to provide for dispute resolution; to provide for applicability; 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 1 of Article 22 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to general considerations regarding motor vehicle franchises, is amended by striking paragraph (10) of Code Section 10-1-622, relating to definitions relative to motor vehicle franchises, and inserting in its place the following:

"(10) 'Motor vehicle' means every self-propelled vehicle intended primarily for use and operation on the public highways, except farm tractors and other machines and tools used in the production, harvesting, and care of farm products, ~~and except~~ construction equipment, and recreational vehicles as defined in paragraph (5) of subsection (a) of Code Section 10-1-679."

**SECTION 2.**

Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, is amended by inserting a new Article 22B to read as follows:

**"ARTICLE 22B**

10-1-679.

(a) As used in this article, the term:

- (1) 'Community of interest' means a continuing financial interest between the grantor and the grantee in either the operation of the dealership business or the marketing of such goods or services.
- (2) 'Franchise' means an oral or written agreement for a definite or indefinite period of time in which a manufacturer grants to a recreational vehicle dealer permission to use a trade name, service mark, or related characteristic and in which there is a community of interest in the marketing of recreational vehicle products or services related thereto at wholesale or retail, whether by leasing, sale, or otherwise.
- (3) 'Grantor' means a person who grants a recreational vehicle dealership.
- (4) 'Person' means a natural person, partnership, joint venture, corporation, or other entity.
- (5) 'Recreational vehicle' means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use which either has its own motive power or is mounted on or towed by another vehicle. The basic entities are as follows: travel trailer, camping trailer, truck camper, motor home, park trailer,

and fifth wheel travel trailer.

(6) 'Recreational vehicle dealer' or 'dealer' means a person who is a grantee of a recreational vehicle dealership situated in Georgia.

(7) 'Recreational vehicle dealership' means an established place of business engaged in the marketing of new recreational vehicle products or services related thereto at wholesale or retail, whether by leasing, sale, or otherwise, and which is marked by an appropriate permanent sign, a working telephone with a telephone number listed in the local phone directory, and which derives at least 75 percent of its revenue from the sale of new recreational vehicles and recreational vehicle related products and services.

(8) 'Warrantor' means a person, firm, corporation, or business entity that gives a warranty in connection with a new recreational vehicle or parts, accessories, or components thereof. Such term does not include service contracts, mechanical or other insurance, or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.

(b) For purposes of this article when determining whether there is 'good cause' for a proposed action, the trier of fact shall consider:

- (1) The volume of the affected dealer's business in the relevant market area;
- (2) The nature and extent of the dealer's investment in its business;
- (3) The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;
- (4) The effect of the proposed action on the community;
- (5) The extent and quality of the dealer's service under recreational vehicle warranties; and
- (6) The dealer's performance under the terms of its franchise agreement.

#### 10-1-679.1.

(a) This article shall be liberally construed and applied to promote its underlying remedial purposes and policies.

(b) The underlying purposes and policies of this article are:

- (1) To promote the compelling interest of the public in fair business relations between recreational vehicle dealers and grantors and in the continuation of recreational vehicle dealerships on a fair basis;
- (2) To protect recreational vehicle dealers against unfair treatment by grantors who inherently have superior economic power and superior bargaining power in the negotiations of recreational vehicle dealerships;
- (3) To provide recreational vehicle dealers with rights and remedies in addition to those existing by contract or common law; and
- (4) To govern all franchise agreements for recreational vehicle dealerships, including any renewals or amendments, to the full extent consistent with the Constitutions of Georgia and the United States.

(c) The effect of this article may not be varied by contract or agreement. Any contract or agreement purporting to do so is void and unenforceable to that extent only.

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10-1-679.2.

The grantor shall designate in writing the area of sales responsibility assigned to a recreational vehicle dealer and shall not change such area nor establish another recreational vehicle dealer in the same area unless the grantor can show good cause for the addition of the new recreational vehicle dealer, including reasonable evidence that the market will support the establishment of a new dealership.

10-1-679.3.

Sales of recreational vehicles by grantors or distributors shall be in accordance with published prices, charges, and terms of sale in effect at any given time.

10-1-679.4.

No grantor, directly or through any officer, agent, or employee, may terminate, cancel, fail to renew, or substantially change the competitive circumstances, including the area of sales responsibility, of a recreational vehicle dealership agreement without good cause. The burden of proving good cause shall be on the grantor.

10-1-679.5.

(a) Except as provided in this Code section, a grantor shall provide a recreational vehicle dealer at least 120 days' prior written notice of termination, cancellation, nonrenewal, or substantial change in competitive circumstances and shall provide that the recreational vehicle dealer has 120 days in which to rectify any claimed deficiency. The notice shall state all the reasons for termination, cancellation, or nonrenewal and shall further state that if, within 30 days following the receipt of the grantor's notice, the recreational vehicle dealer provides to the grantor a written notice to cure all claimed deficiencies, the recreation vehicle dealer shall then have 120 days from the date of the notice to rectify such deficiencies. If the deficiency is rectified within 120 days, the notice shall be void. The notice provisions of this Code section shall not apply if the reason for termination, cancellation, or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

(b) The 120 days' notice shall be reduced to 30 days' notice if the grounds for termination, cancellation, or nonrenewal is due to:

- (1) Conviction or pleas of nolo contendere to a felony of a recreational vehicle dealer or one of its principal owners;
- (2) The business operation of the recreational vehicle dealer has been abandoned or closed for ten consecutive days, unless the closing is due to an act of God, strike, or labor difficulty or other cause over which the dealer has no control;
- (3) The suspension, revocation, or refusal to renew the recreational vehicle dealer's license; or
- (4) A significant misrepresentation by the recreational dealer.

10-1-679.6.

(a) If a recreational vehicle dealership franchise agreement is terminated, canceled, or

not renewed by the grantor, the grantor, at the option of the recreational vehicle dealer, shall repurchase:

- (1) All new, untitled recreational vehicle inventory acquired from the manufacturer within 12 months prior to the effective date of the termination, cancellation, or nonrenewal which has not been materially altered or substantially damaged. The grantor shall reimburse the dealer for 100 percent of the net invoice cost of such inventory, including transportation, less applicable rebates and discounts to the dealer.
  - (2) All functioning diagnostic equipment, special tools, other equipment and machinery, accessories and proprietary parts, and signage as were required to meet the dealer's service responsibilities in accordance with manufacturer's guides and applicable customer service bulletins and signs sold under the recreational vehicle dealership agreement.
- (b) The manufacturer shall reimburse the dealer for 100 percent of the current net prices as published in the manufacturer's current price lists or catalogs on accessories and parts, including superseded parts, provided it was purchased by the dealer within five years before termination and can no longer be used in the normal course of the dealer's business, plus 5 percent of the current net price of all manufacturer's accessories and parts returned to compensate the dealer for handling, packing, and loading the parts, plus the cost of freight to return said parts. The grantor shall pay the dealer within 30 days of receipt of the returned items. This Code section shall apply only to merchandise with a name, trademark, label, or other mark on it which identifies the grantor or with proof of purchase from the grantor.

#### 10-1-679.7.

It shall be unlawful for any grantor, directly or through any officer, agent, or employee:

- (1) To coerce, or attempt to coerce, any dealer to accept delivery of any parts or accessories or any other commodities which have not been ordered by such dealer; or
- (2) To coerce, or attempt to coerce, any dealer to enter into an agreement with such grantor or do any other act unfair to such dealer by threatening to cancel any recreational vehicle dealership franchise agreement existing between such grantor and such dealer.

#### 10-1-679.8.

It shall be unlawful for any grantor to prevent or refuse to approve the sale or transfer of the ownership of a recreational vehicle dealership by the sale of the business assets, stock transfer, or otherwise, or a change in executive management or principal operator of the dealership if the new owner, principal operator, or management is creditworthy, has not been convicted of a felony, and is properly licensed; the sale or transfer shall not result in a relocation of the business; and the sale or transfer is otherwise reasonable under the circumstances. The recreational vehicle dealer must give the manufacturer 30 days' written notice prior to the closing of such agreement. If the manufacturer rejects a proposed change or sale, the manufacturer shall give written notice of its reasons to the recreational vehicle dealer within 30 days after receipt of the dealer notification and

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complete documentation. If no such notice is given to the recreational vehicle dealer, the change or sale shall be deemed approved. The burden of proving that any sale or transfer is not reasonable shall be on the grantor.

10-1-679.9.

- (a) It shall be unlawful for any grantor to fail to provide a recreational vehicle dealer with an opportunity, at the time of signing a recreational vehicle dealership franchise agreement or at a reasonable time thereafter, to designate a member of his or her family as a successor to the dealership in the event of the death, incapacity, or retirement of the dealer. A dealer may from time to time during the term of the franchise agreement change the beneficiary by providing a written notification to the manufacturer.
- (b) It shall be unlawful to prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated, or retired dealer unless the grantor has provided to the family member so designated written notice of its objections. The burden of proving that such transfer is not reasonable shall be on the grantor.
- (c) Grounds for objection shall be lack of creditworthiness, conviction of a felony, inability to obtain necessary and required licenses by the beneficiary, lack of required licenses, or other conditions which make such succession unreasonable under the circumstances, but the grantor shall bear the burden of proving the unreasonableness of such succession. No family member of the deceased, incapacitated, or retired dealer may succeed to a recreational vehicle dealership unless the succession to the recreational vehicle dealership will not involve, without the grantor's consent, a relocation of the business.

10-1-679.10.

- (a) Each grantor or warrantor, where applicable, shall specify in writing to each of its recreational vehicle dealers licensed in Georgia the dealer's obligation for preparation, delivery, and warranty service on its products; shall compensate the dealer for warranty service required of the dealer by the grantor or warrantor; and shall provide the dealer the schedule of compensation to be paid to such dealers for parts, work, and service in connection with warranty service and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work as well as repair service and labor.
- (b) Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this Code section, the principal factors to be considered shall be the actual wage rates being paid by the dealer and the actual retail labor rates being charged by the dealer in the community in which the dealer is doing business. In no event shall such compensation of a dealer for warranty labor be less than the retail rates charged by the dealer for like service to retail customers for nonwarranty labor and repairs as long as such rates are reasonable.
- (c) A grantor or warrantor, where applicable, shall reimburse the dealer for warranty parts at actual wholesale costs plus a minimum 30 percent handling charge and the cost,

if any, of freight to return warranty parts to the grantor or warrantor. Warranty audits of dealer records may be conducted by the grantor or warrantor, where applicable, on a reasonable basis. A grantor or warrantor, where applicable, must disapprove warranty claims in writing within 30 days of the date of submission by the dealer in the manner and form prescribed by the grantor or warrantor. Claims not specifically disapproved in writing within this 30 day period shall be construed to be approved and shall be paid within 45 days.

(d) Dealer claims for warranty compensation shall not be denied except for good cause, such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation. Claims for dealer compensation must be submitted within 45 days of completing the work. The dealer must notify the warrantor verbally or in writing if the dealer is unable to promptly perform material or repetitive warranty repairs. All claims shall be paid within 30 days of dealer submission or rejected in writing for stated reasons.

(e) It shall be a violation of this article for any grantor or warrantor, where applicable, to:

- (1) Fail to perform any of its warranty obligations with respect to a recreational vehicle and recreational vehicle components;
  - (2) Fail to assume all responsibility for any liability resulting from structural or production defects;
  - (3) Fail to include written notices of factory recalls to vehicle owners and dealers and the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects. The grantor or warrantor, where applicable, may ship parts in quantity to the dealer to effect such campaign work, and if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the grantor or warrantor for credit after completion of the campaign;
  - (4) Fail to compensate any of its recreational vehicle dealers licensed in Georgia for repairs effected by such dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the grantor, factory branch, distributor, or distributor branch;
  - (5) Fail to compensate its recreational vehicle dealers licensed in this state for warranty parts, work, and service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) of this Code section if performed in a timely and competent manner, or for legal costs and expenses incurred by such dealers in connection with warranty obligations for which the grantor or warrantor, where applicable, is legally responsible or which the grantor or warrantor imposes upon the dealer;
  - (6) Misrepresent in any way purchases of recreational vehicles that contain warranties with respect to the manufacture, performance, or design of the vehicles which are made by the dealer, either as warrantor or co-warrantor; or
  - (7) Require the dealer to make warranties to customers in any manner related to the manufacture of a recreational vehicle.
- (f) Notwithstanding the terms of any agreement, it shall be a violation of this article for

any grantor or warrantor, where applicable, to fail to indemnify and hold harmless its recreational vehicle dealers against any losses or damages arising out of claims, costs, judgments, and expenses, including reasonable attorney's fees, or suits relating to the manufacture, assembly, or design of recreational vehicles, parts, or accessories, or other functions by the grantor or warrantor beyond the control of the dealer, including, without limitation, the selection by the grantor or warrantor, where applicable, of parts or components for the recreational vehicle or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the grantor or warrantor. The dealer shall give notice to the grantor or warrantor of pending suits in which allegations are made which come within this subsection whenever reasonably practicable to do so. Any recreational vehicle dealer franchise agreement issued to, amended, or renewed for recreational vehicles in Georgia on or after July 1, 2005, shall be deemed to incorporate provisions consistent with the requirements of this subsection.

(g) On any new recreational vehicle, any uncorrected and significant damage, or any corrected damage exceeding 5 percent of the manufacturer's suggested retail price or \$500.00 or more in paint damage, must be disclosed to the dealer in writing prior to delivery. Factory mechanical repair and damage to glass, tires, and bumpers is excluded from disclosure when properly replaced by identical manufacturer's or distributor's original equipment or parts.

(h) Whenever a new recreational vehicle is damaged in transit when the carrier or means of transportation is determined by the manufacturer or distributor or whenever a recreational vehicle is otherwise damaged prior to delivery to the recreational vehicle dealer or if a new recreational vehicle is found to have substantial box or chassis defects upon arrival at the recreational vehicle dealership, the dealer must notify the grantor or distributor of such damage or such defects within three business days from the date of delivery or within a reasonable amount of additional time or such time as specified in the recreational vehicle dealership franchise agreement and either:

- (1) Request from the grantor, warrantor, or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage; or
- (2) Reject the vehicle within the three day grace period.

If the dealer exercises the option to refuse delivery of the vehicle, the recreational vehicle grantor must immediately repurchase such vehicle.

(i) If the grantor, warrantor, or distributor refuses or fails to authorize repair of such damage within ten days after receipt of notification or if the dealer rejects a recreational vehicle because of damage, ownership of the new recreational vehicle shall revert to the grantor or distributor and the recreational vehicle dealer shall have no obligations, financial or otherwise, with respect to such recreational vehicle.

(j) It shall be a violation of this article for any recreational vehicle dealer to:

- (1) Fail to perform predelivery inspection functions, if required, in a competent and timely manner;
- (2) Fail to perform warranty service work, authorized by the vehicle warrantor, in a reasonably timely and competent manner on any transient customer's vehicle of the same line-make, whether sold by that dealer or not;

- (3) Intentionally misrepresent the terms of any warranty.  
(k) All grantors, warrantors, and distributors of recreational vehicle components shall be subject to the provisions of this article.

10-1-679.11.

If any grantor or warrantor violates this article, a recreational vehicle dealer may bring an action against such grantor or warrantor in a court of competent jurisdiction in the county of the recreational vehicle dealer for damages sustained as a consequence of the grantor's or warrantor's violation, together with the actual costs of the action including reasonable attorney's fees, and the dealer also may be granted injunctive relief against unlawful termination, cancellation, nonrenewal, or substantial change of competitive circumstances and refusal to permit transfer of ownership in accordance with Code Sections 10-1-679.2 and 10-1-679.3.

10-1-679.12.

In any action brought by a recreational vehicle dealer against a grantor or warrantor under this article, any violation of this article by the grantor or warrantor shall be deemed an irreparable injury to the recreational vehicle dealer for determining if a temporary injunction should be issued.

10-1-679.13.

It shall be unlawful for a grantor to establish a new recreational vehicle dealership unless the dealer meets the requirements and definitions provided in this article.

10-1-679.14.

It shall be unlawful for any dealer to sell or distribute any new recreational vehicle in Georgia unless the dealer has a franchise dealership agreement with a grantor with the express right to sell or distribute recreational vehicles in Georgia and meets the requirements and definitions provided in this article. Any dealer who does not meet the requirements of this article may participate in events where recreational vehicles are exhibited or demonstrated and seminars are provided but shall be prohibited from contracting to sell or distribute recreational vehicles to the public. Notwithstanding the foregoing, this section shall not apply to the sale of recreational vehicles at events sponsored by a Georgia based recreational vehicle grantor with manufacturing facilities located in the state, where recreational vehicles are sold or contracted for by its franchised out-of-state recreational vehicle dealers.

10-1-679.15.

Any person who violates the provisions of this article shall be guilty of a misdemeanor."

**SECTION 3.**

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

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Senator Whitehead of the 24th moved that the Senate agree to the House substitute to SB 155.

On the motion, a roll call was taken and the vote was as follows:

E Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 1; the motion prevailed, and the Senate agreed to the House substitute to SB 155.

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

Mr. President:

The House has disagreed to the Senate substitute to the following Bill of the House:

HB 36. By Representatives Willard of the 49th, Geisinger of the 48th and Wilkinson of the 52nd:

A BILL to be entitled an Act to revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the O.C.G.A., relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements; to provide that new municipal corporations shall have a minimum amount of time to arrange for

service delivery; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to amend Code Section 48-8-89.1 of the O.C.G.A., relating to distribution of joint county and municipal local option sales tax with respect to new qualified municipalities; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The House has disagreed to the Senate amendments to the following Bill of the House:

HB 282. By Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Davis of the 109th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The House insists on its position in disagreeing to the Senate amendment, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 188. By Representatives Burmeister of the 119th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, so as to require that the photograph of a person who is convicted of certain crimes for which such person is required to register as a sexual offender shall be published in the legal organ of the county in which such person was convicted; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Burmeister of the 119th, Ralston of the 7th and Knox of the 24th.

The following bill was taken up to consider House action thereto:

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HB 36. By Representatives Willard of the 49th, Geisinger of the 48th and Wilkinson of the 52nd:

A BILL to be entitled an Act to revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the O.C.G.A., relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements; to provide that new municipal corporations shall have a minimum amount of time to arrange for service delivery; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to amend Code Section 48-8-89.1 of the O.C.G.A., relating to distribution of joint county and municipal local option sales tax with respect to new qualified municipalities; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Senator Hill of the 32nd moved that the Senate insist on its substitute to HB 36.

On the motion, the yeas were 36, nays 0; the motion prevailed, and the Senate insisted on its substitute to HB 36.

The following bill was taken up to consider House action thereto:

HB 282. By Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Davis of the 109th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Senator Cagle of the 49th moved that the Senate insist on its amendments to HB 282.

On the motion, the yeas were 37, nays 0; the motion prevailed, and the Senate insisted on its amendments to HB 282.

The following bill was taken up to consider House action thereto:

HB 188. By Representatives Burmeister of the 119th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, so as to require that the photograph of a person who is convicted of certain crimes for which such person is required to register as a sexual offender shall be published in the legal organ of the county in which such person was convicted; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Rogers of the 21st moved that the Senate adhere to its amendment to HB 188 and that a Conference Committee be appointed.

On the motion, the yeas were 38, nays 0; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Rogers of the 21st, Smith of the 52nd and Thompson of the 33rd.

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

Mr. President:

The House has agreed to the Senate substitute to the following Bill of the House:

HB 499. By Representatives Franklin of the 43rd, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 1 of Title 21 of the Official Code of Georgia Annotated, relating to general provisions regarding elections, so as to provide for the composition and number of congressional districts; to provide for election of members of Congress; to provide when such members shall take office; to provide for continuation of present congressional districts until a certain time; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Butler of the 55th asked unanimous consent that Senator Thomas of the 2nd be excused. The consent was granted, and Senator Thomas was excused.

The Calendar was resumed.

HB 367. By Representatives Rice of the 51st and Parham of the 141st:

A BILL to be entitled an Act to amend Chapter 13 of Title 43 of the Official Code of Georgia Annotated, relating to licensing of driver training and commercial driver training schools, so as to provide definitions; to provide exceptions from these provisions; to regulate licensing of schools; to provide for insurance and bonds for school operators; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Kemp of the 46th.

The Senate Public Safety and Homeland Security Committee offered the following substitute to HB 367:

**A BILL TO BE ENTITLED  
AN ACT**

To amend provisions of the Official Code of Georgia Annotated relating to motor vehicles and drivers; to amend Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles generally, so as to change the requirements regarding replacement of license plates on private and governmental motor vehicles; to increase the license fee on governmental vehicles; to provide for disposition of the license fee on governmental vehicles; to remove the provisions regarding five-year license plates on governmental vehicles; to change the requirements as to destruction of tags from governmental vehicles; to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so as to provide that driver training schools must be licensed and in operation for two years before being authorized to conduct on-the-road driving tests; to amend Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to restoration of licenses to persons completing a defensive driving course or alcohol or drug program, so as to provide for approval of a driver improvement clinic's curriculum; to provide for certificates of completion; to delete references to advanced defensive driving courses; to amend Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, so as to change definitions; to require applicants for a hazardous materials endorsement to successfully complete a security threat assessment; to provide for nonresident commercial driver's licenses; to provide penalties for violations; to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to enact Chapter 12A to provide for licensing of ignition interlock device provider centers; to provide a short title; to provide for definitions; to provide for certain requirements for operators of ignition interlock device provider centers; to provide for a misdemeanor offense; to provide for rules and standards to be set by the commissioner of motor vehicle safety; to amend Chapter 13 of Title 43 of the Official

Code of Georgia Annotated, relating to instructors in driver training and operators of driver training schools, so as to provide definitions; to provide exceptions from the provisions of the chapter; to regulate licensing of driver training schools; to provide for insurance and bonds for driver training school operators; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles generally, is amended by striking subsections (b), (b.1), and (c) of Code Section 40-2-31, relating to design and replacement of license plates on private vehicles, and inserting in their place the following:

- "(b) Such license plates shall be of metal at least six inches wide and not less than 12 inches in length, except motorcycle license plates which shall be at least four inches wide and not less than seven inches in length, and shall show in bold characters the month and year of registration expiration, the serial number, and either the full name or the abbreviation of the name of the state, shall designate the county from which the license plate was issued, and shall show such other distinctive markings as in the judgment of the commissioner may be deemed advisable, so as to indicate the class of weight of the vehicle for which the license plate was issued; and any license plate for a low-speed vehicle shall designate the vehicle as such. Such plates may also bear such figures, characters, letters, or combinations thereof as in the judgment of the commissioner will to the best advantage advertise, popularize, and otherwise promote Georgia as the 'Peach State.' The metal shall be of such strength and quality that the plate shall provide a minimum service period of at least five years. Every five years a new metal license plate shall be provided by the commissioner for issuance. Metal license plates issued on or after January 1, 1997, shall be used for a period of five years. The commissioner shall adopt rules and regulations, pursuant to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' for the design and issuance of new metal license plates and to implement the other provisions of this Code section.  
(b.1) Any valid license plate or revalidation decal assigned to a vehicle under former provisions of this Code section prior to May 1, 1997, shall be deemed issued to the current registrant of such vehicle on May 1, 1997.  
(c) The face of the license plate to be displayed shall be treated completely with a retroreflective material which will increase the nighttime visibility and legibility of the plate. The Office of Highway Safety department shall prepare the specifications which such retroreflective material shall meet."

**SECTION 2.**

Said article is further amended by striking Code Section 40-2-37, relating to registration and licensing of governmental motor vehicles, and inserting in its place the following:

"40-2-37.

- (a) All vehicles of the type required to be registered by Code Section 40-2-20 owned by the State of Georgia or any municipality or other political subdivision of this state and used exclusively for governmental functions, except those employed in secret investigatory police functions to which regular Georgia license plates are issued, shall be registered with the commissioner by the fiscal officers or other proper officials of the respective departments and agencies of the state, municipality, or political subdivision to which such vehicles belong prior to operation and use thereof. Such registration shall be made upon forms prescribed and prepared by the commissioner for such purpose and shall contain a brief description of the vehicle to be registered; its name and model; the name of the manufacturer; the manufacturer's vehicle identification number; the department, agency, political subdivision, or branch thereof to which such vehicle is to be registered; and such other information as to use and identity as the commissioner may require. Upon the filing of the properly executed application for registration, the commissioner, upon being satisfied that such vehicle is bona fide owned by the state or a municipality or political subdivision thereof and is to be used exclusively for governmental functions, shall issue, upon payment by such applicant of a license fee of \$1.00 \$3.00, a license plate which shall be displayed upon such vehicle in the same manner as provided for private vehicles. The license fee, less the actual manufacturing cost of the plates which shall be retained by the department, shall be deposited in the general fund of the state treasury. Such license plates shall be replaced at such time as other license plates issued for private vehicles are required to be replaced.
- (b) For all vehicles owned by the State of Georgia or any municipality or other political subdivision of this state, except those vehicles employed in covert or secret investigatory police functions to which regular Georgia license plates are issued and those vehicles owned by the Department of Public Safety, the commissioner shall provide for ~~five year~~ registration and issuance of regular license plates for such vehicles. The ~~five year~~ license plates issued pursuant to this subsection shall be identical in appearance to regular license plates issued for private vehicles, except that such ~~five year~~ license plates shall not display any ~~year of registration or~~ registration expiration. Such license plates may be transferred as provided for in subsection (d) of this Code section. Such ~~five year~~ license plates shall be issued at the ~~beginning of a five year license period as for private vehicles or shall be issued at the time the vehicle is purchased by the state, and all such license plates shall expire at the same time as regular license plates.~~
- (c) All license plates issued to government vehicles pursuant to this Code section shall be marked in such a manner as to indicate the specific type of governmental unit operating the vehicle. These markings shall be prominently displayed and shall consist of one of the following appropriate legends: 'STATE,' 'CITY,' 'COUNTY,' 'AUTHORITY,' or 'BOARD.' In addition, each such license plate shall bear a county identification strip indicating the county in which the vehicle is based except that vehicles owned by the state shall not be required to bear such county identification

strip.

- (d) Any such license plates shall remain displayed and affixed upon such vehicle so long as such vehicle continues to be owned by the state or such municipality or political subdivision and used exclusively for governmental functions. Upon cessation of either such ownership or use, the license plate shall be removed from such vehicle and ~~either destroyed by such agency or returned to the commissioner or the county tag agent~~ for destruction. ~~If a license plate has been destroyed by the agency, certification of such destruction shall be provided by the agency to the commissioner upon a form prepared and furnished for such purpose by the commissioner.~~ In the event of a transfer of a vehicle to a department or agency, or branch thereof, other than the specific one to which such vehicle is registered, the commissioner shall be notified in writing by the department or agency from which the same is being transferred upon a form prepared and furnished for such purpose by the commissioner. ~~Such transfer shall be recorded on the registration lists maintained by the commissioner.~~ On due proof of loss of any such license plate, or of mutilation due to accidental or natural causes, another license plate may be issued upon application of the fiscal officer or other proper official of the department, agency, or political subdivision to which any such lost plate is registered.
- (e) No person, firm, or corporation owning or operating any such vehicle shall display upon the motor vehicle any license plate provided for in this Code section unless at the time of such ownership or operation such vehicle is properly registered under this Code section and is owned by the state or a municipality or political subdivision of this state and is being used exclusively for governmental purposes. Any person who violates this subsection shall be guilty of a misdemeanor.
- (f) This Code section shall apply to all vehicle license plates issued for governmental vehicles on and after January 1, ~~1996~~ 2006."

### SECTION 3.

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, is amended by striking subsection (e) of Code Section 40-5-27, relating to examination of applicants for drivers' licenses, and inserting in its place the following:

"(e) If the department determines that the pilot program provided for in subsection (d) of this Code section is successful, it shall authorize licensed driver training schools to conduct on-the-road driving tests as provided in this subsection. The department shall, prior to approving a licensed driver training school to conduct on-the-road driving tests as provided in this subsection, make a determination that the school has been licensed for a minimum of ~~one year two years~~ and has conducted driver education ~~and adult education courses~~ on a full-time basis for such ~~one year two-year~~ period and that such school meets all other standards which the department may establish as a condition for approval to conduct such tests. The department shall authorize a driver training school licensed pursuant to Chapter 13 of Title 43 and approved by the department to administer the testing provided for in this Code section, provided that the applicant has successfully completed a driver training course which includes a minimum of 30 class

hours of instruction and six hours of private in-car training. The department may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any Class C or Class D driver's license under this Code section."

#### SECTION 4.

Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to restoration of licenses to persons completing a defensive driving course or alcohol or drug program, is amended by striking paragraphs (1) and (2) of subsection (a) of Code Section 40-5-83, relating to operation of driver clinics and programs, and inserting in their place the following:

"(a)(1) The commissioner of motor vehicle safety shall establish criteria for the approval of driver improvement clinics. To be approved, a clinic shall provide ~~and operate either a defensive driving course, an advanced defensive driving course, or a professional defensive driving course or any combination thereof to the department for approval, or notify the department of the clinic's legal authority to use a currently approved curriculum or program, a curriculum consisting of a minimum of six hours of classroom theoretical instruction consisting of traffic safety related information designed for the improvement or remediation of an individual's knowledge of defensive driving techniques and traffic laws.~~ Clinics shall be composed of uniform education and training programs ~~consisting of six hours of instruction~~ designed for the rehabilitation of problem drivers. The commissioner shall establish standards and requirements concerning the contents of courses, qualifications of instructors, attendance requirements for students, and examinations. Approved clinics shall charge a fee of \$75.00 for a defensive driving course, an advanced defensive driving course, or a professional defensive driving course; except that such clinics may charge different fees of their own choosing if the person is not enrolling in such course pursuant to court order or department requirement. No clinic shall be approved unless such clinic agrees in writing to allow the examination and audit of the books, records, and financial statements of such clinic. ~~Clinics may be operated by any individual, partnership, corporation, association, civic group, club, county, municipality, board of education, school, or college. It shall be the responsibility of the clinic owner or operator to issue to each student who has passed the course a certificate of completion in the format prescribed by the department for reinstatement, points reduction, out of state reinstatement, or fulfilling a court order. The student's stated purpose for taking the course shall be noted as required by the certificate of completion. Students who are taking a class for the purpose of insurance reduction only, without any additional purpose of reinstatement, points reduction, out of state reinstatement, or fulfilling a court order, shall be given a certificate of completion noting this purpose. A certificate of completion for insurance reduction only cannot be used for the purpose of reinstatement, points reduction, out of state reinstatement, or fulfilling a court order. Driver improvement clinics may be operated by any public, private, or governmental entity; provided, however, that in any county where a driver improvement clinic is operated by a private entity, no governmental entity shall be~~

licensed to operate a driver improvement clinic."

"(2) The commissioner may issue a special license to the instructor of any ~~commercial~~ driver training school authorizing such instructor to teach a defensive driving course, ~~advanced defensive driving course, or professional defensive driving course~~ of a driver improvement clinic provided pursuant to this Code section if such instructor is qualified to teach a teen-age driver education course which consists of a minimum of 30 hours of classroom and six hours of behind-the-wheel training and such instructor certifies to the commissioner that he or she has provided at least 250 hours of behind-the-wheel training in a teen-age driver education course."

#### **SECTION 5.**

Said article is further amended by striking subsections (b), (c), and (d) of Code Section 40-5-84, relating to reinstatement of licenses suspended for points, and inserting in their place the following:

- (b) The license of any person whose license is suspended for the second time as a result of the conviction of an offense listed in Code Section 40-5-54 shall, at the expiration of 120 days following the date the license is suspended, be reinstated by the department upon receipt by the department of a certificate of completion of ~~an~~ advanced a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.
- (c) The license of any person whose license is suspended for the first time as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of ~~an approved~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.
- (d) The license of any person whose license is suspended for the second time as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of ~~an advanced~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail."

#### **SECTION 6.**

Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, is amended by striking paragraphs (7), (9), and (22) of Code Section 40-5-142, relating to definitions regarding commercial drivers' licenses, and inserting in their respective places the following:

- "(7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport passengers or property:
  - (A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;
  - (B) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(C) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F; provided, however, that for the purposes of this article, no agricultural vehicle, ~~military commercial~~ vehicle operated by military personnel for military purposes, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a commercial vehicle. As used in this paragraph, the term 'agricultural vehicle' means a farm vehicle which is controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and operated within 150 miles of such person's farm; which vehicle is not used in the operations of a common or contract carrier. Any other waiver by the Federal Highway Administration pursuant to Federal Law 49 C.F.R. Parts 383, 391, RIN 2125-AB 68, of the United States Department of Transportation shall supersede state law in authorizing the Department of Motor Vehicle Safety to exempt said classes."

"(9) 'Conviction' means ~~a~~ an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, ~~a finding of guilt, or~~ the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated."

"(22) 'Serious traffic violation' means conviction of any of the following offenses when operating a commercial motor vehicle or a noncommercial motor vehicle:

- (A) Speeding 15 or more miles per hour above the posted speed limit;
- (B) Reckless driving, as defined under state or local law;
- (C) Following another vehicle too closely, as defined under state or local law;
- (D) Improper or erratic lane change which presents a risk to any other vehicle, but not including failure to signal a lane change;
- (E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations;
- (F) A railroad grade crossing violation as defined under state law or local ordinance;
- (G) Driving a commercial motor vehicle without obtaining a commercial driver's license;
- (H) Driving a commercial motor vehicle without a valid commercial driver's license in the driver's immediate possession; or
- (I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and/or endorsements for the specific vehicle being operated or for the passengers or type of cargo transported."

**SECTION 7.**

Said article is further amended by adding a new paragraph (4) to subsection (c) of Code Section 40-5-147, relating to requirements for issuance of licenses, to read as follows:

"(4) An applicant for a hazardous materials endorsement must successfully complete a security threat assessment conducted by the federal Transportation Security Administration or its agent prior to the issuance of such an endorsement."

**SECTION 8.**

Said article is further amended by inserting a new Code section immediately following Code Section 40-5-148.1, relating to restricted commercial licenses for persons in the agricultural industry, to read as follows:

"40-5-148.2.

If an individual is domiciled in another state while that state is prohibited from issuing commercial drivers' licenses in accordance with Title 49 C.F.R. Section 384.405, that individual is eligible to obtain a nonresident commercial driver's license. That individual shall provide the information specified in Code Section 40-5-149. The department shall promulgate rules and regulations as necessary to implement this Code section, in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' within 90 days of being notified that a state will be prohibited from issuing commercial drivers' licenses."

**SECTION 9.**

Said article is further amended by inserting a new subsection (e) in Code Section 40-5-149, relating to contents of the application for a commercial driver's license, to read as follows:

"(e) Before issuing a commercial driver's license, the department shall obtain driving record information through the Commercial Driver License Information System and the National Driver Register and shall request driving record information from each state in which the applicant has been licensed within the past ten years."

**SECTION 10.**

Said article is further amended by striking subsection (h) of Code Section 40-5-150, relating to contents of a commercial driver's license, and inserting in its place the following:

"(h) When applying for renewal of a commercial driver's license, the applicant shall complete the application form required by subsection (a) of Code Section 40-5-149, providing updated information and required medical certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed. In addition, an applicant for a hazardous materials endorsement must successfully complete a security threat assessment conducted by the federal Transportation Security Administration or its agent prior to the issuance of such an endorsement."

**SECTION 11.**

Said article is further amended by striking Code Section 40-5-151, relating to disqualification from driving and action required after suspending, revoking, or canceling license or nonresident privileges, and inserting in its place the following:

"40-5-151.

- (a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year:
- (1) If convicted of a first violation of:
    - (A) Any offense specified in Code Section 40-5-54 that occurs while the person is driving or being in actual physical control of a moving commercial motor vehicle or a moving noncommercial vehicle;
    - (B) Driving or being in actual physical control of a moving commercial motor vehicle while there is 0.04 percent or more by weight of alcohol in his or her blood, breath, or urine; ~~or~~
    - (C) Driving or being in actual physical control of a moving noncommercial vehicle in violation of Code Section 40-6-391; or
    - (D) Driving while his or her license is suspended, revoked, or canceled or while he or she is otherwise disqualified from operating a commercial motor vehicle; or
  - (2) For refusal to submit to a test as prescribed in Code Section 40-5-55 to determine the driver's alcohol concentration while driving a commercial motor vehicle or a noncommercial motor vehicle.
- (b) Any person is disqualified from driving a commercial motor vehicle for a period of not less than three years if convicted of a first violation of using a commercial motor vehicle in the commission of a felony or for offenses specified in paragraph (1) of subsection (a) of this Code section, provided that the vehicle being operated or used in connection with such violation or commission of such felony is transporting a hazardous material required to be placarded under Section 105 of the Hazardous Material Transportation Act.
- (c) Any person is disqualified from driving a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in subsection (a) of Code Section 40-5-54 or Code Section 40-6-391, the refusal to submit to state administered chemical testing as prescribed by Code Section 40-5-55, or any combination of those offenses or refusals, arising from two or more separate incidents.
- (d) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) of this Code section may be reduced to a period of not less than ten years. The department is not authorized to make any other reduction in a term of disqualification or to issue a limited or other permit or license that would allow the operation of a commercial motor vehicle during the term of disqualification mandated by this Code section.
- (e) Any person is disqualified from driving a commercial motor vehicle for life who knowingly uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(f)(1) Except as otherwise provided by paragraph (2) of this subsection, any person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations or 120 days if convicted of three serious traffic violations committed in a commercial motor vehicle or a noncommercial motor vehicle arising from separate incidents occurring within a three-year period as measured from the dates of arrests for which convictions were obtained.

(2) If the serious traffic violation committed in a commercial motor vehicle is a railroad grade crossing violation, the person shall be disqualified from driving a commercial motor vehicle for a period of not less than 60 days upon the first conviction within a three-year period as measured from the dates of arrests for which convictions were obtained, for not less than 120 days if convicted of two railroad grade crossing violations arising from separate incidents within a three-year period as measured from the dates of arrests for which convictions were obtained, or for not less than one year if convicted of three railroad grade crossing violations arising from separate incidents within a three-year period as measured from the dates of arrests for which convictions were obtained.

(g) Any person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if it is determined, in a check of an applicant's license status and record prior to issuing a commercial driver's license, or at any time after the commercial driver's license is issued, that the applicant has falsified information on his or her application or any related filing.

(g)(h)(1) Any person is disqualified from driving a commercial motor vehicle based on the following violations of out-of-service orders:

(A) First violation — a driver who is convicted of a first violation of an out-of-service order is disqualified for a period of not less than 90 days and not more than one year;

(B) Second violation — a driver who is convicted of two violations of out-of-service orders in separate incidents is disqualified for a period of not less than one year and not more than five years; and

(C) Third or subsequent violation — a driver who is convicted of three or more violations of out-of-service orders in separate incidents is disqualified for a period of not less than three years and not more than five years.

(2) Any person is disqualified for a period of not less than 180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act or while operating a commercial motor vehicle designed to transport more than 16 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if during any ten-year period the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act or while operating a commercial motor vehicle designed to transport more than

16 passengers, including the driver.

(3) Whenever the operator of a commercial motor vehicle is issued an out-of-service order, a copy of such order shall be issued to the operator of the commercial motor vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice of such out-of-service order shall be provided to the department. The form of such out-of-service order, the procedures for notifying the department upon the issuance of such an order, and other matters relative to the issuance of out-of-service orders and violations thereof shall be provided in rules and regulations promulgated by the commissioner.

(4)(i) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state which issued the commercial driver's license within ten days."

## SECTION 12.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by inserting a new chapter to read as follows:

### "CHAPTER 12A

#### 43-12A-1.

This chapter shall be known and may be cited as the 'Ignition Interlock Device Providers Act.'

#### 43-12A-2.

As used in this chapter, the term:

- (1) 'Department' means the Department of Motor Vehicle Safety acting directly or through its duly authorized officers and agents.
- (2) 'Ignition interlock device' means a constant monitoring device certified by the commissioner of motor vehicle safety which prevents a motor vehicle from being started at any time without first determining the equivalent blood alcohol concentration of the operator through the taking of a deep lung breath sample. The system shall be calibrated so that the motor vehicle may not be started if the blood alcohol concentration of the operator, as measured by the device, exceeds 0.02 grams or if the sample is not a sample of human breath.
- (3) 'Provider center' means a facility established for the purpose of providing and installing ignition interlock devices when their use is required by or as a result of an order of a court.

#### 43-12A-3.

No person shall operate a provider center or engage in the practice of providing, installing, or monitoring ignition interlock devices unless a license therefor has been secured from the department.

## 43-12A-4.

(a) Every person who desires to operate a provider center shall meet the following requirements:

- (1) Maintain an established place of business in the state which is open to the public;
- (2) Maintain a general liability policy of insurance, including products and completed operations, with not less than \$50,000.00 of combined single limits, with an insurance carrier authorized by the Commissioner of Insurance to write policies in the state. Evidence of such insurance coverage, in the form of a certificate from the insurance carrier, shall be filed with the department; and such certificate shall stipulate that the insurance shall not be canceled except upon ten days' prior written notice to the department;
- (3) Provide a continuous surety bond in the principal sum of \$10,000.00 for the protection of the contractual rights of individuals required to maintain an ignition interlock device in such form as will meet with the approval of the department and written by a company authorized to do business in this state; provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of \$20,000.00 per location, and a single bond at such rate for all locations separately licensed and operated by the same person may be provided in satisfaction of this paragraph. The surety on any such bond may cancel such bond on giving 30 days' notice thereof in writing to the department and shall be relieved of liability for any breach of any condition of the bond which occurs after the effective date of cancellation;
- (4) Have the equipment and knowledge necessary to provide, install, and monitor ignition interlock devices as prescribed by the department; and
- (5) Pay to the department an application fee of \$250.00.

(b) The department shall conduct a records check for any applicant for certification as a provider center operator. Each applicant shall submit two sets of classifiable fingerprints to the department. The department shall transmit both sets of fingerprints to the Georgia Crime Information Center, which shall submit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain one set of fingerprints and promptly conduct a search of state records. After receiving a report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall determine whether the applicant may be licensed. The applicant shall be responsible for any fee or other charge allowed by law or rule or regulation promulgated by the department, the Georgia Crime Information Center, or the Federal Bureau of Investigation for the submission, processing, and review of such fingerprints.

(c) No applicant shall be licensed or certified who does not meet the requirements set forth in Code Section 43-12A-6.

## 43-12A-5.

(a) No provider center shall be permitted to use, adopt, or conduct any business under any name that is like or deceptively similar to any name of a Georgia corporation

registered with the Secretary of State.

- (b) This Code section shall not prohibit the franchising or licensing of any part or all of the name of a provider center by the owner of the rights therein to another licensed provider center.
- (c) A judicial officer, probation officer, law enforcement officer, or other officer or employee of a court or any person employed by a private company which has contracted to provide private probation services for misdemeanor cases, or any employee of the Department of Motor Vehicle Safety or the Department of Human Resources, and any immediate family member thereof shall be prohibited from owning, operating, being employed by or acting as an agent or servant for, or having a financial interest in any provider center.

43-12A-6.

Every person who desires to operate a provider center or to engage in the practice of providing, installing, or monitoring ignition interlock devices:

- (1) Shall not have knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice the licensed business or profession; or made a false statement or deceptive registration with the board;
- (2) Shall not have been convicted of a second or subsequent violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained;
- (3) Shall not have been convicted of any felony or of any crime involving theft, fraud, violence, or moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States. As used in this paragraph, the term 'felony' shall mean any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and the term 'conviction' shall mean a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought; and
- (4) Shall not have been arrested, charged, and sentenced for the commission of any felony, or any crime involving theft, fraud, violence, or moral turpitude, where:

- (A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or
- (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge, except with respect to a plea of nolo contendere.

The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime.

43-12A-7.

- (a) The department shall issue a license certificate to each provider center operator

when such person has met the qualifications required under this chapter. Each provider center shall be required to have a separate license for each location, but mobile units operating out of a particular licensed location need not be separately licensed.

(b) All licenses issued to operators of provider centers pursuant to this chapter shall be valid for four years from the date of issuance unless sooner canceled, suspended, or revoked under Code Section 43-12A-8. All licenses shall be renewed through the department as provided in subsection (d) of this Code section and shall be valid for four years from the date of renewal.

(c) The license of each provider center operator may be renewed subject to the same conditions as the original license and upon payment of a fee of \$100.00.

(d) All applications for renewal of a provider center operator's license shall be on a form prescribed by the department and must be filed with the department not more than 60 days nor fewer than ten days preceding the expiration date of the license to be renewed.

#### 43-12A-8.

The department may cancel, suspend, revoke, or refuse to renew any provider center's license upon good cause being shown and after ten days' notice to the license holder if:

- (1) The department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this chapter;
- (2) The licensee permits fraud or engages in fraudulent practices, with reference to either the applicant or the department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit;
- (3) The licensee fails to comply with this chapter or any rule of the department made pursuant thereto;
- (4) The licensee represents himself or herself as an agent or employee of the department or uses advertising designed to lead, or which would reasonably have the effect of leading, persons to believe that such licensee is in fact an employee or representative of the department;
- (5) The licensee or any employee or agent of the licensee directly or indirectly solicits business by personal solicitation on public property or in any department, agency, or office of the state which involves the administration of any law relating to motor vehicles, whether by telephone, mail, or electronic communications. A violation of this paragraph shall be a misdemeanor. Advertising in any mass media, including, but not limited to, newspapers, radio, television, magazines, or telephone directories, by a provider center shall not be considered a violation of this paragraph; or
- (6) The driver's license of the licensee has been canceled, suspended, or revoked.

#### 43-12A-9.

(a) The commissioner of motor vehicle safety is authorized to prescribe, by rule, standards for the eligibility, conduct, and equipment required for a person to be licensed to operate a provider center and to adopt other reasonable rules and regulations to carry

out this chapter. Notwithstanding the foregoing, violations that are minor in nature and committed by a person, firm, or corporation shall be punished only by a written reprimand unless the person, firm, or corporation fails to remedy the violation within 30 days, in which case an administrative fine, not to exceed \$250.00, may be issued.

(b) The commissioner of motor vehicle safety shall have the authority to assess, after a hearing, an administrative fine not to exceed \$1,000.00 per violation against any provider center, agent, or employee that fails to comply with any requirement imposed by or pursuant to this chapter.

(c) The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person, firm, or corporation who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the commissioner of motor vehicle safety shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this Code section shall be paid into the state treasury. The commissioner of motor vehicle safety may file in the superior court:

- (1) Wherein the person under order resides;
- (2) If such person is a corporation, in the county wherein the corporation maintains its principal place of business; or
- (3) In the county wherein the violation occurred

a certified copy of a final order of the commissioner of motor vehicle safety, whether unappealed from or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment, and any proceeding in relation thereto, shall have the same effect as though the judgment had been rendered in an action duly heard and determined by the court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the commissioner of motor vehicle safety with respect to any violation of this chapter or any order, rules, or regulations promulgated pursuant to this chapter."

### SECTION 13.

Chapter 13 of Title 43 of the Official Code of Georgia Annotated, relating to instructors in driver training and operators of driver training schools, is amended by striking Code Section 43-13-2, relating to definitions applicable to driver training schools, and inserting in its place the following:

"43-13-2.

(a) As used in this chapter, the term:

(1) 'Certificate of completion' means a certificate prescribed by the department issued for the successful completion of an approved 30 hours of classroom instruction and six hours of behind-the-wheel training by a licensed driver training school.

(3)(2) 'Commercial driver training school' means any person, partnership, limited liability company, or corporation giving driving instruction to ten or more persons per calendar year for hire for the purpose of assisting such persons to meet the

requirements for licensed driving of Class A or Class B motor vehicles in this state.

~~(4)(3)~~ 'Department' means the Department of Motor Vehicle Safety acting directly or through its duly authorized officers and agents.

~~(2)(4)~~ 'Driver training schools school' means any person, partnership, limited liability company, or corporation giving driving instruction ~~to ten or more persons per calendar year for hire~~ for the purpose of assisting ~~such~~ persons to meet the requirements for licensed driving of Class C or Class M motor vehicles in this state, except for motorcycle operator safety training programs conducted by or on behalf of the Department of Motor Vehicle Safety pursuant to Chapter 15 of Title 40. The term shall also include any public school system offering a driver training course during the regular school day as part of a student curriculum at no cost to the student.

~~(4)(5)~~ 'Driver's license examiners' means examiners appointed by the Department of Motor Vehicle Safety for the purpose of giving driver's license examinations.

~~(5)(6)~~ 'Motor vehicle' means every vehicle which is self-propelled upon, or by which any person or property is or may be transported or drawn upon, a public highway except devices used exclusively upon stationary rails or tracks.

~~(6)(7)~~ 'Person' means every natural person, firm, partnership, limited liability company, association, corporation, or school.

(b)(1) Except as otherwise provided in this subsection, the terms 'driver training school' and 'commercial driver training school' shall not include hospitals and state licensed rehabilitation centers offering a driver training course for the purpose of rehabilitating persons to maintain or obtain a Class C license; except that such facilities shall be required to file a memorandum of understanding with the commissioner of motor vehicle safety in the prescribed format of the department.

(2) Any person offering a for hire defensive driving safety course for the purpose of providing training to assist persons to obtain a Class C or Class M license through means of behind-the-wheel training, simulator training, or a defensive driving safety course consisting of less than 30 hours of classroom instruction and six hours of behind-the-wheel training shall be required to obtain a limited license as a driver training school, register and identify all of its vehicles, and become subject to the same insurance requirements for a driver training school as outlined in Code Section 43-13-4. The commissioner of motor vehicle safety shall promulgate and adopt rules and regulations for the qualifications for the driver training school limited license. The commissioner shall issue the driver training school limited license if the application is complete and the applicant demonstrates compliance with the laws of this state and the rules and regulations of the commissioner regarding insurance and safety. The driver training school limited license shall be valid for a period of four years.

(3) Any person may obtain a temporary driver training permit for a period of seven consecutive days beginning and ending on the dates specified on the face of the permit. Temporary driver training permits shall be obtained by schools, individuals, or other entities which offer occasional driver training instruction and which do not maintain a permanent classroom located within the state. The fee for each temporary

driver training permit shall be \$100.00 per week and \$25.00 for each vehicle. No temporary driver training permit shall be issued without the commissioner having first received satisfactory proof that the applicant meets the insurance requirements as defined in Code Section 43-13-4 and the vehicle and safety requirements of the rules and regulations of the commissioner. A temporary driver training permit shall be displayed in a conspicuous location during all times instruction is being given and a copy of such permit shall be located in each vehicle that is registered for the purpose of providing instruction."

#### SECTION 14.

Said chapter is further amended by striking Code Section 43-13-3, relating to licensing of driver training schools, and inserting in its place the following:

"43-13-3.

No person shall operate a driver training school, operate a commercial driver training school, or engage in the business of giving instruction to ten or more persons per calendar year for hire in the driving of motor vehicles or in the preparation of an applicant for examination given by driver's license examiners for a driver's license or permit unless a license, a limited license, or temporary driver training permit therefor has been secured from the department. Separate licenses shall be required for the operation of a driver training school and a commercial driver training school. A driver training school shall offer a minimum of 30 hours of classroom instruction and six hours of behind-the-wheel instruction for the purpose of assisting persons to obtain a Class C license; however, a public or private school system may contract with a licensed driver training school to provide the six hours of behind-the-wheel instruction. A driver training school shall offer a minimum of 15 hours of instruction for the purpose of assisting persons to obtain a Class M license."

#### SECTION 15.

Said chapter is further amended by striking paragraphs (3), (4), and (6) of Code Section 43-13-4, relating to qualification of driver training school operators, and inserting in their place the following:

"(3) Maintain bodily injury and property damage liability insurance on motor vehicles while used in driver training instruction, insuring the liability of the driver training school, the driving instructors, and any person taking instruction, in at least the following amounts: \$100,000.00 for bodily injury to or death of one person in any one accident and, subject to such limit for one person, \$200,000.00 \$300,000.00 for bodily injury to or death of two or more persons in any one accident and the amount of \$20,000.00 \$50,000.00 for damage to property of others in any one accident. Evidence of such insurance coverage, in the form of a certificate from the insurance carrier, shall be filed with the department; and such certificate shall stipulate that the insurance shall not be canceled except upon ten days' prior written notice to the department. Such insurance shall be written by a company authorized to do business in this state;

(4) Provide a continuous surety company bond in the principal sum of ~~\$2,500.00~~ \$10,000.00 for the protection of the contractual rights of students in such form as will meet with the approval of the department and written by a company authorized to do business in this state; provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of ~~\$2,500.00~~ \$10,000.00 per location, and a single bond at such rate for all schools operated by the same person may be provided in satisfaction of this paragraph. The surety on any such bond may cancel such bond on giving 30 days' notice thereof in writing to the department and shall be relieved of liability for any breach of any condition of the bond which occurs after the effective date of cancellation. If at any time said bond is not valid and in force, the license of the school or program shall be deemed suspended by operation of law until a valid surety company bond is again in force;"

"(6) Pay to the department an application fee of \$25.00 for the approval of driver training schools and instructors, commercial driver training schools and instructors, and driver training schools limited license and instructors. These licenses and each renewal thereof shall be valid for a period of four years unless suspended or revoked prior to the expiration of that time period."

#### SECTION 16.

Said chapter is further amended by striking Code Section 43-13-4.1, relating to business names of driver training schools, and inserting in its place the following:

"43-13-4.1.

- (a) No driver training school or commercial driver training school shall be permitted to use, adopt, or conduct any business under any name that is like or deceptively similar to any name of a Georgia corporation registered with the Secretary of State.
- (b) This Code section shall not prohibit the franchising or licensing of any part or all of the name of a driver training school or commercial driver training school by the owner of the rights therein to another licensed driver training school or commercial driver training school."

#### SECTION 17.

Said chapter is further amended by striking subsection (a) of Code Section 43-13-10, relating to exceptions to the driver training school law, and inserting in its place the following:

- "(a) This chapter shall not apply to a college conducting a driver or commercial driver training course; nor shall it apply to driver improvement schools operated by the state or by a county or municipality; nor shall it apply to any entity conducting a driver safety course on private property when the vehicles used in the training are licensed by the vehicle owner and are not owned, leased, or under the control of the entity conducting or sponsoring the training. Such entity shall notify the department of the dates and location of the scheduled training and provide a certificate of liability insurance in the form established by the department."

**SECTION 18.**

This Act shall become effective on July 1, 2005, except for Section 12, which shall become effective on January 1, 2006.

**SECTION 19.**

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

On the adoption of the substitute, the yeas were 29, nays 0, 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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Hooks	Y Staton
Bulloch	Y Hudgens	E Stephens
Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 0.

HB 367, having received the requisite constitutional majority, was passed by substitute.

HB 306. By Representatives Rice of the 51st, Ehrhart of the 36th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Code Section 48-8-63 of the Official Code of Georgia Annotated, relating to payment of sales and use tax by contractors, so as to change certain provisions regarding payment of use tax with respect to certain tangible personal property; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 24, 2005

Honorable Larry O'Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

SUBJECT: Revised Fiscal Note  
House Bill 306 (LC 18 4096)

Dear Chairman O'Neal:

This bill would exempt from state use tax purchases of tangible personal property by a government or bona fide department thereof which is furnished to a contractor for incorporation into a construction, renovation or repair project pursuant to a contract with the government or department.

The Georgia State University Fiscal Research Center estimated the revenue impact for this proposed legislation as an annual decrease in state tax revenue of \$127 million. Local sales taxes would be reduced by approximately \$95 million per year. The combined impact on state and local revenues would be approximately \$222 million. The Center provided the following narrative regarding these estimates:

Potentially, this legislation could exempt from use tax all purchases of materials, supplies and other tangible items that are used in government funded construction projects. The U.S. Census Bureau survey of state and local government finance lists contract expenditures for fiscal year 2001 of \$4,315 million for Georgia local governments and \$2,387 million for Georgia state government. In addition, U.S. federal contract expenditures totaled \$84,760 million. Assuming that Georgia's share of this federal activity is equal to Georgia's share of total U.S. personal income of 2.78%, this equates to an additional \$2,357 million in contract expenditures.

Adding these three categories together yields an estimate of total government contract expenditures of approximately \$9.1 billion per year. The U.S. Census Bureau estimated the cost of materials, components, supplies and fuels to represent 32.7% per dollar of construction work for Heavy Construction Contractors and to represent 37.1% per dollar of construction work for Highway & Street contractors. An estimate of 35% was used to calculate the dollar value of tangible property based on the \$9.1 billion in total contract expenditures. This equals just under \$3.2 billion in expenditures on tangible property that could be exempt under the proposed legislation.

Applying the state sales and use tax rate of 4% to this estimate yields the estimate of a decrease in state revenues of approximately \$127 million per year.

Applying a local sales tax rate of 3% yields an estimate of approximately \$95 million in reduced local tax revenue per year.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

The Senate Finance Committee offered the following amendment:

Amend HB 306 by striking "written" on lines 20 and 21 of page 1 and inserting in its place "advance written".

On the adoption of the amendment, the yeas were 29, nays 0, and the Committee amendment was adopted.

Senator Cagle of the 49th offered the following amendment #1:

Amend HB 306 by striking on line 22 on page 1 the following word: (any) and inserting the word (such)

On the adoption of the amendment, the yeas were 32, nays 0, and the Cagle amendment #1 was adopted.

The report of the committee, which was favorable to the passage of the bill as amended, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 47, nays 2.

HB 306, having received the requisite constitutional majority, was passed as amended.

Senator Stephens of the 27th asked unanimous consent that the Secretary of the Senate be directed to cast the vote of the Senate to adhere to the Senate Amendments to HB 282 and appoint a Conference Committee.

The consent was granted and the Secretary of the Senate was directed to cast the vote of the Senate.

The President announced that the Conference Committee would be Senators Cagle of the 49th, Wiles of the 37th and Harp of the 29th.

Senator Stephens of the 27th moved that the Senate stand in recess until 6:00 p.m. today and then pursuant to HR 605 stand adjourned until 9:00 a.m. Thursday, March 24, 2005.

At 3:34 p.m. the President announced the motion prevailed.

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

Mr. President:

The House insists on its position in disagreeing to the Senate amendments, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 282. By Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Davis of the 109th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Roberts of the 154th, Golick of the 34th and O'Neal of the 146th.

The following bill was taken up to consider House action thereto:

HB 282. By Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Davis of the 109th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Pursuant to a previously adopted motion, the Senate adhered to its amendments to HB 282 and appointed as a Conference Committee the following Senators: Cagle of the 49th, Wiles of the 37th and Harp of the 29th.

The Senate adjourned at 6:00 p.m.

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Senate Chamber, Atlanta, Georgia  
Thursday, March 24, 2005  
Thirty-seventh Legislative Day

The Senate met pursuant to adjournment at 9:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th 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 Senate:

SB 139. By Senators Seabaugh of the 28th, Hill of the 32nd, Williams of the 19th and Harbison of the 15th:

A BILL to be entitled an Act to amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions for torts, so as to limit liability and damages in certain circumstances; to provide for limited liability for certain liquefied petroleum gas providers; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

SB 175. By Senators Mullis of the 53rd, Hamrick of the 30th, Goggans of the 7th, Smith of the 52nd, Thomas of the 54th and others:

A BILL to be entitled an Act to amend Article 4 of Chapter 11 of Title 16 of the O.C.G.A., relating to dangerous instrumentalities and practices, so as to provide for the comprehensive revision of certain provisions regarding Brady Law regulations; to provide a short title; to require licensed gun manufacturers, importers, and dealers to conduct the National Instant Criminal Background Check; to provide for the transfer of information to the Federal Bureau of Investigation with regard to persons involuntarily hospitalized; to provide for the regulatory authority of political

subdivisions; to amend Code Section 35-3-34 of the O.C.G.A., relating to disclosure and dissemination of criminal records to private persons and businesses; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 217. By Senators Hudgens of the 47th, Shafer of the 48th, Moody of the 56th, Cagle of the 49th, Harp of the 29th 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 enact the "Life Settlements Act"; to provide a short title; to provide definitions; to provide for the protection of contractual and property rights of a life insurance policy owner to seek a life settlement; to establish consumer protections by providing for the regulation of a life settlement transaction; to provide for the licensing and regulation of a life settlement provider and others involved in a life settlement transaction; to provide for antifraud measures; to provide penalties for certain violations; to provide for related matters; to provide for severability; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 225. By Senators Hudgens of the 47th, Harp of the 29th, Moody of the 56th, Rogers of the 21st and Goggans of the 7th:

A BILL to be entitled an Act to amend Chapter 10 of Title 33 of the Official Code of Georgia Annotated, relating to assets and liabilities of insurers, so as to repeal certain provisions relating to loss reserves and liability insurance and workers' compensation; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 308. By Senator Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter standards and training, so as to provide definitions; to provide for certain powers and functions of the Georgia Firefighter Standards and Training Council with regard to airport firefighters; to provide for certain training for airport firefighters; to repeal Article 2 of such chapter, relating to airport firefighters; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

SB 19. By Senators Johnson of the 1st, Balfour of the 9th, Wiles of the 37th, Hill of the 32nd, Williams of the 19th and others:

A BILL to be entitled an Act to amend Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions, so as to provide for procedures, conditions, and limitations on certification of class actions; to provide for appellate procedures relating to class actions certification; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 133. By Senators Balfour of the 9th, Johnson of the 1st and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to the regulation of fireworks, so as to change the definition of the term "fireworks"; to prohibit the sale of certain combustible or explosive compositions to persons under 16 years of age; to provide for a monetary penalty for sales made in violation of such prohibition; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 167. By Senators Rogers of the 21st, Hudgens of the 47th, Stephens of the 27th and Stoner of the 6th:

A BILL to be entitled an Act to amend Code Section 33-31-9 of the Official Code of Georgia Annotated, relating to refunds and credits of credit life

insurance premiums, so as to provide that the insured shall notify the credit life insurer upon the early payoff of the indebtedness; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 178. By Senator Douglas of the 17th:

A BILL to be entitled an Act to amend Part 5 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment of law enforcement and emergency vehicles, so as to provide for restrictions with respect to the use of blue lights; to provide for exceptions; to provide for criminal penalties; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

SB 272. By Senators Moody of the 56th, Shafer of the 48th, Miles of the 43rd, Hill of the 4th and Seabaugh of the 28th:

A BILL to be entitled an Act to amend Part 14 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to specific programs in elementary and secondary education, so as to provide that the State Board of Education shall develop a school interscholastic extracurricular athletic policy that provides for the use of a single, comprehensive, preparticipation physical examination form; to provide for physical examinations in certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 274. By Senator Seabaugh of the 28th:

A BILL to be entitled an Act to amend Chapter 9 of Title 25 of the Official Code of Georgia Annotated, the "Georgia Utility Facility Protection Act," so as to add provisions relating to sewer laterals, to repeal conflicting laws; and for other purposes.

The House has passed, as amended, by the requisite constitutional majority the following Bill of the Senate:

SB 144. By Senators Mullis of the 53rd, Whitehead, Sr. of the 24th, Schaefer of the 50th and Pearson of the 51st:

A BILL to be entitled an Act to amend Code Section 50-8-150 of the Official Code of Georgia Annotated, relating to the creation of the State Advisory Committee on Rural Development, so as to create the Georgia Rural Development Council; to provide for its duties and responsibilities; to

provide for the composition of the council; to provide for membership, officers, and terms of office; to provide for bylaws; to provide for compensation; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitute to the following Bill of the House:

HB 499. By Representatives Franklin of the 43rd, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 1 of Title 21 of the Official Code of Georgia Annotated, relating to general provisions regarding elections, so as to provide for the composition and number of congressional districts; to provide for election of members of Congress; to provide when such members shall take office; to provide for continuation of present congressional districts until a certain time; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House insists on its position in disagreeing to the Senate substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate to the following Bill of the House:

HB 36. By Representatives Willard of the 49th, Geisinger of the 48th and Wilkinson of the 52nd:

A BILL to be entitled an Act to revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the O.C.G.A., relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements; to provide that new municipal corporations shall have a minimum amount of time to arrange for service delivery; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to amend Code Section 48-8-89.1 of the O.C.G.A., relating to distribution of joint county and municipal local option sales tax with respect to new qualified municipalities; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on part of the House, Representatives Willard of the 49th, Jones of the 46th and Wilkinson of the 52nd.

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

SR 520. By Senator Jones of the 10th:

A RESOLUTION creating the Senate City of Fairview Incorporation Study Committee; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

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

HB 816. By Representatives Maddox of the 172nd and Keown of the 173rd:

A BILL to be entitled an Act to reincorporate and provide a new charter for the City of Cairo in Grady County, Georgia; to provide for boundaries and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for the office of mayor and certain duties and powers relative to the office of mayor; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, a city manager, and other personnel; to provide for other matters relative to the foregoing; to repeal a specific Act; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 826. By Representative Lord of the 142nd:

A BILL to be entitled an Act to amend an Act providing for a board of commissioners of Jefferson County, approved February 23, 1984 (Ga. L. 1984, p. 3627), as amended, so as to provide conditions for the board of commissioners to convey title to or lease county-owned real property which is being used as a solid waste landfill; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

Senator Smith of the 52nd asked unanimous consent to suspend Senate Rule 2-1.7(a) to approve the Senate Judiciary Committee meeting held on March 22, 2005. The meeting

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did not meet the 24 hour posting requirement. Senator Smith of the 52nd also requested that the resulting Senate Judiciary Committee report from that meeting be read.

The consent was granted.

The following committee reports were read by the Secretary:

Mr. President:

The Ethics 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 48      Do Pass by substitute  
HB 665      Do Pass

Respectfully submitted,  
Senator Unterman of the 45th District, Chairman

Mr. President:

The Finance 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 194      Do Pass by substitute      HR 113      Do Pass  
HB 488      Do Pass by substitute      SR 302      Do Pass

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

Mr. President:

The 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 106      Do Pass by substitute      HB 334      Do Pass  
HB 236      Do Pass by substitute      HB 378      Do Pass  
HB 268      Do Pass by substitute

Respectfully submitted,  
Senator Smith of the 52nd 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:

SR 457	Do Pass	SR 469	Do Pass
SR 458	Do Pass	SR 499	Do Pass

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

Mr. President:

The Retirement 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 459	Do Pass
HB 495	Do Pass by substitute

Respectfully submitted,  
Senator Heath of the 31st District, Chairman

Mr. President:

The Rules 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 559 Pursuant to Senate Rule 2-1.10(b), referred by the Senate Rules Committee to the Senate Finance Committee from the General Calendar.

Respectfully submitted,  
Senator Balfour of the 9th 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 610	Do Pass	HB 820	Do Pass
HB 617	Do Pass	HB 822	Do Pass
HB 703	Do Pass	HB 823	Do Pass

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HB 788	Do Pass as amended	SB 295	Do Pass
HB 811	Do Pass	SR 497	Do Pass
HB 819	Do Pass		

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

The following legislation was read the second time:

HB 48	HB 236	HB 378	HB 665	SR 457	SR 497
HB 106	HB 268	HB 459	HR 113	SR 458	SR 499
HB 194	HB 334	HB 495	SR 302	SR 469	

Senator Hooks of the 14th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Powell of the 23rd asked unanimous consent that Senator Walker of the 22nd be excused. The consent was granted, and Senator Walker was excused.

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

Adelman	Hill,Jack	Seay
Balfour	Hill,Judson	Smith
Brown	Hooks	Staton
Bullock	Hudgens	Stephens
Butler	Jones	Stoner
Cagle	Kemp	Thomas,D
Carter	Me V Bremen	Thomas,R
Chance	Miles	Thompson,C
Chapman	Moody	Thompson,S
Douglas	Mullis	Tolleson
Goggans	Pearson	Unterman
Grant	Powell	Weber
Hamrick	Rogers	Whitehead
Heath	Schaefer	Wiles
Henson	Seabaugh	Zamarripa

Not answering were Senators:

Fort	Golden	Harbison
Harp	Johnson	Reed
Shafer, D	Starr (Excused)	Tate
Walker (Excused)	Williams	

The following members were off the floor of the Senate when the roll was called and wish to be recorded as present:

Senators: Reed Shafer Tate

The members pledged allegiance to the flag.

Senator Hill of the 4th introduced the chaplain of the day, Reverend John Donaldson of Reidsville, Georgia, who offered scripture reading and prayer.

Senator Zamarripa of the 36th recognized the Henry W. Grady High School Mock Trial Team, commended by SR 505, adopted previously.

Senator Thompson of the 33rd recognized GBI forensic artist Marla Lawson, commended by SR 507, adopted previously.

The following resolutions on the Consent Calendar for Privileged Resolutions were read and adopted:

SR 509. By Senator Rogers of the 21st:

A RESOLUTION commending the Etowah High School Lady Eagles basketball team, 2004-2005 Class AAAA State Champions; and for other purposes.

Senator Rogers of the 21st recognized the Etowah High School Lady Eagles Basketball Team, commended by SR 509.

SR 510. By Senator Hill of the 4th:

A RESOLUTION commending the Claxton Rotary Club; and for other purposes.

SR 511. By Senators Stephens of the 27th and Cagle of the 49th:

A RESOLUTION commanding the North Hall High School Trojans football team; and for other purposes.

Senators Cagle of the 49th and Stephens of the 27th recognized the North Hall High School Trojans football team, commended by SR 511.

SR 512. By Senators Carter of the 13th and Pearson of the 51st:

A RESOLUTION recognizing Miss Erin Grizzle, Miss Heart of Georgia 2005; and for other purposes.

SR 513. By Senator Hooks of the 14th:

A RESOLUTION honoring Bethlehem Baptist Church on its 141st anniversary; and for other purposes.

SR 514. By Senator Harbison of the 15th:

A RESOLUTION commending and congratulating Mr. Isaiah Hugley on his appointment as City Manager of the Columbus Consolidated Government; and for other purposes.

SR 515. By Senators Heath of the 31st, Pearson of the 51st, Schaefer of the 50th, Hill of the 32nd, Hamrick of the 30th and others:

A RESOLUTION congratulating and commending Comer B. Yates; and for other purposes.

SR 516. By Senator Williams of the 19th:

A RESOLUTION honoring Mr. and Mrs. Carlton Cranford on the occasion of their 50th wedding anniversary; and for other purposes.

SR 517. By Senator Rogers of the 21st:

A RESOLUTION commending Zachary Joseph Okerblad on becoming an Eagle Scout; and for other purposes.

SR 518. By Senator Williams of the 19th:

A RESOLUTION honoring Mr. and Mrs. Simon Wooten on the occasion of their 50th wedding anniversary; and for other purposes.

SR 519. By Senators Thomas of the 54th, Mullis of the 53rd and Smith of the 52nd:

A RESOLUTION commending Dr. John Antalis; and for other purposes.

SR 521. By Senator Hill of the 32nd:

A RESOLUTION encouraging all Georgians to learn about congenital heart disease and cardiovascular disease and to have regular and frequent health exams; and for other purposes.

SR 522. By Senators Johnson of the 1st, Stephens of the 27th and Brown of the 26th:

A RESOLUTION commending the 2005 Senate aides for their service; and for other purposes.

SR 523. By Senators Johnson of the 1st and Stephens of the 27th:

A RESOLUTION commending the Senate interns for the 2005 regular session; and for other purposes.

SR 524. By Senator Hill of the 4th:

A RESOLUTION honoring the memory of S. Dan Waller, Sr., and expressing regret at his passing; and for other purposes.

SR 525. By Senator Hill of the 4th:

A RESOLUTION recognizing and commending Portal High School, winner of the 2004 Class A Governor's Cup; and for other purposes.

SR 526. By Senator Hill of the 4th:

A RESOLUTION commending Dr. Greg Maybin; and for other purposes.

SR 527. By Senator Hill of the 4th:

A RESOLUTION recognizing Kyle and Cathy Sapp on their induction into the Collins Lions Club; and for other purposes.

SR 528. By Senator Wiles of the 37th:

A RESOLUTION commending Thomas Fuller Chandler; and for other purposes.

The following legislation, favorably reported by the committees, as listed on the Consent Calendar for Commemorative Resolutions, was put upon its adoption.

THURSDAY, MARCH 24, 2005

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CONSENT CALENDAR FOR  
COMMEMORATIVE RESOLUTIONS  
THURSDAY, MARCH 24, 2005  
THIRTY-SEVENTH LEGISLATIVE DAY

- HR 48      Martha K. Glaze Regional Youth Detention Center; designate (SI&P-34th) Dodson-75th
- HR 91      DeWayne King, USMC, Memorial Bridge; designate (TRANS-19th) Sims-169th
- HR 94      Jack Shearouse Bridge; designate (TRANS-19th) Carter-159th
- HR 173     Blue Star Memorial Highway in Pembroke; designate (TRANS-19th) Lane-158th
- HR 201     Wendell W. Thigpen Memorial Bridge; designate (TRANS-19th) Roberts-154th
- HR 231     A. L. Stepp Interchange; designate (TRANS-19th) Ralston-7th
- HR 269     Disabled American Veterans Intersection; designate (Substitute) (TRANS-19th) Graves-12th
- HR 295     Byron Herbert Reese Memorial Highway; dedicate portion of U. S. Highway 129 (Substitute)(TRANS-19th) Jenkins-8th

Senator Jones of the 10th asked unanimous consent that HR 269 be removed from the Consent Calendar for Commemorative Resolutions and placed at the foot of today's Senate Rules Calendar.

The consent was granted and HR 269 was placed at the foot of today's Senate Rules Calendar.

The substitute to the following resolution was put upon its adoption:

\*HR 295:

The Senate Transportation Committee offered the following substitute to HR 295:

A RESOLUTION

Honoring poet and novelist Byron Herbert Reece by dedicating a portion of U.S.

Highway 129 as the "Byron Herbert Reese Memorial Highway" and by naming him "Georgia's Appalachian Poet/Novelist"; and for other purposes.

WHEREAS, Byron Herbert Reece produced an enduring body of poetry and fiction from the sounds and spirits of his North Georgia homeland; and

WHEREAS, his five volumes of verse draw deeply from the lyrical wellsprings of nature and the Bible, twin legacies of an upbringing in the agricultural uplands of Union County near Blairsville; and

WHEREAS, his two novels are remarkable regional portraits, one a mountain family drama of overland journey to Old Testament rhythms and the other a morality play of a small town lynching; and

WHEREAS, Reece was a bright and solitary schoolboy who graduated from Blairsville High School and grew up in such rural isolation that he never saw a car until he was over eight years old; and

WHEREAS, he attended Young Harris College and taught school intermittently between 1935 and 1942 producing poem after poem while caring for his ill parents and managing the family farm; and

WHEREAS, he won the American Poet magazine's annual poetry award in 1943 and by 1952 had received a Pulitzer Prize nomination for his poetry, had been profiled in Newsweek magazine, and had been tendered a poet-in-residence position at UCLA; and

WHEREAS, he received the Georgia Writers Association literary achievement award five times and served as the poet-in-residence at both Young Harris College and Emory University; and

WHEREAS, a play inspired by his writings, "The Reach of Song," was declared the official drama of the State of Georgia in 1990; and

WHEREAS, despite enduring hardships, this remarkable man created a literary oeuvre which has reflected great honor on his beloved mountain community and the State of Georgia.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body recognize the tremendous literary contributions to this state made by Byron Herbert Reece.

BE IT FURTHER RESOLVED that the portion of U.S. Highway 129 lying between the historic courthouse of Union County in Blairsville, Georgia, southward to the Union

County line located at Neel's Gap on Blood Mountain shall be dedicated the "Byron Herbert Reece Memorial Highway," and the Department of Transportation is authorized and directed to place and maintain appropriate signs so dedicating the highway.

BE IT FURTHER RESOLVED that Byron Herbert Reece is hereby named "Georgia's Appalachian Poet/Novelist."

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the family of Byron Herbert Reece, the Byron Herbert Reece Society, and the Department of Transportation.

On the adoption of the substitute, the yeas were 43, nays 0, and the substitute was adopted.

The reports of the committees, which were favorable to the adoption of the legislation as reported, were agreed to.

On the adoption of the legislation on the General Consent Calendar for Commemorative Resolutions, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Powell	E Walker
Y Grant	Reed	Y Weber
Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the adoption of the legislation, the yeas were 43, nays 0.

The legislation on the General Consent Calendar for Commemorative Resolutions except HR 295, having received the requisite constitutional majority, was adopted.

HR 295, having received the requisite constitutional majority, was adopted by substitute.

Senator Stoner of the 6th asked unanimous consent that Senator Golden of the 8th be excused. The consent was granted, and Senator Golden was excused.

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

Thursday, March 24, 2005  
Thirty-seventh Legislative Day

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

SB 295                    Williams of the 19th  
**JEFF DAVIS COUNTY**

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Jeff Davis County, approved March 25, 1958 (Ga. L. 1958, p. 3288), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 610                    Goggans of the 7th  
Golden of the 8th  
Bulloch of the 11th  
**SOUTHERN JUDICIAL CIRCUIT**

A BILL to be entitled an Act to amend an Act providing for a supplement to the compensation of the judges of the superior courts of the Southern Judicial Circuit, approved March 6, 1956 (Ga. L. 1956, p. 537), as amended, particularly by an Act approved April 4, 1996 (Ga. L. 1996, p. 4105), so as to increase the amount of such

supplement; to provide for the payment of such supplement in specified amounts by the counties comprising the circuit; to repeal conflicting laws; and for other purposes.

HB 617

Pearson of the 51st  
**CITY OF DAHLONEGA**

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Dahlonega, approved April 12, 1982 (Ga. L. 1982, p. 4354), as amended, so as to provide for election and terms of office of subsequent mayors and councilmembers; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 788

Thompson of the 5th  
Jones of the 10th  
Weber of the 40th  
Henson of the 41st  
Adelman of the 42nd  
Miles of the 43rd  
Butler of the 55th  
**DEKALB COUNTY**

A BILL to be entitled an Act to amend an Act providing for the DeKalb County Board of Registrations and Elections, approved June 3, 2003 (Ga. L. 2003, p. 4200), so as to change the compensation of the members of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

**(AMENDMENT)**

HB 811

Pearson of the 51st  
**UNION COUNTY**

A BILL to be entitled an Act to create the Union County Building Authority; to provide for a short title and legislative findings; to confer powers and impose duties on the authority; to provide for the membership and the appointment of members of the authority and their terms of office, qualifications, duties, powers, and compensation; to provide for vacancies, organization, meetings, and expenses; to provide for definitions; to provide for revenue bonds and their negotiability, sale, and use of proceeds from such sales; to provide for supplemental powers; to provide for effect on other

governments; to provide for liberal construction; to provide for severability and an effective date; to repeal conflicting laws; and for other purposes.

HB 822

Goggans of the 7th  
**COFFEE COUNTY**

A BILL to be entitled an Act to amend an Act establishing a board of education of Coffee County, approved March 10, 1970 (Ga. L. 1970, p. 2441), as amended, particularly by an Act approved October 25, 2001 (Ga. L. 2001, Ex. Sess., p. 755), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to provide for preclearance of this Act pursuant to the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 823

Hill of the 4th  
**TREUTLEN COUNTY**

A BILL to be entitled an Act to amend an Act providing for the election of the members of the Treutlen County Board of Education, approved March 23, 1972 (Ga. L. 1972, p. 2340), as amended, particularly by an Act approved March 29, 1994 (Ga. L. 1994, p. 4414), so as to provide for the compensation of the members of the Treutlen County Board of Education; to provide an effective date; to repeal conflicting laws; and for other purposes.

Pursuant to Article VII, Section II, Paragraph IV of the Constitution, the following three local bills relating to homestead exemptions require a two-thirds roll-call vote for passage:

HB 703

Henson of the 41st  
**CITY OF STONE MOUNTAIN**

A BILL to be entitled an Act to amend an Act to provide a \$14,000.00 homestead exemption from certain ad valorem taxes levied by, for, or on behalf of the City of Stone Mountain for residents who are 62 years of age or older and whose net income together with the net income of the spouse who resides at the homestead of such resident does not exceed \$10,000.00, approved April 9, 1999 (Ga. L. 1999, p. 3702), so as to increase the amount of such exemption to \$20,000.00 of the assessed value of the

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homestead; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 819

Pearson of the 51st  
**GILMER COUNTY**

A BILL to be entitled an Act to provide for a homestead exemption from Gilmer County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for certain residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 820

Pearson of the 51st  
**GILMER COUNTY**

A BILL to be entitled an Act to provide for a homestead exemption from certain Gilmer County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

The amendment to the following bill was put upon its adoption:

\*HB 788:

The Senate State and Local Governmental Operations Committee offered the following amendment:

Amend HB 788 by striking line 14 of page 1 and inserting in its place "This Act shall become effective on July 1, 2005, notwithstanding the provisions of Code Section 1-3-4.1."

On the adoption of the amendment, the yeas were 43, nays 0, and the amendment was adopted.

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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Powell	E Walker
Y Grant	Reed	Y Weber
Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the local legislation, the yeas were 43, nays 0.

The legislation on the Local Consent Calendar except HB 788, having received the requisite constitutional majority, was passed.

HB 788, having received the requisite constitutional majority, was passed as amended.

Senator Henson of the 41st asked unanimous consent that SB 295 and HB 788 be immediately transmitted to the House.

The consent was granted and SB 295 and HB 788 were immediately transmitted.

The following legislation, favorably reported by the committee, as listed on the Consent Calendar for Property Conveyances, was put upon its passage.

THURSDAY, MARCH 24, 2005

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CONSENT CALENDAR FOR PROPERTY CONVEYANCES  
THURSDAY, MARCH 24, 2005  
THIRTY-SEVENTH LEGISLATIVE DAY

- |        |  |
|--------|--|
| HR 193 | Hamilton County, Tennessee; convey property (SI&P-4th) Barnard-166th   |
| HR 166 | Public property; conveyances (Substitute)(SI&P-2nd) Barnard-166th  |
| HR 239 | Cobb County; convey property (SI&P-37th) Manning-32nd  |
| HB 420 | National Infantry Museum property; Columbus-Muscogee County;<br>cession of concurrent jurisdiction to the United States (SI&P-15th)<br>Smyre-132nd |

The substitute to the following resolution was put upon its adoption:

\*HR 166:

The Senate State Institutions and Property Committee offered the following substitute to HR 166:

A RESOLUTION

Authorizing the conveyance of certain state owned real property located in Brantley County, Georgia; authorizing the conveyance of certain state owned real property located in Chatham County, Georgia; authorizing the conveyance of certain state owned real property located in Cherokee County, Georgia; authorizing the leasing of certain state owned property located in Fulton County, Georgia; authorizing the conveyance of certain state owned real property located in Fulton County, Georgia; authorizing the conveyance of certain state owned real property located in Jackson County, Georgia; authorizing the conveyance of certain state owned real property located in Meriwether County, Georgia; authorizing the conveyance of certain state owned real property located in Taliaferro County, Georgia; authorizing the conveyance of certain state owned property interest in Troup County, Georgia; authorizing the conveyance of certain state owned real property located in Union County, Georgia; authorizing the conveyance of certain state owned property located in Hamilton County, Tennessee; authorizing the conveyance of certain state owned property in Bartow County, Georgia; authorizing the conveyance of certain state owned property in Carroll County, Georgia; authorizing the conveyance of certain state owned property in Clarke County, Georgia; authorizing the conveyance of certain state owned property in Irwin County, Georgia; authorizing the leasing of certain state owned property in Rabun County, Georgia; authorizing the conveyance of certain state owned property in Chatham County, Georgia; authorizing the conveyance of certain state owned property in DeKalb County, Georgia; authorizing the conveyance of certain state owned property in Habersham County, Georgia; authorizing the conveyance of certain

state owned property in Putnam County, Georgia; authorizing the conveyance of certain state owned property in Seminole County, Georgia; to repeal conflicting laws; and for other purposes.

WHEREAS:

- (1) The State of Georgia is the owner of two certain parcels of real property located in Brantley County, Georgia;
- (2) Said real property are all those tracts or parcels of land lying and being in land lots 127 and 128 of the 9th district of Brantley County and containing a total of approximately 137.08 acres as shown on a plat of survey prepared by Everett Tomberlin, Georgia Registered Land Surveyor #2922, dated February 20, 2004, and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said parcels are a portion of Dixon Memorial State Forest, now under the custody of the Georgia Forestry Commission;
- (4) The Axson Timber Company has agreed to convey five parcels containing a total of approximately 102.8 acres constituting inholdings within Dixon Memorial State Forest in exchange for the above-described state owned parcels;
- (5) It has been determined that the value of the property to be conveyed to Axson Timber Company is greater than the value of the property to be acquired by the state and Axson Timber Company has agreed to compensate the state for the difference in values;
- (6) The Georgia Forestry Commission by Resolution dated August 11, 2004, recommended the exchange of the above-described properties; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Chatham County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in the 8th GMD of Chatham County consisting of 1.619 acres as shown on a plat of survey dated March 7, 1997, and prepared by Lamar O. Reddick, Georgia Registered Land Surveyor #1387, and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is under the custody of the Department of Technical and Adult Education and has been the location of the Quick Start program;
- (4) The Department of Technical and Adult Education has relocated its Savannah Quick Start program to the Savannah Tech Crossroads Building and no longer has a need for the above-described property;
- (5) It would be in the best interest of the State of Georgia to sell the above-described property by competitive bid; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Cherokee County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in land lot 159 of the 14th district, 2nd section of Cherokee County, containing approximately 1.50 acres as described on that certain deed of conveyance to the State of Georgia being recorded as real property record number 004616 and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is under the custody of the Department of Public Safety and was used as a state patrol post;
- (4) The Department of Public Safety has relocated the activities performed on the above-described property and has declared the property surplus;
- (5) The above-described property was conveyed to the state in 1962 by Cherokee County for the consideration of \$10.00 with the provision that if the property ever ceased being used as a state patrol post the property would revert;
- (6) Cherokee County is desirous of having the state convey its interest in the property back to the county; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Fulton County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in land lot 22 of the 14th district of Fulton County, Georgia and containing 0.51 of one acre and is more particularly described on a plat of survey identified as tract "B" dated September 13, 2004, and prepared by Scott L. Reece, Georgia, registered land surveyor #2648 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is under the custody of the Department of Defense and is a portion of the parking lot of the National Guard Armory located at Charlie Brown Airport;
- (4) Brown Jet Center, Inc., a subsidiary of Home Depot, Inc., is located adjacent to the above-mentioned National Guard Armory;
- (5) Brown Jet Center, Inc. is desirous of leasing the above-described 0.51 of one acre parcel of property or of effectuating the exchange of the above-described property for certain property owned by Fulton County adjoining the above mentioned National Guard Armory site in order to expand its facilities and in order to expand its facilities;
- (6) The Department of Defense has reviewed the proposal by Brown Jet Center, Inc., and has declared the above-described property surplus to the needs of the department; and

**WHEREAS:**

- (1) The State of Georgia is the owner of a certain parcel of real property located in Fulton County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in land lot 75 of the 14th District of Fulton County, Georgia containing 0.354 of one acre and being more particularly described on a plat of survey prepared by Perry E. McClung, Georgia Registered Land Surveyor #1541 dated June 1, 2000, and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property was conveyed in error to the State of Georgia rather than the Georgia Department of Transportation by the City of Atlanta in 1982 for use in a highway project;
- (4) Said property was sold by the Department of Transportation in 1993 to Habitat for Humanity for a consideration of \$7,000.00;
- (5) Habitat for Humanity is desirous of acquiring the State of Georgia's interest in the above-described property in order to remove the cloud from the title;
- (6) The Department of Transportation endorses the conveyance of the State of Georgia's interest in the above-described property to Habitat for Humanity; and

**WHEREAS:**

- (1) The State of Georgia is the owner of a certain parcel of real property located in Jackson County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in the 245th GMD of Jackson County, Georgia and containing approximately 1 acre as described on that certain deed of conveyance from Jackson County to the State of Georgia being real property record #004448, and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is the former location of the Georgia Forestry Commission Jackson County unit office;
- (4) The Georgia Forestry Commission has consolidated the activities of the above mentioned Jackson County unit office with the Barrow, Clarke, and Oconee County units and has declared the above-described property surplus to the needs of the commission;
- (5) The above-described property was conveyed to the state in 1956 by Jackson County for a consideration of \$1.00;
- (6) The above-described property is surrounded on three sides by property owned by the Jackson County Board of Education and said Board of Education is desirous of acquiring the above-described property for public purpose; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Meriwether County, Georgia;
- (2) Said real property is all those tracts or parcels of land lying and being in land lot 243 of the 2nd district of Meriwether County and containing approximately 1.39 acres as shown on a plat of survey prepared by J. H. Smith, Georgia Registered Land Surveyor #777, dated June 2, 1955, and also containing approximately 1 acre as shown on a plat of survey prepared by Clarence O. Kilby, Georgia Registered Land Surveyor #1472, dated July 20, 1978, all being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is the former location of the Department of Natural Resources Meriwether County regional office;
- (4) The Department of Natural Resources has consolidated certain of its locations and activities and has now closed the Meriwether County site and has declared the property surplus to the needs of the department;
- (5) The City of Manchester conveyed the above-described property to the state in 1973 for a consideration of \$1.00;
- (6) The City of Manchester is desirous of acquiring the above-described property for public purposes; and

WHEREAS:

- (1) The State of Georgia is the owner of certain parcels of real property located in Taliaferro County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in the 601st GMD of Taliaferro County and containing approximately 1.15 acres as shown on a plat of survey entitled "Georgia Forestry Commission" as prepared by T. Larry Rachels, Georgia Registered Land Surveyor #1730, dated April 9, 1981, and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is the location of the Georgia Forestry Commission Taliaferro County unit;
- (4) The Georgia Forestry Commission no longer has a need for the office unit at this location but will still require a tower site;
- (5) The Georgia Forestry Commission acquired the above-described property in 1982 from Melissa G. Walker and Lucy G. Hughes for a consideration of \$1.00;
- (6) Taliaferro County is desirous of acquiring the above-described property for public purpose; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in

Troup County, Georgia;

- (2) Said real property is all that tract or parcel of land lying and being in land lots 201 and 202 of the 6th district of Troup County and containing approximately 2.62 acres as shown on a plat of survey prepared by J. Hugh Camp, Georgia Registered Land Surveyor # 939, and dated December 27, 2004, and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is a portion of Georgia State Patrol Post 2 located in the City of LaGrange which was acquired in 1973 from Troup County for a consideration of \$1.00;
- (4) Said property contains a partially developed firing range which is currently unusable and abandoned;
- (5) Troup County is desirous of acquiring the above-described property in order to construct a firing range and training area to be used by both local and state law enforcement officers;
- (6) The Board of Public Safety at its December 9, 2004, meeting recommended the conveyance of the above-described property to Troup County for the construction of a firing range and training area; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Union County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in land lot 302 of the 9th district 1st section of Union County and containing approximately 0.114 acres as shown on a plat of survey prepared by James L. Alexander, Georgia Registered Land Surveyor #2653, dated February 16, 1999, and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is a portion of the campus of the Union County Satellite Center of North Georgia Technical College;
- (4) The Department of Technical and Adult Education placed a 500 gallon, above-ground propane tank and pad at a location on the campus too close to the adjoining property owner, Union County, in violation of state code;
- (5) Union County has agreed to convey a 0.114 acre parcel adequate enough to bring the above-mentioned propane tank and pad within state code in exchange for the above-described state owned property;
- (6) The Department of Technical and Adult Education at its January 7, 1999, meeting approved the above-mentioned exchange; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in

Hamilton County, Tennessee;

- (2) Said real property is all that tract or parcel of land lying and being in the City of Chattanooga, Tennessee, and being a portion the Western and Atlantic Railroad right of way and consists of parcel 1 and parcel 7 as shown on Western and Atlantic Railroad Valuation map V3/3 and V/4 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is under the custody of the State Properties Commission;
- (4) It has been determined that the above-described property is no longer needed for the operation of the Western and Atlantic Railroad and is therefore surplus to the needs of the State; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Bartow County, Georgia;
- (2) Said real property are all those tracts or parcels of land lying and being in land lots 604 and 605 of the 4th district, 3rd section of Bartow County and containing approximately 3.073 acres as shown on a plat of survey prepared by William C. Smith, Georgia Registered Land Surveyor #1803, dated October 17, 2001 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is a portion of the right of way of the Western and Atlantic Railroad;
- (4) Said property is not within the lease limits of the Western and Atlantic Railroad right of way currently leased to CSX Transportation;
- (5) Said property is currently leased by the State Properties Commission to United Minerals and Properties, Inc.;
- (6) United Minerals and Properties, Inc. is desirous of acquiring the property in order to make certain capital improvements; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Carroll County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in land lot 218 of the 10th district of Carroll County and containing approximately 3.673 acres as shown on a plat of survey prepared by Timothy L. McGukin, Georgia Registered Land Surveyor #2289, dated January 12, 1989 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is in the custody of the Department of Technical and Adult

Education and is a portion of the Carrollton Campus of West Central Technical College;

- (4) The above-described property was valued at \$75,000.00 in 1989 at which time the Carroll County Board of Education conveyed the property to the State of Georgia for a consideration of \$1.00;
- (5) The above-described property has been appraised and a fair market value has been determined to be \$1,150,000.00;
- (6) The Carroll County Judicial Complex adjoins the above-described property and the Carroll County Board of Commission is desirous of acquiring the property in order to expand their facilities;
- (7) The Department of Technical and Adult Education, by letter dated February 7, 2005 recommended the conveyance of said property to the Carroll County Board of Commissioners for a consideration of \$1,075,000.00; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Clarke County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in the 216th Georgia Militia District of Clarke County and containing approximately 1.72 acres as shown highlighted in orange on a drawing prepared by W. N., Jr., W. E. Hudson Surveyors dated August 1948 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is in the custody of the Department of Agriculture and was formerly in use as a farmers market;
- (4) The above-described property has been declared surplus for the Department of Agriculture; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Irwin County, Georgia;
- (2) Said real property is all that tract or parcel of land containing 1.889 acres lying and being in original land lots 51 and/or 52 in the 5th land district of Irwin County, Georgia, described as BEGINNING at an established corner marked by an iron pen on the southwest right-of-way line of State Route No. 90 at or near the end of curve in said State Route 90, and running thence along said right of way line south 38 degrees east 266 feet; thence south 52 degrees west 273 feet; thence north 38 degrees west 300 feet; thence north 52 degrees east 273 feet to the point of beginning. All according to plat of survey of same made by Eddie L. Carter, Surveyor, dated February 15th 1960 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties

Commission for approval;

- (3) Said property is in the custody of the Department of Agriculture and was formerly in use as a sweet potatoe curing house;
- (4) The above-described property was conveyed to the State of Georgia on May 17, 1960 by the Board of Commissioners of Roads and Revenues for Irwin County for a consideration of \$1.00;
- (5) The above-described property is no longer needed by the Department of Agriculture and the Commissioner has declared the property surplus;
- (6) The Board of Commissioners of Irwin County is desirous of acquiring the above-described property for the furtherance of public purpose; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Rabun County, Georgia;
- (2) Said real property is all that tract or parcel of land containing 0.0189 of one acre lying and being in land lot 66 of the 2nd district of Rabun County, Georgia, and is more particularly described highlighted in orange on a revised plat of survey dated April 29, 1995 prepared by William F. Rolader, Georgia Registered Land Surveyor # 2042 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is in the custody of the Department of Natural Resources and is a part of Black Rock Mountain State Park;
- (4) The above-described property has been leased by the State of Georgia to Currahee Paging since November 15, 1995 for a consideration of \$650.00 annually;
- (5) Currahee Paging is desirous of leasing the above-described property for a term of 10 years;
- (6) The Department of Natural Resources has no objection to the leasing of the above-described property; and

WHEREAS:

- (1) The State of Georgia claims ownership of a certain parcel of real property located in Chatham County, Georgia;
- (2) Said real property is all that tract or parcel of land containing 5.278 acres lying and being a portion of Hutchinson Island in Chatham County, Georgia, and is more particularly described as Parcel 1A on a plat of survey prepared by Dale E. Yawn, Georgia Registered Land Surveyor #2510, dated January 2, 2002, and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property was formerly marshlands of the Back River on the northern side of Hutchinson Island and in the custody of the Department of Natural Resources;
- (4) The above-described property was filled by the Corps of Engineers in a previous

construction project creating uplands of the above-described 5.278 acres;

(5) Chatham County owns 11.942 acres adjoining the above-described 5.278 acre parcel and is desirous of acquiring the State of Georgia's interest in the above-described property in order to develop the site in conjunction with the County's property for public recreational or greenspace purposes; and

WHEREAS:

- (1) The State of Georgia claims ownership of a certain parcel of real property located in DeKalb County, Georgia;
- (2) Said real property is all that tract or parcel of land lying and being in Land Lot 29 of the 16th District of DeKalb County, Georgia, being Lot 5 Block BB, Hidden Hills, Unit 9-A, as per plat recorded in Plat Book 71, Page 158, DeKalb County records, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said real property was inadvertently conveyed to "State of Georgia DOAS Risk Management Services Division" by warranty deed dated September 14, 2004, recorded at Deed Book 16766, Page 353, DeKalb County records, in conjunction with the resolution of a workers' compensation claim (Claim No. 258-33-4975) by David Lee Smith, Jr., employee before the State Board of Worker's Compensation;
- (4) In order to implement the terms and conditions of that certain November 22, 2004, Partial Stipulation and Agreement on Housing between David Lee Smith, Jr., employee and the Department of Administrative Services, Servicing Agent for Cobb County Department of Family and Child Services, approved and made the order of the Board of Worker's Compensation on December 6, 2004, it is required that said real property be conveyed to David Lee Smith, Jr.; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Habersham County, Georgia;
- (2) Said real property is all that tract or parcel of land containing approximately 1 acre lying and being in Land Lot 83 of the 11th District of Habersham County, Georgia and being more particularly described on a plat of survey prepared by Kenyon L. Miller, Georgia Registered Land Surveyor #2595, dated February 16, 2005, and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is a portion of the campus of North Georgia Technical College in the City of Clarksville;
- (4) The campus of North Georgia Technical College was conveyed to the State of Georgia in 1943 by the Habersham County Board of Education for a consideration of \$1.00;
- (5) The City of Clarksville, Habersham County is desirous of acquiring the above-

described 1 acre parcel in order to construct an elevated water storage tank to serve both the City of Clarksville and the campus of North Georgia Technical College;

(6) The Department of Technical and Adult Education has no objection to the conveyance of the above-described property to the City of Clarksville; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Putnam County, Georgia;
- (2) Said real property is all that tract or parcel of land containing approximately 12.13 acres lying and being in the City of Eatonton, Putnam County, Georgia and being more particularly described on a plat of survey prepared by G. F. Ellis, Georgia Registered Land Surveyor #931, dated December 28, 1955 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is the site of Putnam State Prison and under the custody of the Department of Corrections;
- (4) The above-described property was conveyed to the State of Georgia in 1956 by Putnam County for a consideration of \$60,000.00;
- (5) The Department of Corrections has ceased activities at the above-described prison site and has declared the property surplus;
- (6) Putnam County is desirous of acquiring the property;
- (7) The Department of Corrections has no objection to the above-described property being conveyed to Putnam County; and

WHEREAS:

- (1) The State of Georgia is the owner of a certain parcel of real property located in Seminole County, Georgia;
- (2) Said real property is all that tract or parcel of land containing approximately 4.67 acres lying and being in Land Lot 75 of the 14th District of Seminole County, Georgia and being more particularly described as that real property described in that certain deed dated December 15, 1949 and recorded as Secretary of State Deed Record Number 1170 less a parcel containing 2 acres and being described as Tract One and less a parcel containing 2.969 acres being described as Tract Two both tracts being more particularly described on a plat of survey prepared by Earl Thursby, Land Surveyor, dated February 9, 1974, all being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
- (3) Said property is under the custody of the Department of Agriculture and is operated as a State Farmers Market;
- (4) The above-described property was conveyed to the State of Georgia by the Board of Commissioners of Roads and Revenues of Seminole County, Georgia on December

15, 1949 for a consideration of \$1.00;

- (5) The Department of Agriculture is consolidating its Farmers Market activities and has declared the above-described property surplus to the needs of the department;
- (6) Seminole County is desirous of acquiring the above-described property for public purpose;
- (7) The Department of Agriculture has no objection to the conveyance of the above-described property to Seminole County.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE 1.

SECTION 1.

That the State of Georgia is the owner of the above-described Brantley County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 2.

That the above-described 137.08 acre tracts of real property may be conveyed to Axson Timber Company by the State of Georgia, acting by and through its State Properties Commission, in exchange for five parcels containing a total of 102.87 owned by Axson Timber Company with the difference in values of the respective properties to be paid to the state by Axson Timber Company and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 3.

That the authorization in this resolution to exchange the above-described properties shall expire five years after the date that this resolution becomes effective.

SECTION 4.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 5.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Brantley County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 6.

That custody of the above-described property shall remain in the Georgia Forestry Commission until the property is conveyed.

ARTICLE II

SECTION 7.

That the State of Georgia is the owner of the above-described Chatham County real

property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

#### SECTION 8.

That the above-described real property may be sold by competitive bid by the State of Georgia, acting by and through its State Properties Commission, for a consideration of not less than the fair market value as determined by the State Properties Commission to be in the best interest of the state and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

#### SECTION 9.

That the authorization in this resolution to sell the above-described property by competitive bid shall expire five years after the date that this resolution becomes effective.

#### SECTION 10.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

#### SECTION 11.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

#### SECTION 12.

That custody of the above-described property shall remain in the Department of Technical and Adult Education until the property is sold.

### ARTICLE III

#### SECTION 13.

That the State of Georgia is the owner of the above-described Cherokee County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

#### SECTION 14.

That the above-described real property may be conveyed by appropriate instrument by the State of Georgia, acting by and through the State Properties Commission, to Cherokee County for a consideration of \$1.00, so long as the property is used for public purpose, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

#### SECTION 15.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

**SECTION 16.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 17.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Cherokee County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 18.**

That custody of the above-described property shall remain in the Department of Public Safety until the property is conveyed.

**ARTICLE IV  
SECTION 19.**

That the State of Georgia is the owner of the above-described Fulton County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 20.**

That the above-described 0.51 of one acre parcel of property may be leased to Brown Jet Center, Inc. by the State of Georgia, acting by and through its State Properties Commission, for a consideration of the fair market value and for a term of ten years with four extensions of ten years each at lessee's option or the above-described 0.51 of one acre parcel of property may be exchanged for a certain parcel of property containing approximately 0.772 of one acre owned by Fulton County adjoining the National Guard Armory located at Charlie Brown Airport in Fulton County, Georgia, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

**SECTION 21.**

That the authorization in this resolution to lease the above-described property shall expire three years after the date that this resolution becomes effective.

**SECTION 22.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

**SECTION 23.**

That the leasing instrument shall be recorded by the grantee in the Superior Court of Fulton County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 24.**

That custody of the above-described property shall remain in the Department of Defense

until the property is leased.

ARTICLE V  
SECTION 25.

That the State of Georgia is the owner of the above-described Fulton County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 26.

That the above-described property may be conveyed to Habitat for Humanity by the State of Georgia, acting by and through its State Properties Commission, for a consideration of \$1.00, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 27.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 28.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 29.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Fulton County and a recorded copy shall be forwarded to the State Properties Commission.

ARTICLE VI  
SECTION 30.

That the State of Georgia is the owner of the above-described Jackson County real property and that in all matters relating to the conveyance of the real property interest the State of Georgia is acting by and through its State Properties Commission.

SECTION 31.

That the above-described real property may be conveyed by appropriate instrument to the Jackson County Board of Education by the State of Georgia, acting by and through the State Properties Commission, for a consideration \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 32.

That the authorization in this resolution to convey the above-described property to the Jackson County Board of Education shall expire three years after the date that this resolution becomes effective.

**SECTION 33.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 34.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Jackson County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 35.**

That custody of the property will remain in the Georgia Forestry Commission until the property is conveyed.

**ARTICLE VII****SECTION 36.**

That the State of Georgia is the owner of the above-described Meriwether County real property and that in all matters relating to the conveyance of the real property interest the State of Georgia is acting by and through its State Properties Commission.

**SECTION 37.**

That the above-described real property may be conveyed by appropriate instrument to the City of Manchester by the State of Georgia, acting by and through the State Properties Commission, for a consideration \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

**SECTION 38.**

That the authorization in this resolution to convey the above-described property to the City of Manchester shall expire three years after the date that this resolution becomes effective.

**SECTION 39.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 40.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Meriwether County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 41.**

That custody of the above-described property shall remain in the Department of Natural Resources until the property is conveyed to the City of Manchester.

**ARTICLE VIII**  
**SECTION 42.**

That the State of Georgia is the owner of the above-described Taliaferro County real property and that in all matters relating to the conveyance of the real property interest the State of Georgia is acting by and through its State Properties Commission.

SECTION 43.

That the above-described real property may be conveyed by appropriate instrument to Taliaferro County by the State of Georgia, acting by and through the State Properties Commission, for a consideration \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 44.

That the authorization in this resolution to convey the above-described property interest to Taliaferro County shall expire five years after the date that this resolution becomes effective.

SECTION 45.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 46.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Taliaferro County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 47.

That custody of the above-described property shall remain in the Georgia Forestry Commission until the property is conveyed to Taliaferro County.

ARTICLE IX  
SECTION 48.

That the State of Georgia is the owner of the above-described Troup County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 49.

That the above-described real property may be conveyed by appropriate instrument to Troup County by the State of Georgia, acting by and through the State Properties Commission, for a consideration \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 50.

That the authorization in this resolution to convey the above-described property to Troup County shall expire three years after the date that this resolution becomes effective.

**SECTION 51.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 52.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Troup County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 53.**

That custody of the above-described property shall remain in the Georgia Forestry Commission until the property is conveyed.

**ARTICLE X  
SECTION 54.**

That the State of Georgia is the owner of the above-described Union County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 55.**

That the above-described real property interest may be conveyed by appropriate instrument to Union County by the State of Georgia, acting by and through the State Properties Commission, for a consideration \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

**SECTION 56.**

That the authorization in this resolution to convey the above-described property interest to Union County shall expire three years after the date that this resolution becomes effective.

**SECTION 57.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 58.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Union County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 59.**

That custody of the above-described property shall remain in the Department of Technical and Adult Education until the property is conveyed to Union County.

**ARTICLE XI  
SECTION 60.**

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That the State of Georgia is the owner of the above-described Hamilton County, Tennessee, real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 61.

That the above-described real property may be sold by the State of Georgia, acting by and through the State Properties Commission, by competitive bid for a consideration of not less than the fair market value as determined by the State Properties Commission, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 62.

That the authorization in this resolution to sell the above-described property shall expire five years after the date that this resolution becomes effective.

SECTION 63.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 64.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Hamilton County, Tennessee, and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 65.

That custody of the above-described property shall remain in the State Properties Commission until the property is conveyed.

ARTICLE XII  
SECTION 66.

That the State of Georgia is the owner of the above-described Bartow County, real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 67.

That the above-described real property may be sold by the State of Georgia, acting by and through the State Properties Commission to United Minerals and Properties, Inc. for a consideration of not less than the fair market value and determined by the State Properties Commission to be in the best interest of the State of Georgia, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 68.

That the authorization in this resolution to sell the above-described property shall expire

five years after the date that this resolution becomes effective.

SECTION 69.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 70.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Bartow County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 71.

That custody of the above-described property shall remain in the State Properties Commission until the property is conveyed.

ARTICLE XIII  
SECTION 72.

That the State of Georgia is the owner of the above-described Carroll County, real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 73.

That the above-described real property may be sold by the State of Georgia, acting by and through the State Properties Commission to the Carroll County Board of Commissioners for a consideration of \$1,075,000.00, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 74.

That the authorization in this resolution to sell the above-described property shall expire five years after the date that this resolution becomes effective.

SECTION 75.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 76.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Carroll County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 77.

That custody of the above-described property shall remain in the Department of Technical and Adult Education until the property is conveyed.

**ARTICLE XIV**  
**SECTION 78.**

That the State of Georgia is the owner of the above-described Clarke County, real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 79.**

That the above-described real property may be sold by the State of Georgia, acting by and through the State Properties Commission by competitive bid for a consideration of not less than the fair market value as determined by the State Properties Commission to be in the best interest of the State of Georgia, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

**SECTION 80.**

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

**SECTION 81.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 82.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Clarke County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 83.**

That custody of the above-described property shall remain in the Department of Agriculture until the property is conveyed.

**ARTICLE XV**  
**SECTION 84.**

That the State of Georgia is the owner of the above-described Irwin County, real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 85.**

That the above-described real property may be conveyed by the State of Georgia, acting by and through the State Properties Commission to Irwin County for a consideration of \$1.00, so long as the property is used for public purpose, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

**SECTION 86.**

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

**SECTION 87.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 88.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Irwin County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 89.**

That custody of the above-described property shall remain in the Department of Agriculture until the property is conveyed.

**ARTICLE XVI  
SECTION 90.**

That the State of Georgia is the owner of the above-described Rabun County, real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 91.**

That the above-described real property may be leased by the State of Georgia, acting by and through the State Properties Commission to Currahee Paging for a term of 10 years following the expiration of the lease entered into pursuant to said 1995 resolution, subject to the following conditions:

- (1) The consideration for the lease shall be \$650.00 per year payable in advance for the term of the lease;
- (2) Any sublease of said tower site or any sublease to locate additional equipment upon said tower or site shall first be approved by the State Properties Commission as to terms and conditions; and
- (3) Such other terms and conditions as determined by the State Properties Commission to be in the best interest of the State.

**SECTION 92.**

That the authorization in this resolution to lease the above-described property shall expire three years after the date that this resolution becomes effective.

**SECTION 93.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 94.**

That the lease of the property shall be recorded by the grantee in the Superior Court of Rabun County and a recorded copy shall be forwarded to the State Properties Commission.

**ARTICLE XVII****SECTION 95.**

That the State of Georgia is the owner of the above-described Chatham County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 96.**

That the above-described real property may be conveyed by the State of Georgia, acting by and through the State Properties Commission to Chatham County for a consideration of \$1.00, so long as the property is used for public purpose; provided, however, that if Chatham County should determine the need to convey all or a portion of the above-described property to a public entity or to a private person, corporation or private entity, prior to such conveyance, the grantee and terms and conditions of said conveyance must first be approved by the State Properties Commission and all proceeds generated from the conveyance, less direct expenses incurred as a result of the conveyance, shall be remitted to the State Properties Commission and deposited in the treasury of the State of Georgia and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

**SECTION 97.**

That the authorization in this resolution to sell the above-described property shall expire five years after the date that this resolution becomes effective.

**SECTION 98.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 99.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 100.**

That custody of the above-described property shall remain in the Department of Natural Resources until the property is conveyed.

**ARTICLE XVIII****SECTION 101.**

That the State of Georgia is the owner of the above-described DeKalb County real property and that in all matters relating to the conveyance of the real property the State of

Georgia is acting by and through its State Properties Commission.

SECTION 102.

That the above-described real property may be conveyed by the State of Georgia, acting by and through the State Properties Commission to David Lee Smith, Jr. for a consideration of \$1.00 and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 103.

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 104.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 105.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of DeKalb County and a recorded copy shall be forwarded to the State Properties Commission.

ARTICLE XIX  
SECTION 106.

That the State of Georgia is the owner of the above-described Habersham County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 107.

That the above-described real property may be conveyed by the State of Georgia, acting by and through the State Properties Commission to the City of Clarksville, Habersham County, for a consideration of \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 108.

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 109.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 110.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of

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Habersham County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 111.**

That custody of the above-described property shall remain in the custody of the Department of Technical and Adult Education until the property is conveyed.

**ARTICLE XX  
SECTION 112.**

That the State of Georgia is the owner of the above-described Putnam County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 113.**

That the above-described real property may be conveyed by the State of Georgia, acting by and through the State Properties Commission to Putnam County, Georgia for a consideration of the fair market value as determined by the State Properties Commission to be in the best interest of the State of Georgia and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

**SECTION 114.**

That the authorization in this resolution to sell the above-described property shall expire five years after the date that this resolution becomes effective.

**SECTION 115.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 116.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Putnam County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 117.**

That custody of the above-described property shall remain in the custody of the Department of Corrections until the property is conveyed.

**ARTICLE XXI  
SECTION 118.**

That the State of Georgia is the owner of the above-described Seminole County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

**SECTION 119.**

That the above-described real property may be conveyed by the State of Georgia, acting by and through the State Properties Commission to Seminole County, for a consideration of \$1.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

**SECTION 120.**

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

**SECTION 121.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

**SECTION 122.**

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Seminole County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 123.**

That custody of the above-described property shall remain in the custody of the Department of Agriculture until the property is conveyed.

**ARTICLE XXII  
SECTION 124.**

That all laws and parts of laws in conflict with this resolution are repealed.

On the adoption of the substitute, the yeas were 49, nays 0, and the substitute was adopted.

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

On the passage of the legislation on the Consent Calendar for Property Conveyances, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D

Y Chance	Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

The legislation on the Consent Calendar for Property Conveyances except HR 166, having received the requisite constitutional majority, was passed. HR 166, having received the requisite constitutional majority, was adopted by substitute.

The following legislation, favorably reported by the committees, as listed on the Consent Calendar for General Legislation, was put upon its passage.

**CONSENT CALENDAR FOR GENERAL LEGISLATION**  
**THURSDAY, MARCH 24, 2005**  
**THIRTY-SEVENTH LEGISLATIVE DAY**

- |        |  |
|--------|--|
| HB 458 | Commercial Transportation Advisory Committee; create (PS&HS-20th)<br>Smith-129th                             |
| HR 50  | Joint Agricultural Education Study Committee; create (ED&Y-11th)<br>England-108th                            |
| HR 563 | Dahlonega/Lumpkin County; establish as Georgia's Premier Sports<br>Cycling Community (RULES-9th) Amerson-9th |
| HR 566 | Prater's Mill; Legacy of Georgia Tradition; recognize (RULES-9th)<br>Dickson-6th                             |

Senator Brown of the 26th objected to all legislation on the Consent Calendar for General Legislation. The legislation was placed at the foot of today's Senate Rules Calendar in the order in which it appears above.

Senator Stoner of the 6th introduced the doctor of the day, Dr. Leon Hanley, Jr.

Senator Goggans of the 7th asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Chapman of the 3rd asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

**SENATE RULES CALENDAR  
THURSDAY, MARCH 24, 2005  
THIRTY-SEVENTH LEGISLATIVE DAY**

- |        |  |
|--------|--|
| HB 539 | Georgia Entertainment Industry Investment Act; provisions (ECD-28th)<br>O`Neal-146th   |
| HB 501 | Department of Driver Services; create as successor to Department of<br>Motor Vehicle Safety (Substitute)(PS&HS-20th) Scott-153rd |
| HB 392 | Health care management organizations; quality assessment fee; provisions<br>(H&HS-19th) Brown-69th                               |
| HB 170 | Criminal Justice Act of 2005; enact (Substitute)(JUDY-30th) Golick-34th  |
| HB 172 | Crime Victims Restitution Act of 2005; enact (Substitute) (JUDY-30th)<br>Golick-34th   |
| HB 509 | Planning and Budget, Office of; program budgeting; revenue shortfall<br>reserve (Substitute)(APPROP-4th) Harbin-118th            |
| HB 437 | Public disclosure; exempt certain personal information (SLGO(G)-24th)<br>Scott-153rd   |
| HB 340 | Public disclosure of records; donors; postsecondary educational<br>institutions (Substitute)(H ED-29th) Hembree-67th             |
| SR 184 | Georgia Capital Punishment Study Commission; creating (Substitute)<br>(JUDY-36th)  |
| HB 25  | Board of regents; school or institution closing; repeal power of Governor<br>(H ED-29th) Brooks-63rd                             |
| HB 26  | Governor's authority to suspend compulsory attendance laws; repeal<br>provisions (ED&Y-56th) Brooks-63rd                         |

- HB 27 Elementary and secondary education; grants; repeal provisions (ED&Y-56th) Brooks-63rd
- HB 97 Appalachian Judicial Circuit; add judge (JUDY-52nd) Ralston-7th
- HB 307 Construction defect claim; fulfillment or settlement; provisions (JUDY-30th) Rogers-26th
- HB 341 Sales tax; exempt certain airline industry transactions (Substitute) (FIN-9th) Burkhalter-50th
- HB 373 Teachers Retirement System; members of local funds; nonsectarian schools (RET-26th) Brooks-63rd
- HB 374 Hotel-motel tax; used for certain trails and walkways; extend (Substitute) (ECD-50th) Geisinger-48th
- HB 431 Unclaimed property; certain abandoned dividends or credits; disposition (FIN-49th) Talton-145th
- HB 538 Income tax; military income exclusion; amend provisions (FIN-49th) O'Neal-146th
- HB 553 Education degree programs; professional associations not a condition of enrollment (H ED-29th) Hembree-67th
- HB 556 Georgia Public Revenue Code; repeal certain statutes and provisions (FIN-49th) Burkhalter-50th
- HB 557 County police; inspection of road and bridges; repeal (PS&HS-46th) Burkhalter-50th
- HB 558 Alcoholic beverages; counterfeiting, forging, or reuse of tax stamps; repeal provisions (FIN-49th) Burkhalter-50th
- HB 577 Drivers' licenses; provide for destruction of certain fingerprint records; prohibit requirement (PS&HS-21st) Loudermilk-14th
- HB 622 Telegraph companies; dispatch or message deliveries; repeal certain provision (RI&Util-32nd) Burkhalter-50th
- HB 221 Child support; guidelines; basic obligation amounts (JUDY-29th) Burmeister-119th

- HB 240 Law enforcement officer or firefighter; temporary disability; filing claim (I&L-47th) Day-163rd
- HB 406 Trusts; allocation of principal and income; amend provisions (FIN-49th) Willard-49th
- HB 180 Human Resources; criminal history information; provisions (ED&Y-54th) Manning-32nd
- HB 292 Game and fish; deer hunting; amend provisions (NR&E-20th) Rogers-26th
- HB 309 Code Titles 31, 44, and 49; conform references to House and Senate committee names (Substitute)(H&HS-7th) Forster-3rd
- SR 297 Domestic Energy Policy; urge Congress to establish (Substitute) (RI&Util-53rd)
- HB 5 Sales tax exemption; certain school clothes, supplies, computer items; limited time (FIN-49th) Borders-175th
- HB 50 Criminal history background checks; authorize national exchange (S JUDY-6th) Teilhet-40th
- HB 530 Transportation, Department of; design-build contracts (Substitute) (TRANS-24th) Smith-129th
- HB 521 Sheriffs; qualifications; certified peace officers (PS&HS-46th) Crawford-127th
- HB 418 Insurance; electronic notice of cancellation of policies to lienholders (I&L-21st) Maxwell-17th
- HB 496 Dams; locations and information; DNR provide to superior court clerks (NR&E-16th) Smith-70th
- HB 183 State employees; payroll deductions; certain non-profit organizations; include corrections officers (I&L-47th) Barnard-166th
- HB 407 Insurance; administrators; agents; insolvency pool; definitions and provisions (Substitute)(I&L-48th) Golick-34th

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- |        |   |
|--------|---|
| HB 455 | Motor vehicles; new and used dealers; temporary license plates; amend provisions (PS&HS-20th) Murphy-23rd                     |
| HB 364 | Motor vehicles; certificate of title (Substitute)(PS&HS-53rd) Williams-4th  |
| HR 108 | Harrison, Clarence; compensate (Substitute)(APPROP-38th) Benfield-85th  |
| HB 608 | License to practice medicine; certain graduates; change licensure requirement (Substitute)(Amendments) (H&HS-52nd) Reece-27th |
| HB 186 | Counties and municipalities; expand purposes for using federal funds (Substitute)(SLGO(G)-37th) Mitchell-88th                 |

Respectfully submitted,

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

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

- HB 539. By Representatives O'Neal of the 146th, Parrish of the 156th, Keen of the 179th, Horne of the 71st, Channell of the 116th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, so as to provide for income tax credits for certain entertainment industry production investments; to provide for a short title; to provide for legislative findings; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner, the Department of Revenue, and the Department of Economic Development; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Seabaugh of the 28th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

February 24, 2005

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

Honorable Larry O'Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 539 (Substitute)  
(LC 18 4279S)

Dear Chairman O'Neal:

The proposed bill strikes Code Section 48-7-40.13 thereby eliminating the current rapid growth tax credit. The bill also provides for a tradable tax credit for qualified production activities including films, videos, and commercials. The new tax credit is available under certain conditions to production companies whose base investment in the state meets or exceeds \$500,000. Base investment includes funds invested and expended as production expenditures in Georgia, including salaries paid to non-Georgia labor. The credit is equal to 9 percent of base investment. If the production takes place in a tier 1 or tier 2 county, the credit is increased by 3 percentage points for a total credit of 12 percent. There is an additional 3 percent credit on the total aggregate payroll of Georgia residents and an additional 2 percentage point credit on base investment that exceeds \$20 million on multiple television projects.

The Georgia State University Fiscal Research Center provided the following narrative on the provisions of this bill:

The revenue impact of the first part of the bill (elimination of the rapid growth credit) is estimated to yield a \$5 million increase in annual tax revenue based on information from the Department of Revenue.

The revenue implications of the film credit portion of the bill are very difficult to determine with a high level of confidence due to the large number of possible options for types of productions, a lack of data on various production budgets, and the number of assumptions that must be made regarding where in the State the production will occur. Two types of estimates are provided: static and behavioral. The static estimate considers only the value of the credits provided. The behavioral estimate accounts for increases in tax revenue due to the increase in activity resulting from the credit. The static revenue estimate ranges from a revenue loss of \$14.8 million if all production takes place in tier 1 or 2 counties, to a revenue loss of \$12.3 million if most of the production takes place

outside of tier 1 or 2 counties (as is suggested by the Georgia Department of Economic Development), to a revenue loss of \$12.1 million if all activity takes place outside of tier 1 and 2 counties. The estimates including behavioral impacts of the increased economic activity range from a revenue loss of \$2.7 million if all activity takes place in tier 1 or 2 counties, to a revenue loss of \$140,000 if most of the production takes place outside of tier 1 and 2 counties, to an approximately revenue neutral impact if all production takes place outside of tier 1 or 2 counties.

The net revenue effect of the bill therefore ranges from a loss of \$9.8 million to a gain of approximately \$5 million depending on the location of the filming activity as noted in the paragraph above.

There are very little data from which to develop a reasonable revenue estimate of this bill. "Representative" production budgets for a low-budget film (\$11.8 million budget), one commercial (\$149,000 budget), and one music video (\$195,000 budget) were provided by the Georgia Department of Economic Development as adequate representations of the mix of expenditures by type and by in-state versus out-of-state. The analysis used to develop this fiscal note assumes that these budgets are truly representative and represent the "average" budget for production companies. Since the representative budgets that were provided for the video and commercial would not be eligible for the credit, the values of those budgets were inflated to a total of \$500,000, where all components retain their relative share to the total budget.

There are no data available to estimate which county the production would occur in, so the revenue impacts are presented for a number of scenarios. Also, there are no empirical estimates from other states and countries of the increase in the number of productions due to tax credits. The estimates below assume that in the first two years of the credit, the number of productions of films and commercials would increase to the 2002 levels, which is a recent "high" in terms of productions in Georgia for films and commercials and to the 2001 level for videos based on the same trend analysis. The expected increase in productions is assumed to equal the difference between the number of productions in 2002 and 2003 for films and commercials and between 2001 and 2003 for videos. For videos and commercials, it is assumed that half of the new productions would be eligible for the credit as they must reach a minimum base expenditure of \$500,000; for films, it is assumed that 65 percent of new productions would be eligible. These assumptions lead to projected increases in credit-eligible productions of 16 for films (including feature films, television episodes, etc.), 2 for commercials, and 4 for videos. The analysis was made based on the three representative budgets. Note that if the representative budgets are not the average for the industry, these impacts may be overstated or understated based on the composition of actual budgets.

Static revenue impacts and those including behavioral changes are provided in the table on the following page for the three types of production: films, videos and commercials.

For each type of production, the value of the credit and the net revenue impact including behavior responses are shown in the table on the following page for two extreme cases. In the first case, the production is assumed to be done in a tier 1 or 2 county, while in the second case, the production is assumed to be done in a non-tier 1 or 2 county. The true impact is probably some combination of those two extremes.

The static impacts (column 7 of the table) report only the cost of the credit, using the available representative budgets. It is expected that the infusion of productions will increase economic activity through standard behavioral response channels—local hires will increase the income and sales tax base and spending by the companies will increase the state and local tax base as well. This analysis was developed using the IMPLAN model. The revenue impacts considering these behavioral impacts are provided in the last column in the table below. The net revenue impact to the state is determined from the last column in the table below and depends on how many or how much of the productions occur in tier 1 and 2 counties versus other counties for each of the three types of production. The most costly credit is given if all production occurs in tier 1 or 2 counties. In this case, the static cost of the credit is the sum of the credits for film, commercial and video, i.e., the sum of \$14.5 million, \$73,000, and \$104,000. The middle estimates presented above assume that 5 percent of the production occurs in tier 1 or 2 counties and the remaining 95 percent occurs in other counties.

Type of Production	Tier	Total Base investment Credit	Georgia-labor Credit	Total credit per production	Increase in eligible productions	Static Revenue Impact	Net Revenue Impact with Behavioral Impacts (Loss or Gain)
Feature film/movie	1 OR 2 <i>OR</i>	\$653,000	\$253,000	\$906,000	16	-\$14,500,000	-\$2,500,000
Feature film/movie	Other	\$490,000	\$253,000	\$743,000	16	-\$11,800,000	\$62,000
Commercial	1 OR 2 <i>OR</i>	\$27,000	\$9,500	\$36,500	2	-\$73,000	-\$34,000
Commercial	Other	\$35,000	\$9,500	\$44,500	2	-\$89,000	-\$17,000
Video	1 OR 2 <i>OR</i>	\$13,000	\$13,000	\$26,000	4	-\$104,000	-\$96,000
Video	Other	\$31,000	\$13,000	\$44,000	4	-\$176,000	-\$56,000

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

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	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	E Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 1.

HB 539, having received the requisite constitutional majority, was passed.

The following communication was received by the Secretary:

Senator Regina Thomas  
District 2  
313-A Legislative Office Building  
Atlanta, GA 30334

**Committees:**  
State Institutions and Property  
Appropriations  
Education and Youth  
Reapportionment and Redistricting  
Regulated Industries and Utilities

The State Senate  
Atlanta, Georgia 30334

March 24, 2005

Mr. Frank Eldridge  
Secretary of the Senate  
State Capitol 353  
Atlanta, Georgia 30334

Dear Secretary Eldridge:

After having explained the Fiscal Note to House Bill 539, I request that my NO vote be changed to a YES vote. There was confusion on the Fiscal Note.

Thank you,

/s/ Senator Regina Thomas

HB 501. By Representative Scott of the 153rd:

A BILL to be entitled an Act to amend Title 40 of the O.C.G.A., relating to motor vehicles and traffic, and numerous other provisions of the O.C.G.A., so as to substantially amend laws relating to operation and regulation of motor vehicles and substantially revise the state administration of such laws; to create the Department of Driver Services as a successor agency to the Department of Motor Vehicle Safety; to provide for the Department of Driver Services to assume certain responsibilities of the Department of Motor Vehicle Safety and in particular responsibility for driver's licensing services; to substantially amend provisions relative to the issuance of driver's licenses; to amend the O.C.G.A. so as to transfer into other departments and agencies responsibility for administration of other laws relating to motor vehicles; to provide for other matters related to the foregoing; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Tolleson of the 20th.

The Senate Public Safety and Homeland Security Committee offered the following substitute to HB 501:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, and numerous other provisions of the Official Code of Georgia Annotated, so as to substantially amend laws relating to operation and regulation of motor vehicles and substantially revise the state administration of such laws; to create the Department of Driver Services as a successor agency to the Department of Motor Vehicle Safety; to

provide for the Department of Driver Services to assume certain responsibilities of the Department of Motor Vehicle Safety and in particular responsibility for driver's licensing services; to substantially amend provisions relative to the issuance of driver's licenses, change fees therefor, change the duration thereof, change the requirements and procedure for issuance thereof, change provisions relating to suspension and renewal thereof, and make other related changes; to amend the Official Code of Georgia Annotated so as to transfer into other departments and agencies responsibility for administration of other laws relating to motor vehicles, including but not limited to titling, registration, and licensing of motor vehicles, insuring of motor vehicles and responsibility for accidents, regulation of vehicle sizes and weights, fuel tax enforcement, certification and permitting of carriers, handicapped parking permits, establishment of vehicle and vehicle component safety standards, and transportation of hazardous materials; to provide for the revision and amendment of certain laws relating to transferred functions, both in connection with and in addition to the transfer of functions; to provide for other matters related to the foregoing; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I  
Amendments to Chapter 40-16.  
Department of Motor Vehicle Safety.

SECTION 1-1.

Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to the Department of Motor Vehicle Safety, is amended by striking said chapter in its entirety and inserting in its place a new chapter to read as follows:

. CHAPTER 16

40-16-1.

As used in this chapter, the term:

- (1) 'Board' means the Board of ~~Motor Vehicle Safety~~ Driver Services.
- (2) 'Commissioner' means the commissioner of ~~motor vehicle safety~~ driver services.
- (3) 'Department' means the Department of ~~Motor Vehicle Safety~~ Driver Services.

40-16-2.

- (a) There is created the Department of ~~Motor Vehicle Safety~~ Driver Services. ~~The Department of Driver Services shall be a successor agency to and continuation of the former Department of Motor Vehicle Safety.~~ The department shall be the agency primarily responsible for:

- (1) ~~Administration of the laws and regulations relating to registration and titling of motor vehicles, as provided for in Chapters 2 and 3 of Title 40;~~

- (2)(1) Administration of the laws and regulations relating to drivers' licenses, as provided for in Chapter 5 of ~~Title 40 this title~~;
- (3)(2) Administration of the laws and regulations relating to proof of financial responsibility, as provided for in Chapter 9 of ~~Title 40 this title~~;
- (3) Administration of laws relating to ignition interlock devices for use by driving under the influence offenders;
- (4) Administration of laws relating to driver training schools, driver improvement clinics, DUI Alcohol or Drug Use Risk Reduction Programs, and commercial driving schools;
- (5) Administration of laws relating to motorcycle safety programs;
- (6) Administration of laws and regulations relating to issuance of limousine chauffeur permits; and
- (7) Administration of any other laws specifically providing for their administration by the department.
- (b) Responsibility for the following functions formerly exercised by the Department of Motor Vehicle Safety is transferred as follows:
- (4)(1) Enforcement Promulgation of laws and regulations relating to the size and the weights of motor vehicles, trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32 shall be vested in the Department of Transportation; and administrative enforcement of such regulations and the law enforcement function of apprehending and citing violators of such laws and regulations are transferred to the Department of Public Safety, as well as the function of promulgating regulations relative to its enforcement function;
- (5)(2) Enforcement of laws and regulations relating to licensing and fuel tax registration requirements and the reporting of violations of said requirements to the state revenue commissioner is transferred to the Department of Public Safety;
- (6)(3) Administration and enforcement anywhere in the state of laws and regulations relating to certification of motor carriers, limousine carriers, and hazardous material carriers as provided for in Chapters 7 and 11 of Title 46 and limousine carriers is transferred to the Public Service Commission and administration of laws and regulations relating to carrier registration and registration and titling of vehicles is transferred to the Department of Revenue;
- (4) Administration of laws relating to motor vehicle franchise practices is transferred to the Department of Revenue;
- (5) Administration of laws relating to handicapped parking permits is transferred to the Department of Revenue;
- (6) Responsibility for establishment of safety standards for motor vehicles and motor vehicle components is generally transferred to the Department of Public Safety except as may be specifically otherwise provided by law;
- (7) Administration of laws relating to hazardous materials carriers is transferred to the Department of Public Safety;
- (7)(8) Enforcement of all state laws but only on the following properties owned or controlled by the Department of Transportation or the State Road and Tollway

Authority is transferred to the Department of Public Safety: rest areas, truck-weighing stations or checkpoints, wayside parks, parking facilities, toll facilities, and any buildings and grounds for public equipment and personnel used for or engaged in administration, construction, or maintenance of the public roads or research pertaining thereto;

(8)(9) Enforcement of Code Section 16-10-24, relating to obstructing or hindering law enforcement officers, ~~but only in those situations involving the obstruction or hindrance of enforcement officers designated by the department in their official duties is transferred to the Department of Public Safety~~;

(9) Directing and controlling traffic on any public road which is part of the state highway system but only in areas where maintenance and construction activities are being performed and at scenes of accidents and emergencies until local police officers or Georgia State Patrol officers arrive and have the situation under control;

(10) Enforcement of Code Sections 32-9-4 and 40-6-54, relating to designation of restricted travel lanes is transferred to the Department of Public Safety;

(11) Enforcement of Code Section 16-11-43, relating to obstructing highways, streets, sidewalks, or other public passages, on any public road which is part of the state highway system is transferred to the Department of Public Safety;

(12) Enforcement of Code Section 16-7-43, relating to littering public or private property or waters, on any public road which is part of the state highway system is transferred to the Department of Public Safety; and

(13) Enforcement of Code Section 16-7-24, relating to interference with government property, on any public road which is part of the state highway system is transferred to the Department of Public Safety; and,

(14) Enforcement of any state law when ordered to do so by the Governor.

(b) In performance of the duties specified in subsection (a) of this Code section, certified law enforcement officers employed by the department or designated by the commissioner shall:

(1) Be authorized to carry firearms;

(2) Exercise arrest powers;

(3) Have the power to stop, enter upon, and inspect all motor vehicles using the public highways for purposes of determining whether such vehicles have complied with and are complying with this chapter and other laws the administration or enforcement of which is the responsibility of the department;

(4) Have the power to examine the facilities where motor vehicles are housed or maintained and the books and records of motor carriers for purposes of determining compliance with this chapter and other laws the administration or enforcement of which is the responsibility of the department; and

(5) Exercise the powers generally authorized for law enforcement officers in the performance of the duties specified by this chapter or otherwise to the extent needed to protect any life or property when the circumstances demand action.

(e)(b) In the performance of its duties, the department shall be required to comply with all applicable federal laws and rules and regulations and shall certify that the state is in

compliance with all provisions and requirements of all applicable federal-aid acts and programs.

(d) ~~The commissioner shall authorize enforcement officers of the department to make use of dogs trained for the purpose of detection of drugs and controlled substances while such officers are engaged in the performance of their authorized duties. If such authorized use of such a dog indicates probable cause to indicate the presence of contraband, the officer or officers shall in those circumstances have the full authority of peace officers to enforce the provisions of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' and Article 3 of Chapter 13 of Title 16, the 'Dangerous Drug Act'; provided, however, that the department must immediately notify the local law enforcement agency and district attorney of the jurisdiction where a seizure is made.~~

40-16-2.1.

Annual reports shall be provided to the General Assembly by the affected departments with respect to the reorganization provided for in Code Section 40-16-2 and with respect to other activities of the departments as follows:

- (1) The Department of Driver Services shall provide an annual report which shall include, together with other information deemed pertinent by the department, service metrics clearly indicating the department's ability to meet public demand for its services; and
- (2) The Department of Public Safety shall provide an annual report which shall include, together with other information deemed pertinent by the department, the records of the department with respect to safety inspections and citations issued.

40-16-3.

(a) The department shall be under the direction, control, and management of the Board of ~~Motor Vehicle Safety~~ Driver Services and the commissioner of ~~motor vehicle safety driver services~~. The commissioner shall be appointed by and serve at the pleasure of the board.

(b)(1) The Board of Driver Services shall be a successor to and continuation of the Board of Motor Vehicle Safety and shall consist of nine members. Five members shall be appointed by the Governor and their terms shall expire as follows: two members on June 30, 2003, and June 30 of each sixth year thereafter; two members on June 30, 2005, and June 30 of each sixth year thereafter; and one member on June 30, 2007, and June 30 of each sixth year thereafter. Two members shall be appointed by the Lieutenant Governor and their terms shall expire as follows: one member on June 30, 2003, and June 30 of each sixth year thereafter and one member on June 30, 2006, and June 30 of each sixth year thereafter. Two members shall be appointed by the Speaker of the House and their terms shall expire as follows: one member on June 30, 2003, and June 30 of each sixth year thereafter and one member on June 30, 2006, and June 30 of each sixth year thereafter. All members except for the initial appointees shall serve for terms of six years and until their successors are appointed

and qualified.

(2) All members serving on the Board of Motor Vehicle Safety as of the time the 2005 amendment of this Code section becomes law shall continue to serve as members of the Board of Driver Services for the remainder of their original terms of office and shall if necessary hold over beyond the end of those terms until successors are appointed and qualified.

(c) The Governor shall designate a member to serve as chairperson of the board. The chairperson's term as chairperson shall expire on June 30, 2003, and June 30 of each second year thereafter. The board may elect other officers from among its membership and may establish bylaws for the conduct of its business.

(d) The members of the board shall receive no salary for their service on the board but any member who is not otherwise a state officer or employee shall receive a per diem expense allowance as provided in subsection (b) of Code Section 45-7-21.

(e) The board shall be the general policy-making body for the Department of ~~Motor Vehicle Safety~~ Driver Services; and the commissioner shall be the chief executive officer of the department, subject to the policies established by the board. All rules and regulations promulgated by the commissioner must be approved by the board before they take effect.

(f) The commissioner shall receive an annual salary to be set by the board which shall be his or her total compensation for services as commissioner. The commissioner shall be reimbursed for all actual and necessary expenses incurred by him or her in carrying out his or her official duties.

(g) The commissioner shall take and subscribe before the board an oath to discharge faithfully and impartially the duties of such office, which oath shall be in addition to the oath required of all civil officers.

#### 40-16-4.

(a) The commissioner shall establish such units within the department as he or she deems proper for its administration and shall designate persons to be directors and assistant directors of such units to exercise such authority as he or she may delegate to them in writing.

(b) The commissioner shall have the authority to employ as many persons as he or she deems necessary for the administration of the department and for the discharge of the duties of his or her office. He or she shall issue all necessary directions, instructions, orders, and rules applicable to such persons. He or she shall have authority, as he or she deems proper, to employ, assign, compensate, and discharge employees of the department within the limitations of the department's appropriation and the restrictions set forth by law.

(c) All employees of the department shall be compensated upon a fixed salary basis and no person shall be compensated for services to the department on a commission or contingent fee basis.

(d) Neither the commissioner nor any officer or employee of the department shall be given or receive any fee, compensation, loan, gift, or other thing of value in addition to

the compensation and expense allowance provided by law for any service or pretended service either rendered or to be rendered as commissioner or as an officer or employee of the department.

(e) The commissioner shall ~~delegate to such officers and employees of the department as he or she may designate the law enforcement powers and duties of the department as set out in Code Seetion 40-16-2.~~ All officers and employees to whom such law enforcement powers and duties are delegated must be certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.' have the authority to appoint and employ 15 nonuniformed investigators who shall be certified peace officers pursuant to the provisions of Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.' The investigators shall have full arrest powers in cases involving internal affairs of the department and in cases involving fraud in applications for or the issuance of any license, permit, certificate, or other credential within the jurisdiction of the department. In such cases, the investigators shall be authorized:

- (1) To investigate Department of Driver Services related crimes committed anywhere in the state;
- (2) To arrest any person violating the criminal laws of this state;
- (3) To serve and execute warrants after notifying the law enforcement agency of the local jurisdiction of the intent to serve such warrant or warrants;
- (4) To enforce in general the criminal laws of this state; and
- (5) To carry firearms while performing their duties.

#### 40-16-5.

(a) Subject to approval by the board, the commissioner shall have the power to make and publish reasonable rules and regulations not inconsistent with this title or other laws or with the Constitution of this state or of the United States for the administration of this chapter or any law which it is his or her duty to administer.

(b) The commissioner may prescribe forms as he or she deems necessary for the administration and enforcement of this chapter or any law which it is his or her duty to administer.

(c) The authority granted to the commissioner pursuant to this Code section shall be exercised at all times in conformity with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; provided, however, that regulations governing ~~motor common carrier and motor contract carrier safety~~, commercial driver licensing, ~~and hazardous materials~~ may be adopted by administrative order referencing compatible federal regulations or standards without compliance with the procedural requirements of Chapter 13 of Title 50; provided, further, that such compatible federal regulations or standards shall be maintained on file by the department and made available for inspection and copying by the public, by means including but limited to posting on the department's computer Internet site.

(d) Rules and regulations previously adopted which relate to functions performed by

the Department of Driver Services shall remain of full force and effect as rules and regulations of the Department of Driver Services until amended, repealed, or superseded by rules or regulations adopted by the commissioner of driver services. The following rules and regulations shall remain of full force and effect as rules and regulations of the Department of Motor Vehicle Safety referenced department until amended, repealed, or superseded by rules or regulations adopted by the commissioner of motor vehicle safety referenced department:

- (1) All rules and regulations previously adopted by the Department of Transportation or the State Transportation Board or the commissioner of transportation which relate to functions transferred under this chapter from to the Department of Transportation to from the Department of Motor Vehicle Safety;
  - (2) All rules and regulations previously adopted by the Public Service Commission which relate to functions transferred under this chapter from to the Public Service Commission to from the Department of Motor Vehicle Safety;
  - (3) All rules and regulations previously adopted by the Department of Public Safety or the commissioner of public safety which relate to functions transferred under this chapter from to the Department of Public Safety to from the Department of Motor Vehicle Safety; and
  - (4) All rules and regulations previously adopted by the Department of Revenue or the state revenue commissioner which relate to functions transferred under this chapter from to the Department of Revenue to from the Department of Motor Vehicle Safety; and
  - (5) All rules and regulations previously adopted which relate to functions transferred under this chapter from the Department of Human Resources to the Department of Driver Services.
- (e) All valid licenses, permits, certificates, and similar authorizations previously issued by the Department of Transportation, the Public Service Commission, the Department of Public Safety, and the Department of Revenue under laws to be administered by the Department of Motor Vehicle Safety any department or agency with respect to any function transferred as provided in this chapter shall continue in effect until the same expire by their terms unless they are suspended, revoked, or otherwise made ineffective as provided by law.

#### 40-16-5.1.

- (a) Except as otherwise provided in subsection (b) of this Code section, no department motor vehicles shall be used by any certified law enforcement officers investigators employed by the department except in the discharge of official duties. Any other equipment shall be used only with the express written approval of the commissioner.
- (b) The commissioner shall may adopt rules and regulations governing the use of equipment. The commissioner may adopt rules and regulations pursuant to which investigators (b)(1) Certified law enforcement officers employed by the department may use a department motor vehicle while working an approved off-duty job, provided that: any such use shall comply with such conditions as may be imposed by the

commissioner, which conditions shall include but shall not be limited to a finding of public benefit and reimbursement to the department by the employer or employee for use of the vehicle.

- (A) ~~The off duty employment is of a general nature that is the subject of a contract between the off duty employer and the department and is service in which the use of the department motor vehicle is a benefit to the department or is in furtherance of the department's mission;~~
  - (B) ~~The off duty employer agrees to pay and does pay to the department an amount determined by the commissioner to be sufficient to reimburse the department for the use of the vehicle and to pay the off duty employee sufficient compensation. Pursuant to such contract, the department shall pay the employee of the department the compensation earned on off duty employment whenever such employee performs such service in a department motor vehicle; and~~
  - (C) ~~The commissioner has specifically approved, in writing, the individual use of the vehicle by the employee.~~
- (2)(c) At no time will an off-duty employee be allowed use of a department motor vehicle at any political function of any kind.

40-16-6.

- (a) ~~The To the extent specifically authorized by law, the commissioner may pursuant to rule or regulation specify and impose civil monetary penalties for violations of laws, rules, and regulations administered by the commissioner. Except as may be hereafter authorized by law, the maximum amount of any such monetary penalty shall not exceed the maximum penalty authorized by law or rule or regulation for the same violation immediately prior to July 1, 2004 2005.~~
- (b) All proceedings for the imposition of civil monetary penalties by the commissioner and other contested cases to be decided by or under authority of the commissioner shall be subject to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' All such administrative proceedings which are pending on July 1, 2004 2005, under laws the administration of which is transferred to from the commissioner of motor vehicle safety to another enforcement agency shall be transferred to the jurisdiction of the commissioner such other enforcement agency as of July 1, 2004 2005.
- (c) The enactment amendment of this chapter and the Act by which it is enacted amended shall not affect or abate the status as a crime of any act or omission which occurred prior to July 1, 2004 2005, nor shall the prosecution of such crime be abated as a result of such enactment amendment.
- (d)(1) ~~As used in this subsection, the term 'anhydrous ammonia' means any substance identified to contain the compound ammonia which is capable of being utilized in the production of methamphetamine or any other controlled substance.~~
- (2) ~~Any person, firm, or corporation transporting methamphetamine, amphetamine, any mixture containing either methamphetamine or amphetamine, anhydrous ammonia, or any mixture containing anhydrous ammonia shall be subject to all rules and regulations promulgated by the commissioner pursuant to Code Section 46-7-26~~

~~governing the safe operation of motor vehicles and drivers and the safe transportation of hazardous materials.~~

~~(3) Notwithstanding the provisions of subsection (a) of this Code section, the commissioner may impose civil monetary penalties in an amount not to exceed \$25,000.00 for each violation of any rules and regulations promulgated pursuant to Code Section 46-7-26 with respect to persons transporting methamphetamine, amphetamine, any mixture containing either methamphetamine or amphetamine, anhydrous ammonia, or any mixture containing anhydrous ammonia.~~

40-16-7.

(a) The department shall be a budget unit to which funds may be appropriated as provided in the 'Budget Act,' Part 1 of Article 4 of Chapter 12 of Title 45. The department shall be an independent and distinct department of state government. The duties of the department shall be performed by that department and not by any other agency of state government, and the department shall not perform the duties of any other agency of state government. The position of commissioner of ~~motor vehicle safety driver services~~ shall be a separate and distinct position from any other position in state government. The duties of the commissioner shall be performed by the commissioner and not by any other officer of state government, and the commissioner shall not perform the duties of any other officer of state government.

(b) Appropriations to the Department of Revenue, the Department of Public Safety, the Department of Transportation, and the Public Service Commission for functions transferred to and from the Department of Motor Vehicle Safety pursuant to this chapter and other departments may be transferred to the Department of Motor Vehicle Safety and from such departments as provided for in Code Section 45-12-90, relating to disposition of appropriations for duties, purposes, and objects which have been transferred. Personnel, equipment, and facilities previously employed by the Department of Revenue, the Department of Public Safety, the Department of Transportation, and the Public Service Commission for such transferred functions shall likewise be transferred to the Department of Motor Vehicle Safety appropriate departments. Contracts relating to functions transferred to and from the Department of Motor Vehicle Safety and other departments, and any rights of renewal under such contracts, shall also be transferred to the appropriate departments. Any disagreement between such departments as to any such transfers shall be determined by the Governor.

(c) Except as specifically provided otherwise by law, all fines and forfeitures collected for criminal violations cited by the department's ~~enforcement officers~~ investigators shall, after deduction from the total fine or forfeiture of the amounts due the Peace Officers' Annuity and Benefit Fund and the Sheriffs' Retirement Fund of Georgia and any other deductions specified by law, be paid by the clerk of the court into the fine and forfeiture fund of the county treasurer in the same manner and subject to the same rules of distribution as other fines and forfeitures.

## PART II

Amendments to Code Section 3-3-23.1.  
Alcoholic beverage offenses.

### SECTION 2-1.

Code Section 3-3-23.1, relating to punishment for offenses involving furnishing alcoholic beverages to, and purchasing, attempting to purchase, and possession of alcoholic beverages by, a person under 21 years of age, is amended by striking subsection (f) and inserting in its place a new subsection to read as follows:

- . (f) In addition to any other punishment or sentence, the court may order all persons convicted under subsection (b) of this Code section or sentenced under subsection (c) of this Code section to complete a DUI Alcohol or Drug Use Risk Reduction Program prescribed by the Department of ~~Human Resources~~ Driver Services within 120 days of such conviction or sentence. Failure to complete such program within 120 days shall be contempt of court and shall be punished by a fine of not more than \$300.00 or 20 days imprisonment, or both. If the conviction or sentence results from a charge of unlawful possession of alcoholic beverages while operating a motor vehicle, the court shall report such conviction or sentence to the Department of ~~Motor Vehicle Safety~~ Driver Services within ten days after conviction or sentencing.

## PART III

Amendments to Article 2 of Chapter 8-2.  
Factory built buildings and dwelling units.

### SECTION 3-1.

Article 2 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to factory built buildings and dwelling units, is amended by striking Part 4, relating to manufactured or mobile homes, and inserting in its place a new part to read as follows:

. Part 4  
Subpart 1

8-2-180.

As used in this part, the term:

- (1) 'Clerk of superior court' means the clerk of the superior court of the county in which the property to which the home is or is to be affixed is located.
- (2) 'Commissioner of ~~motor vehicle safety~~' means the state revenue commissioner and includes any county tax commissioner when so authorized by the state revenue commissioner of ~~motor vehicle safety~~ to act on his or her behalf in carrying out the responsibilities of this part.
- (3) 'Home' means a manufactured home or mobile home.
- (4) 'Manufactured home' has the meaning specified in paragraph (4) of Code Section 8-2-160.

(5) 'Mobile home' has the meaning specified in paragraph (6) of Code Section 8-2-160.

8-2-181.

- (a) A manufactured home or mobile home shall constitute personal property and shall be subject to the 'Motor Vehicle Certificate of Title Act,' Chapter 3 of Title 40, until such time as the home is converted to real property as provided for in this part.
- (b) A manufactured home or mobile home shall become real property if:
  - (1) The home is or is to be permanently affixed on real property and one or more persons with an ownership interest in the home also has an ownership interest in such real property; and
  - (2) The owner of the home and the holders of all security interests therein execute and file a Certificate of Permanent Location:
    - (A) In the real estate records of the county where the real property is located; and
    - (B) With the commissioner ~~of motor vehicle safety~~.
- (c) The Certificate of Permanent Location shall be in a form prescribed by the commissioner ~~of motor vehicle safety~~ and shall include:
  - (1) The name and address of the owner of the home;
  - (2) The names and addresses of the holders of any security interest in and of any lien upon the home;
  - (3) The title number assigned to the home;
  - (4) A description of the real estate on which the home is or is to be located, including the name of the owner and a reference by deed book and page number to the chain of title of such real property; and
  - (5) Any other data the commissioner ~~of motor vehicle safety~~ prescribes.

8-2-182.

- (a) When a Certificate of Permanent Location is properly filed with the clerk of superior court, the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the certificate and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes. The clerk shall provide the owner with a certified copy of the certificate, reflecting its filing, and shall charge and collect the fees usually charged for the provision of certified copies of documents relating to real estate.
- (b) Upon receipt of a certified copy of a properly executed Certificate of Permanent Location, along with the certificate of title, the commissioner ~~of motor vehicle safety~~ shall file and retain a copy of such certificate together with all other prior title records related to the home. When a properly executed certificate has once been filed, the commissioner ~~of motor vehicle safety~~ shall accept no further title filings with respect to that home, except as may be necessary to correct any errors in the department's records and except as provided in Subparts 2 and 3 of this part.

- (c) When a Certificate of Permanent Location is so filed, the commissioner ~~of motor vehicle safety~~ shall issue to the clerk of the superior court with whom the original Certificate of Permanent Location was filed confirmation by the commissioner ~~of motor vehicle safety~~ that the certificate has been so filed and the certificate of title has been surrendered.
- (d) Upon receipt of confirmation of the filing of the Certificate of Permanent Location from the commissioner ~~of motor vehicle safety~~, the clerk of superior court shall provide a copy of the Certificate of Permanent Location to the appropriate board of tax assessors or such other local official as is responsible for the valuation of real property.

8-2-183.

- (a) When a Certificate of Permanent Location has been properly filed with the clerk of superior court, a certified copy thereof properly filed with the commissioner ~~of motor vehicle safety~~, and the certificate of title is surrendered, the home shall become for all legal purposes a part of the real property on which it is located. Without limiting the generality of the foregoing, the home shall be subject to transfer by the owner of the real property, subject to any security interest in the real property and subject to foreclosure of any such interest, in the same manner as and together with the underlying real property.
- (b) When a home has become a part of the real property as provided in this part, it shall be unlawful for any person to remove such home from the real property except with the written consent of the owner of the real property and the holders of all security interests in the real property and in strict compliance with the requirements of Subpart 2 of this part. Any person who violates this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

#### Subpart 2

8-2-184.

- (a) A home which has previously become real property shall become personal property if:
  - (1) The manufactured home or mobile home is or is to be removed from the real property with the written consent of the owner of the real property and the holders of all security interests therein; and
  - (2) The owner of the real property and the holders of all security interests therein execute and file a Certificate of Removal from Permanent Location:
    - (A) With the commissioner ~~of motor vehicle safety~~; and
    - (B) In the real estate records of the county where the real property is located.
- (b) The Certificate of Removal from Permanent Location shall be in a form prescribed by the commissioner ~~of motor vehicle safety~~ and shall include:
  - (1) The name and address of the owner;
  - (2) The names and addresses of the holders of any security interest and of any lien;
  - (3) The title number formerly assigned to the home;
  - (4) A description of the real estate on which the home was previously located,

including the name of the owner and a reference by deed book and page number to the recording of the former certificate of permanent location; and  
(5) Any other data the commissioner of ~~motor vehicle safety~~ prescribes.

## 8-2-185.

- (a) Upon receipt of a properly executed Certificate of Removal from Permanent Location, the commissioner of ~~motor vehicle safety~~ shall file and retain a copy of such certificate together with all other prior title records related to the home and may thereafter issue a new certificate of title for the home. The commissioner of ~~motor vehicle safety~~ shall charge and collect the fee otherwise prescribed by law for the issuance of a certificate of title.  
(b) When a Certificate of Removal from Permanent Location is so filed, the commissioner of ~~motor vehicle safety~~ shall return to the filing party the original of the certificate containing thereon confirmation by the commissioner of ~~motor vehicle safety~~ that the certificate has been so filed.

## 8-2-186.

- (a) The clerk of superior court shall not accept a Certificate of Removal from Permanent Location for filing unless the certificate contains thereon the confirmation by the commissioner of ~~motor vehicle safety~~ that the certificate has been filed with the commissioner of ~~motor vehicle safety~~.  
(b) When a Certificate of Removal from Permanent Location is properly filed with the clerk of superior court, the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the certificate and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes.

## Subpart 3

## 8-2-187.

- (a) When a home which has previously become real property has been or is to be destroyed, the owner of the real property and the holders of all security interests therein shall execute and file a Certificate of Destruction:  
(1) With the commissioner of ~~motor vehicle safety~~; and  
(2) In the real estate records of the county where the real property is located.  
(b) The Certificate of Destruction shall be in a form prescribed by the commissioner of ~~motor vehicle safety~~ and shall include:  
(1) The name and address of the owner;  
(2) The names and addresses of the holders of any security interest and of any lien;  
(3) The title number formerly assigned to the home;  
(4) A description of the real estate on which the home was previously located, including the name of the owner and a reference by deed book and page number to the

recording of the former certificate of permanent location;  
(5) Verification of the destruction by a law enforcement officer; and  
(6) Any other data the commissioner ~~of motor vehicle safety~~ prescribes.

8-2-188.

- (a) Upon receipt of a properly executed Certificate of Destruction, the commissioner ~~of motor vehicle safety~~ shall file and retain a copy of such certificate together with all other prior title records related to the home.  
(b) When a Certificate of Destruction is so filed, the commissioner ~~of motor vehicle safety~~ shall issue to the filing party the original of the certificate containing thereon confirmation by the commissioner ~~of motor vehicle safety~~ that the certificate has been so filed.

8-2-189.

- (a) The clerk of superior court shall not accept a Certificate of Destruction for filing unless the certificate contains thereon the confirmation by the commissioner ~~of motor vehicle safety~~ that the certificate has been filed with the commissioner ~~of motor vehicle safety~~.  
(b) When a Certificate of Destruction is properly filed with the clerk of superior court, the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the certificate and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes.

Subpart 4

8-2-190.

A manufactured or mobile home which constitutes real property shall not be subject to Article 10 of Chapter 5 of Title 48 but shall instead be taxed as real property and a part of the underlying real estate.

8-2-191.

The commissioner ~~of motor vehicle safety~~ shall charge a fee of \$18.00 for any filing under this part.

PART IV  
Amendments to Title 10.  
Commerce and trade.

SECTION 4-1.

Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is amended in Code Section 10-1-350, relating to definitions applicable to secondary metals recyclers, by striking paragraph (5) and inserting in its place a new paragraph to read as follows:

(5) 'Personal identification card' means a driver's license or identification card issued by the Department of ~~Motor Vehicle Safety~~ Driver Services or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the ~~United States Immigration and Naturalization Service~~ U.S. Citizenship and Immigration Services of the Department of Homeland Security.

#### SECTION 4-2.

Said Title 10 is further amended in Code Section 10-1-393, relating to prohibited unfair or deceptive practices in consumer transactions, by striking paragraph (28) of subsection (b) and inserting in its place a new paragraph to read as follows:

(28) Any violation of the rules and regulations promulgated by the Department of ~~Human Resources~~ Driver Services pursuant to subsection (e) of Code Section 40-5-83 which relates to the consumer transactions and business practices of DUI Alcohol or Drug Use Risk Reduction Programs, except that the Department of ~~Human Resources~~ Driver Services shall retain primary jurisdiction over such complaints;.

#### SECTION 4-3.

Said Title 10 is further amended in Code Section 10-1-645, relating to warranty reimbursement policies under the "Georgia Motor Vehicle Franchise Practices Act," by striking subsection (d) and inserting in its place a new subsection to read as follows:

(d) If a franchisor contracts with its dealers, the franchisor shall certify under oath to the Department of ~~Motor Vehicle Safety~~ Revenue that a majority of the dealers of that line make did agree to such an agreement and file a sample copy of the agreement. On an annual basis, each dealer shall certify under oath to the department that the reimbursement costs it recovers under subparagraph (c)(2)(A) of this Code section do not exceed the amounts authorized by subparagraph (c)(2)(A) of this Code section. The franchisor shall maintain for a period of three years a file that contains the information upon which its certification is based.

#### SECTION 4-4.

Said Title 10 is further amended by striking Code Sections 10-1-665, 10-1-666, and 10-1-667, relating to respectively to definitions, enforcement, and administrative review under the "Georgia Motor Vehicle Franchise Practices Act," and inserting in their place new Code sections to read as follows:

##### 10-1-665.

As used in this part, the term:

- (1) 'Commissioner' means the ~~state revenue~~ commissioner of ~~motor vehicle safety~~.
- (2) 'Department' means the Department of ~~Motor Vehicle Safety~~ Revenue.

##### 10-1-666.

As an alternative to and in addition to any civil or criminal enforcement of this article, the ~~state revenue~~ commissioner of ~~motor vehicle safety~~ by and through the Department of ~~Motor Vehicle Safety~~ Revenue is authorized to enforce the provisions of this article

and any order issued pursuant to the enforcement of this article.

10-1-667.

Any dealer, distributor, or manufacturer who is aggrieved by a violation of any provision of this article may file a petition with the Department of ~~Motor Vehicle Safety Revenue~~ setting forth the facts supporting the allegation of such violation. The commissioner shall issue an administrative order, whenever the commissioner, after notice to all parties and after a hearing, determines that a violation of this article or any order issued under this article has occurred. The notice and the hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any party who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the commissioner shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The commissioner or the prevailing party may file, in the superior court in the county wherein the party under order resides or, if such party is a corporation, in the county wherein the corporation maintains its established place of business or its agent for service of process is located, or in the county wherein the violation occurred, a certified copy of a final order of the commissioner, whether unappealed from or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the court. The remedy prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available under the laws of this state.

PART V  
Amendments to Title 15.  
Courts.

SECTION 5-1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code Section 15-11-66, relating to disposition of delinquent children in juvenile court proceedings, by striking subsection (b) and inserting in its place a new subsection to read as follows:

- . (b) At the conclusion of the dispositional hearing provided in subsection (a) of Code Section 15-11-65, if the child is found to have committed a delinquent act, the court may, in addition to any other treatment or rehabilitation, suspend the driver's license of such child for any period not to exceed the date on which the child becomes 18 years of age or, in the case of a child who does not have a driver's license, prohibit the issuance of a driver's license to such child for any period not to exceed the date on which the child becomes 18 years of age. The court shall retain the driver's license for a period of

suspension and return it to the offender at the end of such period. The court shall notify the Department of ~~Motor Vehicle Safety~~ Driver Services of any such actions taken pursuant to this subsection. If the child is adjudicated for the commission of a delinquent act, the court may in its discretion, in addition to any other treatment or rehabilitation, order the child to serve up to a maximum of 90 days in a youth development center, or after assessment and with the court's approval, in a treatment program provided by the Department of Juvenile Justice or the juvenile court.

#### SECTION 5-2.

Said Title 15 is further amended in Code Section 15-11-73, relating to juvenile traffic offenses, by striking subsections (g) and (j) and inserting in their respective places new subsections to read as follows:

- . (g) Disposition. If the court finds on the admission of the child or upon the evidence that the child committed the offense charged, it may make one or more of the following orders:
- (1) Reprimand, counsel, or warn the child and the child's parents; provided, however, that this dispositional order is not available for any offense listed in subsection (c) of this Code section;
  - (2) As a matter of probation or if the child is committed to the custody of the state, order the Department of ~~Motor Vehicle Safety~~ Driver Services to suspend the child's privilege to drive under stated conditions and limitations for a period not to exceed 12 months;
  - (3) Require the child to attend a traffic school ~~conducted~~ approved by the Department of ~~Motor Vehicle Safety~~ Driver Services or a substance abuse clinic or program approved by either the Department of Human Resources or the Council of Juvenile Court Judges for a reasonable period of time;
  - (4) Order the child to remit to the general fund of the county a sum not exceeding the maximum applicable to an adult for a like offense;
  - (5) Require the child to participate in a program of community service as specified by the court;
  - (6) Impose any sanction authorized by Code Section 15-11-66, 15-11-67, or 15-11-68; or
  - (7) Place the child on probation subject to the conditions and limitations imposed by Title 40 on probation granted to adults for like offenses, but such probation shall be supervised by the court as provided in Code Section 15-11-66.
- . (j) Reporting procedure. Upon finding that the child has committed a juvenile traffic offense or a delinquent offense which would be a violation of Title 40 if committed by an adult, the court shall forward, within ten days, a report of the final adjudication and disposition of the charge to the Department of ~~Motor Vehicle Safety~~ Driver Services; provided, however, that this procedure shall not be applicable to those cases which have been dismissed or in which the child and the child's parents have been reprimanded, counseled, or warned by the court pursuant to paragraph (1) of subsection (g) of this Code section. The Department of ~~Motor Vehicle Safety~~ Driver Services shall record the

adjudication and disposition of the offense on the child's permanent record and such adjudication and disposition shall be deemed a conviction for the purpose of suspending or revoking the individual's driver's license. Such record shall also be available to law enforcement agencies and courts as are the permanent traffic records of adults.

#### SECTION 5-3.

Said Title 15 is further amended Code Section 15-12-40, relating to compilation, maintenance, and revision of jury lists, by striking paragraph (1) of subsection (a) and inserting in its place a new paragraph to read as follows:

- (1) At least biennially, unless otherwise directed by the chief judge of the superior court, the board of jury commissioners shall compile, maintain, and revise a trial jury list of upright and intelligent citizens of the county to serve as trial jurors and a grand jury list of the most experienced, intelligent, and upright citizens of the county to serve as grand jurors. In composing the trial jury list, the board of jury commissioners shall select a fairly representative cross section of the intelligent and upright citizens of the county. In composing the grand jury list, the board of jury commissioners shall select a fairly representative cross section of the most experienced, intelligent, and upright citizens of the county. In carrying out revisions of the trial jury list and grand jury list on or after July 1, 2002, the board of jury commissioners shall make use of all of the following:
- (A) A list of all residents of the county who are the holders of drivers' licenses or personal identification cards issued by the Department of ~~Motor Vehicle Safety Driver Services~~ pursuant to the provisions of Chapter 5 of Title 40; and the Department of ~~Motor Vehicle Safety Driver Services~~ shall periodically make such a list available to the board of jury commissioners of each county;
  - (B) The registered voters list in the county; and
  - (C) Any other list of persons resident in the county as may be deemed appropriate by the board of jury commissioners.

The Department of ~~Motor Vehicle Safety Driver Services~~ shall provide a list, which includes the name, address, date of birth, gender, driver's license or personal identification card number issued pursuant to the provisions of Chapter 5 of Title 40, and, whenever racial and ethnic information is collected by the Department of ~~Motor Vehicle Safety Driver Services~~ for purposes of voter registration pursuant to Code Section 21-2-221, racial and ethnic information, to the board of jury commissioners of each county. No jury list compiled prior to July 1, 2002, shall be rendered invalid by the use of or a failure to make use of the sources specified in this Code section; but each revision of the jury list on or after that date shall make use of all such sources to the extent actually available to the board of jury commissioners.

#### PART VI

Amendments to Article 4 of Chapter 16-8.  
Motor vehicle chop shops.

#### SECTION 6-1.

Article 4 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to motor vehicle chop shops, is amended in Code Section 16-8-82, relating to definitions applicable to said article, by striking paragraph (5) and inserting in its place a new paragraph to read as follows:

- . (5) 'Vehicle identification number' includes, but is not limited to, a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof, used by the manufacturer or the Department of ~~Motor Vehicle Safety Revenue~~ for the purpose of uniquely identifying a motor vehicle or motor vehicle part.

#### SECTION 6-2.

Said Article 4 of Chapter 8 of Title 16 is further amended in Code Section 16-8-85, relating to forfeiture of seized property, by striking paragraph (2) of subsection (f) and subsections (k), (l), and (r) and inserting in their respective places a new paragraph and subsections to read as follows:

- . (2) The prosecutor shall give notice of the forfeiture proceeding by mailing a copy of the complaint in the forfeiture proceeding to each person whose right, title, or interest is of record in the Department of ~~Motor Vehicle Safety Revenue~~, the Department of Transportation, the Federal Aviation Agency, or any other department or agency of this state, any other state or territory of the United States, or of the federal government if such property is required to be registered with any such department or agency.
- . (k) No motor vehicle or motor vehicle part shall be forfeited under this Code section solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle or motor vehicle part which is unidentifiable shall be the subject of a written report sent by the seizing agency to the Department of ~~Motor Vehicle Safety Revenue~~, which report shall include a description of the motor vehicle or motor vehicle part, including its color, if any; the date, time, and place of its seizure; the name of the person from whose possession or control it was seized; the grounds for its seizure; and the location where the same is held or stored.
- . (l) When a seized unidentifiable motor vehicle or motor vehicle part has been held for 60 days or more after the notice to the Department of ~~Motor Vehicle Safety Revenue~~ specified in subsection (k) of this Code section has been given, the seizing agency, or its agent, shall cause the motor vehicle or motor vehicle part to be sold at a public sale to the highest bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at least 30 days prior to the sale on the premises where the motor vehicle or motor vehicle part has been stored.
- . (r) When an applicant for a certificate of title or salvage certificate of title presents to the Department of ~~Motor Vehicle Safety Revenue~~ proof that the applicant purchased or acquired a motor vehicle at public sale conducted pursuant to this Code section and such fact is attested to by the seizing agency, the Department of ~~Motor Vehicle Safety Revenue~~ shall issue a certificate of title or a salvage certificate of title, as determined by the ~~state revenue~~ commissioner of ~~motor vehicle safety~~, for such motor vehicle upon

receipt of the statutory fee, a properly executed application for a certificate of title or other certificate of ownership, and the affidavit of the seizing agency that a state assigned number was applied for and affixed to the motor vehicle prior to the time that the motor vehicle was released by the seizing agency to the purchaser.

PART VII  
Amendments to Title 17.  
Criminal procedure.

SECTION 7-1.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended in Code Section 17-5-50, relating to handling and disposition of seized property, by striking paragraph (2) of subsection (b) and inserting in its place a new paragraph to read as follows:

. (2) If the person from whom custody of the property was taken fails to assert a claim to such property, upon any applicant furnishing satisfactory proof of ownership of such property and presentation of proper personal identification, the person in charge of the property section may deliver such property to the applicant. The person to whom property is delivered shall sign, under penalty of false swearing, a declaration of ownership, which shall be retained by the person in charge of the property section. Such declaration, absent any other proof of ownership, shall be deemed satisfactory proof of ownership for the purposes of this Code section; provided, however, that, in the case of motor vehicles, trailers, tractors, or motorcycles which are required to be registered with the state revenue commissioner of ~~motor vehicle safety~~, any such stolen vehicle shall be returned to the person evidencing ownership of such vehicle through a certificate of title, tag receipt, bill of sale, or other such evidence. The stolen vehicle shall be returned to the person evidencing ownership within two days after such person makes application for the return of such vehicle unless a hearing on the ownership of such vehicle is required under this Code section or unless law enforcement needs the stolen vehicle for further criminal investigation purposes. Prior to such delivery, such person in charge of the property section shall make and retain a complete photographic record of such property. Such delivery shall be without prejudice to the state or to the person from whom custody of the property was taken or to any other person who may have a claim against the property.

SECTION 7-2.

Said Title 17 is further amended in Code Section 17-6-2, relating to bail in misdemeanor cases, by striking paragraphs (3) and (4) of subsection (a) and inserting in their place new paragraphs to read as follows:

. (3) A failure to appear by the individual who has been charged with a misdemeanor offense and who posted that individual's license as bail pursuant to this subsection shall, by operation of law, cause that individual's license to be suspended by the Department of ~~Motor Vehicle Safety~~ Driver Services effective immediately, and the

clerk of the court within five days after that failure to appear shall forward a copy of the agreement to the Department of ~~Motor Vehicle Safety~~ Driver Services which shall enter the suspension upon the individual's driver history record. The posting of a license as provided in this subsection shall also be considered as bail for the purposes of Code Section 16-10-51. Where the original court date has been continued by the judge, clerk, or other officer of the court and there has been actual notice given to the defendant in open court or in writing by a court official or officer of the court or by mailing such notice to the defendant's last known address, then the provisions of this paragraph shall apply to the new court appearance date.

(4) A license suspended pursuant to this subsection shall only be reinstated when the individual shall pay to the Department of ~~Motor Vehicle Safety~~ Driver Services a restoration fee of \$25.00 together with a certified notice from the clerk of the originating court that the case has either been disposed of or has been rescheduled and a deposit of sufficient collateral approved by the sheriff of the county wherein the charges were made in an amount to satisfy the original bail amount has been paid. The court wherein the charges are pending shall be authorized to require payment of costs by the defendant in an amount not to exceed \$100.00 to reschedule the case.

#### SECTION 7-3.

Said Title 17 is further amended by striking Code Section 17-6-11, relating to display of driver's license in lieu of bail, and inserting in its place a new Code section to read as follows:

. 17-6-11.

(a) Any other laws to the contrary notwithstanding, any person who is apprehended by an officer for the violation of the laws of this state or ordinances relating to: (1) traffic, including any offense under Code Section 40-5-72 or 40-6-10, but excepting any other offense for which a license may be suspended for a first offense by the commissioner of ~~motor vehicle safety~~ driver services, any offense covered under Code Section 40-5-54, or any offense covered under Article 15 of Chapter 6 of Title 40; (2) the licensing and registration of motor vehicles and operators; (3) the width, height, and length of vehicles and loads; (4) motor common carriers and motor contract carriers; or (5) road taxes on motor carriers as provided in Article 2 of Chapter 9 of Title 48 upon being served with the official summons issued by such apprehending officer, in lieu of being immediately brought before the proper magistrate, recorder, or other judicial officer to enter into a formal recognizance or make direct the deposit of a proper sum of money in lieu of a recognizance ordering incarceration, may display his or her driver's license to the apprehending officer in lieu of bail, in lieu of entering into a recognizance for his or her appearance for trial as set in the aforesaid summons, or in lieu of being incarcerated by the apprehending officer and held for further action by the appropriate judicial officer. The apprehending officer shall note the driver's license number on the official summons. The summons duly served as provided in this Code section shall give the judicial officer jurisdiction to dispose of the matter.

(b) Upon display of the driver's license, the apprehending officer shall release the

person so charged for his or her further appearance before the proper judicial officer as required by the summons. The court in which the charges are lodged shall immediately forward to the Department of ~~Motor Vehicle Safety~~ Driver Services of this state the driver's license number if the person fails to appear and answer to the charge against him or her. The commissioner of ~~motor vehicle safety~~ driver services shall, upon receipt of a license number forwarded by the court, suspend the driver's license and driving privilege of the defaulting person until notified by the court that the charge against the person has been finally adjudicated. Such person's license shall be reinstated if the person submits proof of payment of the fine from the court of jurisdiction and pays to the Department of ~~Motor Vehicle Safety~~ Driver Services a restoration fee of \$35.00 \$50.00 or \$25.00 when such reinstatement is processed by mail.

(b.1) It shall be the duty of a law enforcement officer or emergency medical technician responding to the scene of any motor vehicle accident or other accident involving a fatal injury to examine immediately the driver's license of the victim to determine the victim's wishes concerning organ donation. If the victim has indicated that he or she wishes to be an organ donor, it shall be the duty of such law enforcement officer or emergency medical technician to take appropriate action to ensure, if possible, that the victim's organs shall not be imperiled by delay in verification by the donor's next of kin.

(c) Nothing in this Code section bars any law enforcement officer from arresting or from seizing the driver's license of any individual possessing a fraudulent license or a suspended license or operating a motor vehicle while his or her license is suspended, outside the scope of a driving permit, or without a license.

(d) The commissioner of ~~motor vehicle safety~~ driver services shall be authorized to promulgate reasonable rules and regulations to carry out the purposes of this Code section and to establish agreements with other states whereby a valid license from that state may be accepted for purposes of this Code section.

#### SECTION 7-4.

Said Title 17 is further amended in Code Section 17-10-3, relating to punishment for misdemeanors, by striking subsections (d) and (e) and inserting in their place new subsections to read as follows:

. (d) In addition to or instead of any other penalty provided for the punishment of a misdemeanor involving a traffic offense, or punishment of a municipal ordinance involving a traffic offense, with the exception of habitual offenders sentenced under Code Section 17-10-7, a judge may impose any one or more of the following sentences:

- (1) Reexamination by the Department of ~~Motor Vehicle Safety~~ Driver Services when the judge has good cause to believe that the convicted licensed driver is incompetent or otherwise not qualified to be licensed;
- (2) Attendance at, and satisfactory completion of, a driver improvement course meeting standards approved by the court;
- (3) Within the limits of the authority of the charter powers of a municipality or the

punishment prescribed by law in other courts, imprisonment at times specified by the court or release from imprisonment upon such conditions and at such times as may be specified; or

- (4) Probation or suspension of all or any part of a penalty upon such terms and conditions as may be prescribed by the judge. The conditions may include driving with no further motor vehicle violations during a specified time unless the driving privileges have been or will be otherwise suspended or revoked by law; reporting periodically to the court or a specified agency; and performing, or refraining from performing, such acts as may be ordered by the judge.
- (e) Any sentence imposed under subsection (d) of this Code section shall be reported to the Department of ~~Motor Vehicle Safety~~ Driver Services as prescribed by law.

PART VIII  
Amendments to Chapter 19-11.  
Child support enforcement.

SECTION 8-1.

Chapter 11 of Title 19, relating enforcement of duty of support, is amended in Code Section 19-11-9.1, relating to information used for support enforcement purposes, by striking subsection (a.1) and inserting in its place a new subsection to read as follows:

- . (a.1)(1) In accordance with the mandate contained in 42 U.S.C. Section 666(a)(13)(A) and notwithstanding any provision of Title 40 relating to motor vehicles as now existing or hereafter amended, the Department of ~~Motor Vehicle Safety~~ Driver Services shall require an applicant for a driver's license, a commercial driver's license, a learner's permit, or an identification card to provide to the Department of ~~Motor Vehicle Safety~~ Driver Services the applicant's social security number or certification from the Social Security Administration that the applicant is not eligible for issuance of a social security number because he or she is an alien not authorized to work in the United States as part of the application. Notwithstanding the foregoing, nothing in this Code section shall be construed so as to authorize the issuance of any driver's license, permit, or identification card to any person who is not either a ~~United States citizen or an alien with legal authorization from the United States Immigration and Naturalization Service~~ a resident as defined in Code Section 40-5-1. If the ~~Immigration and Naturalization Service~~ status legal authorization of such person is terminated or expired, any Georgia driver's license issued to such person shall be revoked. The Department of ~~Motor Vehicle Safety~~ Driver Services shall provide to the Department of Human Resources, in addition to other information required to be provided to the Department of Human Resources, such social security numbers of individuals who have been issued a driver's license, a commercial driver's license, a learner's permit, or an identification card. The Department of Human Resources shall use the information provided by the Department of ~~Motor Vehicle Safety~~ Driver Services pursuant to this Code section for the purpose of complying with the requirements of law concerning the enforcement of child support.

- (2) In accordance with the mandate contained in 42 U.S.C. Section 666(a)(13)(A) and notwithstanding any provision of Chapter 2 of Title 27 relating to licenses and permits as now existing or hereafter amended, the Department of Natural Resources shall require an applicant for a license or permit pursuant to Chapter 2 of Title 27 to provide to the Department of Natural Resources the applicant's social security number as a part of the license or permit application. The Department of Natural Resources shall provide to the Department of Human Resources, along with other information required to be provided to the Department of Human Resources, the social security numbers of individuals who have been issued a license or permit pursuant to Chapter 2 of Title 27. The Department of Human Resources shall use the information provided by the Department of Natural Resources pursuant to this Code section for the purpose of complying with the requirements of law concerning the enforcement of child support.
- (3) The information collected by the Department of ~~Motor Vehicle Safety Driver Services~~ and the Department of Natural Resources and transmitted to the Department of Human Resources pursuant to paragraphs (1) and (2) of this subsection shall be deemed confidential and not subject to public disclosure but may be shared with other state agencies as needed to comply with federal law.

#### SECTION 8-2.

Said Chapter 11 of Title 19 is further amended in Code Section 19-11-18, relating to collection procedures, notice, and judicial review by striking subparagraph (b)(3)(C) and inserting in its place a new subparagraph to read as follows:

- . (C) With respect to motor vehicles for which a certificate of title is required pursuant to Chapter 3 of Title 40, the IV-D agency may file notice of a child support lien with the social security number of the obligor noted thereon with the Department of ~~Motor Vehicle Safety Revenue~~. A child support lien shall become perfected as of the date a certificate of title showing the child support lien is issued by the department and the permanent records of the department are changed to reflect such lien. A filed or recorded but unperfected child support lien shall be valid against the obligor. A filed or recorded but unperfected child support lien shall not constitute actual or constructive notice to and shall not be valid against owners of the motor vehicle who are not the obligor and shall not constitute actual or constructive notice to and shall not be valid against individuals or entities which become transferees of the motor vehicle prior to perfection, creditors of the obligor, or holders of security interests or liens in the motor vehicle which have been perfected in accordance with Chapter 3 of Title 40 prior to perfection of the child support lien. A child support lien perfected as provided in this subparagraph shall be subordinate to any security interest or lien which has been perfected prior to the perfection of the child support lien and shall be subordinate to mechanic's liens regardless of when perfected.

**PART IX**  
Amendments to Title 20.  
Education.

**SECTION 9-1.**

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Code Section 20-2-142, relating to prescribed courses of education in public elementary and secondary schools, by striking subsection (b) and inserting in its place a new subsection to read as follows:

- . (b)(1) The State Board of Education and the Board of Public Safety Driver Services shall jointly establish an alcohol and drug course for the purpose of informing the young people of this state of the dangers involved in consuming alcohol or certain drugs in connection with the operation of a motor vehicle. The course shall be designed to generate greater interest in highway safety and accident prevention. The state board and the Board of Public Safety Driver Services shall jointly, by rules or regulations, determine the contents of the course and its duration. The commissioner of public safety driver services shall make available officers, employees, officials, agents, contractors, or other appropriate representatives as determined by the commissioner of the Department of Public Safety driver services to teach the alcohol and drug course. The alcohol and drug course shall be offered periodically but not less than once annually in the public schools of this state to students in grades nine and above in the manner prescribed by the state board.
- (2) All schools with grade nine or above which receive funds in any manner from the state shall make available to eligible students the alcohol and drug course provided in paragraph (1) of this subsection.
- (3) The commissioner of public safety driver services shall make the alcohol and drug course, and instructors where necessary, available to the private schools in this state. In addition, the commissioner of public safety driver services shall offer the alcohol and drug course periodically at various locations in the state in the manner provided by the Board of Public Safety Driver Services.

**SECTION 9-2.**

(a) Said Title 20 is further amended in Code Section 20-2-701, relating to enforcement of required school attendance, by striking subsection (c) of the Code section, as amended by Section 11B of Ga. L. 2004, p. 107, and inserting in its place a new subsection to read as follows:

- . (c) Local school superintendents or visiting teachers and attendance officers shall report to the State Board of Education, which shall, in turn, report to the Department of Motor Vehicle Safety Driver Services any child 14 years of age or older who does not meet the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such report shall include the child's name, current address, and social security number, if known.
- (b) This section of this Act shall become effective only when subsection (c) of Code

Section 20-2-701 becomes effective as provided in subsection (d) of that Code section, as amended by Section 11B of Ga. L. 2004, p. 107.

PART X  
Amendments to Chapter 21-2.  
The "Georgia Election Code."

SECTION 10-1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the "Georgia Election Code" is amended in Code Section 21-2-220, relating to application for voter registration, by striking subsection (a) and inserting in its place a new subsection to read as follows:

. (a) Any person desiring to register as an elector shall apply to do so by making application to a registrar or deputy registrar of such person's county of residence in person, by submission of the federal post card application form as authorized under Code Section 21-2-219, by making application through the Department of ~~Motor Vehicle Safety~~ Driver Services as provided in Code Section 21-2-221, by making application through the Department of Natural Resources as provided in Code Section 21-2-221.1, by making application through designated offices as provided in Code Section 21-2-222, or by making application by mail as provided in Code Section 21-2-223.

SECTION 10-2.

Said Chapter 2 of Title 21 is further amended by striking Code Section 21-2-221, relating to driver's license or identification card application as application for voter registration, and inserting in its place a new Code section to read as follows:

. 21-2-221.

(a) Each application to obtain, renew, or change the name or address on a driver's license or identification card issued by the Department of ~~Motor Vehicle Safety~~ Driver Services pursuant to Chapter 5 of Title 40 made by an applicant who is within six months of such applicant's eighteenth birthday or older shall also serve as an application for voter registration unless the applicant declines to register to vote through specific declination or by failing to sign the voter registration application.

(b) The commissioner of ~~motor vehicle safety~~ driver services and the Secretary of State shall agree upon and design such procedures and forms as will be necessary to comply with this Code section.

(c) The forms designed by the commissioner of ~~motor vehicle safety~~ driver services and the Secretary of State:

- (1) Shall not require the applicant to duplicate any information required in the driver's license portion of the application with the exception of a second signature;
- (2) Shall include such information as required on other voter registration cards issued by the Secretary of State;
- (3) Shall contain a statement that states each eligibility requirement contained in Code Section 21-2-216, that contains an attestation that the applicant meets each such

requirement, and that requires the signature of the applicant under penalty of perjury; and

(4) Shall include, in print that is identical to that used in the attestation, the penalties provided by law for submission of a false voter registration application; and a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

(d) Any change of address submitted to the Department of ~~Motor Vehicle Safety Driver Services~~ for the purpose of changing the information contained on a driver's license or identification card issued by the Department of ~~Motor Vehicle Safety Driver Services~~ shall serve as a notification of change of address for voter registration unless the registrant states that at the time of submitting the change of address that the change of address is not for voter registration purposes.

(e) The Department of ~~Motor Vehicle Safety Driver Services~~ shall transmit the completed applications for voter registration to the Secretary of State at the conclusion of each business day. The Secretary of State shall forward the applications to the appropriate county board of registrars to determine the eligibility of the applicant and, if found eligible, to add the applicant's name to the list of electors and to place the applicant in the correct precinct and voting districts.

(f) The Department of ~~Motor Vehicle Safety Driver Services~~ shall maintain such statistical records on the number of registrations and declinations as requested by the Secretary of State.

(g) No information relating to the failure of an applicant for a driver's license or identification card issued by the Department of ~~Motor Vehicle Safety Driver Services~~ to sign a voter registration application may be used for any purpose other than voter registration.

(h) The Secretary of State and the commissioner of ~~motor vehicle safety driver services~~ shall have the authority to promulgate rules and regulations to provide for the transmission of voter registration applications and signatures electronically. Such electronically transmitted signatures shall be valid as signatures on the voter registration application and shall be treated in all respects as a manually written original signature and shall be recognized as such in any matter concerning the voter registration application.

#### PART XA

Amendment to Code Section 24-3-17.

Evidentiary use of records.

#### SECTION 10A-1.

Code Section 24-3-17, relating to evidentiary use of certain departmental records, is amended by striking said Code section in its entirety and inserting in lieu thereof the following:

. 24-3-17.

- (a) A certified copy of any record of the Department of Public Safety or the Department of Driver Services or comparable agency in any other state is admissible in any judicial proceedings or administrative hearing in the same manner as the original of the record.
- (b) Any court may receive and use as evidence in any case information otherwise admissible from the records of the Department of Public Safety or the Department of Driver Services obtained from any terminal lawfully connected to the Georgia Crime Information Center without the need for additional certification of those records.
- (c) Any court may receive and use as evidence for the purpose of imposing a sentence in any criminal case information otherwise admissible from the records of the Department of Driver Services obtained from a request made in accordance with a contract with the Georgia Technology Authority for immediate on-line electronic furnishing of information.

#### PART XI

Amendment to Code Section 27-2-3.1.  
Hunting licenses and sportsman's licenses.

#### SECTION 11-1.

Code Section 27-2-3.1, relating to hunting licenses and sportsman's licenses, is amended by striking subsection (e) and inserting in its place a new subsection to read as follows:

(e) The requirements in this title for procuring any license, stamp, or permit for noncommercial hunting and fishing privileges shall be satisfied by a resident or nonresident who procures a lifetime sportsman's license. An applicant for such license who is a resident shall, prior to the issuance of the license, provide satisfactory evidence of residency. An applicant for such license who is a nonresident shall not be eligible for issuance of such license unless he or she is under 16 years of age and is the grandchild of a resident who holds a valid paid lifetime sportsman's license. The resident grandparent who holds such a lifetime sportsman's license and who is the sponsor of a nonresident applicant for a lifetime sportsman's license must certify the nonresident applicant's relationship to him or her in writing to the department. For purposes of procuring a lifetime sportsman's license, the term 'residency' means a domicile within Georgia for a minimum of 12 consecutive months immediately prior to procuring such license. Satisfactory evidence of residency shall consist of a current Georgia driver's license or official Georgia identification card issued by the Department of Motor Vehicle Safety Driver Services and at least one of the following:

- (1) A voter registration card;
- (2) A copy of the prior year's Georgia income tax return;
- (3) A current Georgia automobile registration; or
- (4) A warranty deed to property at the same address as is displayed on the Georgia driver's license.

Minors under 18 years of age shall be presumed to be residents upon proof of parent's residency as provided for in this Code section. For purposes of procuring the Type I

(Infant) lifetime license, a certified copy of the birth certificate of the licensee shall be required.

## PART XII

### Amendments to Chapter 32-6.

Regulation of maintenance and use of public roads generally.

#### SECTION 12-1.

Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to regulation of maintenance and use of public roads generally, is amended in Code Section 32-6-2, relating to regulation of parking, by striking paragraph (1) and inserting in its place a new paragraph to read as follows:

- . (1) The department may regulate and prohibit the parking of any type of vehicle on any public road on the state highway system, including extensions thereof into or through municipalities. Whenever any state or local law enforcement officer ~~or employee of the Department of Motor Vehicle Safety to whom law enforcement authority has been designated~~ finds a vehicle parked in violation of law or the department's regulations, such officer or employee is authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same. If the vehicle is unattended, such officer ~~or employee~~ is authorized to remove or provide for the removal of such vehicle to the nearest garage or other place of safety at the owner's expense. State or local law enforcement officers and the department are further authorized, with or without the consent of the owner, to remove or have removed any obstruction, cargo, or personal property which is abandoned, unattended, or damaged as a result of a vehicle accident which the department determines to be a threat to public health or safety or to mitigate traffic congestion;:

#### SECTION 12-2.

Said Chapter 6 of Title 32 is further amended by striking Code Section 32-6-27, relating to enforcement of load limitations, and inserting in its place a new Code section to read as follows:

. 32-6-27.

- (a) Any person who violates the load limitation provisions of Code Section 32-6-26 shall be conclusively presumed to have damaged the public roads, including bridges, of this state by reason of such overloading and shall recompense the state for such damage in accordance with the following schedule:

- (1) For the first 1,000 pounds of excess weight, 0.8¢ per pound; plus 1.5¢ per pound for the next 2,000 pounds of excess weight; plus 3¢ per pound for the next 2,000 pounds of excess weight; plus 4¢ per pound for the next 3,000 pounds of excess weight; plus 5¢ per pound for all excess weight over 8,000 pounds;
- (2) Where a vehicle is authorized to exceed the weight limitations of Code Section 32-6-26 by a permit issued pursuant to Code Section 32-6-28, the term 'excess weight' means that weight which exceeds the weight allowed by such permit. For such

vehicles, damages for excess weight shall be assessed according to the following schedule: 125 percent times, in each category of excess weights, the rate imposed on offending vehicles operating without a permit.

(a.1)(1)(A) The Department of ~~Motor Vehicle Safety~~ Public Safety is authorized to issue a citation to the owner or operator of any vehicle in violation of a maximum weight limit on a county road which is a designated local truck route under subsection (f) of Code Section 32-6-26 and for which signs have been placed and maintained as required under paragraph (2) of subsection (c) of Code Section 32-6-50.

(B) The Department of ~~Motor Vehicle Safety~~ Public Safety is authorized to issue a warning to the owner or operator of any vehicle in violation of a maximum weight limit on a county road which is a designated local truck route under subsection (f) of Code Section 32-6-26 but for which signs have not been placed or maintained as required under paragraph (2) of subsection (c) of Code Section 32-6-50 upon the first such violation and to issue a citation to such owner or operator for a subsequent such violation.

(2)(A) The Department of ~~Motor Vehicle Safety~~ Public Safety is authorized to issue a citation to the owner or operator of any vehicle in violation of a maximum weight limit on a bridge for which signs have been placed and maintained as required under paragraph (3) of Code Section 32-4-41 or subsection (a.1) of Code Section 32-4-91.

(B) The Department of ~~Motor Vehicle Safety~~ Public Safety is authorized to issue a warning to the owner or operator of any vehicle in violation of a maximum weight limit on a bridge but for which signs have not been placed or maintained as required under paragraph (3) of Code Section 32-4-41 or subsection (a.1) of Code Section 32-4-91 upon the first such violation and to issue a citation to such owner or operator for a subsequent such violation.

(b) The schedules listed in paragraphs (1) and (2) of subsection (a) of this Code section shall apply separately to (1) the excess weight of the gross load and (2) the sum of the excess weight or weights of any axle or axles, provided that where both gross load and axle weight limits are exceeded, the owner or operator shall be required to recompense the state only for the largest of the money damages imposed under items (1) and (2) of this subsection.

(c)(1) Within 30 days after the issuance of the citation, the owner or operator of any offending vehicle shall pay the amount of the assessment to the Department of ~~Motor Vehicle Safety~~ Public Safety or request an administrative determination of the amount and validity of the assessment.

(2) The right to an administrative determination of the amount and validity of the assessment shall be granted only to the owner or operator of an offending vehicle.

(3) The party requesting an administrative determination of the amount and validity of the assessment shall deposit the amount of the assessment with the Department of ~~Motor Vehicle Safety~~ Public Safety, within the time permitted to request such determination, before the determination will be granted. In the event the assessment is determined to be erroneous, the Department of ~~Motor Vehicle Safety~~ Public Safety

shall make prompt refund of any overpayment after receipt of a final decision making such determination.

(4) If an administrative hearing is requested, it shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and regulations of the Department of ~~Motor Vehicle Safety~~ Public Safety. The scope of any such hearing shall be limited to a determination of:

(A) The weight of the offending vehicle;

(B) The maximum weight allowed by law on the roadway upon which the offending vehicle was operated; and

(C) Whether the operator had in his or her actual possession a valid oversize or overweight permit issued by the Department of Transportation allowing the vehicle to operate in excess of the maximum weight otherwise allowed by law on the roadway upon which the offending vehicle was operated.

(5) Any person who has exhausted all administrative remedies available within the Department of ~~Motor Vehicle Safety~~ Public Safety and who is aggrieved by a final order of the Department of ~~Motor Vehicle Safety~~ Public Safety is entitled to judicial review in accordance with Chapter 13 of Title 50.

(6) If a party requests an administrative determination of the amount and validity of the assessment and fails to appear without first obtaining permission from the administrative law judge or does not withdraw the request in writing no less than five days in advance of a scheduled hearing, the party shall be deemed in default and the citation shall be affirmed by operation of law. The party shall be deemed to owe the sum of \$75.00 in addition to the amount due on the citation, which sum shall represent hearing costs.

(d) All moneys collected in accordance with this Code section shall be ~~transmitted to the Department of Motor Vehicle Safety, thereafter to be~~ disposed of as follows:

(1) All moneys collected for violations of the weight limitations imposed by this article shall be remitted to the general fund of the state treasury;

(2) All moneys collected for violations of the height, width, or length limitations imposed by this article, after the appropriate statutory deductions, shall be retained by the governing authority of the county wherein the violation occurred for deposit in the general treasury of said county;

(3) Hearing costs imposed pursuant to paragraph (6) of subsection (c) of this Code section shall be retained by the Department of ~~Motor Vehicle Safety~~ Public Safety;

(4) Reissuance fees imposed pursuant to paragraph (4) of subsection (g) of this Code section shall be retained by the Department of ~~Motor Vehicle Safety~~ Revenue; and

(5) Restoration fees imposed pursuant to paragraph (1) of subsection (i) of this Code section shall be retained by the Department of ~~Motor Vehicle Safety~~ Revenue.

(e) Any owner or operator of a vehicle which is operated on the public roads of this state in violation of the weight limitations provided in this article shall be required, in addition to paying the moneys provided in subsection (a) of this Code section, to unload all gross weight in excess of 6,000 pounds over the legal weight limit before being allowed to move the vehicle.

(f) Any person authorized by law to enforce this article may seize the offending vehicle of an owner who fails or whose operator fails to pay the moneys prescribed in subsection (a) of this Code section and hold such vehicle until the prescribed moneys are paid. If the offending vehicle is not registered in this state, any person authorized by law to enforce this article may seize any vehicle owned or operated by an owner who fails or whose operator fails to pay the moneys prescribed in subsection (a) of this Code section and hold such vehicle until the prescribed moneys are paid. Any person seizing a vehicle under this subsection or subsection (e) of this Code section may, when necessary, store the vehicle; and the owner thereof shall be responsible for all reasonable storage charges thereon. When any vehicle is seized, held, unloaded, or partially unloaded under these subsections, the load or any part thereof shall be removed or cared for by the owner or operator of the vehicle without any liability on the part of the authorized person or of the state or any political subdivision because of damage to or loss of such load or any part thereof.

(g)(1) Whenever any person, firm, or corporation violates this article and becomes indebted to the Department of ~~Motor Vehicle Safety~~ Public Safety because of such violations and fails within 30 days of the date of issuance of the overweight assessment citation either to pay the assessment or appeal to the Department of ~~Motor Vehicle Safety~~ Public Safety for administrative review, as provided for in subsection (c) of this Code section, such assessment shall become a lien upon the overweight motor vehicle so found to be in violation, which lien shall be superior to all liens except liens for taxes or perfected security interests established before the debt to the Department of ~~Motor Vehicle Safety~~ Public Safety was created.

(2) Whenever any person, firm, or corporation requests an administrative review, it shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In the event that the administrative law judge finds in favor of the Department of ~~Motor Vehicle Safety~~ Public Safety, the person, firm, or corporation shall pay the assessment within 30 days after that decision becomes final or, if judicial review is had in accordance with Chapter 13 of Title 50, then within 30 days after final judicial review is terminated. If the person, firm, or corporation fails to pay the assessment within 30 days, such assessment shall become a lien as provided for under paragraph (1) of this subsection.

(3) The Department of ~~Motor Vehicle Safety~~ Public Safety shall perfect the lien created under this subsection by sending notice thereof on a notice designated by the commissioner of ~~motor vehicle safety~~ public safety, by first-class mail or by statutory overnight delivery, to the owner and all holders of liens and security interests shown on the records of the Department of ~~Motor Vehicle Safety~~ Revenue maintained pursuant to Chapter 3 of Title 40. Upon receipt of notice from the Department of ~~Motor Vehicle Safety~~ Public Safety, the holder of the certificate of title shall surrender same to the state revenue commissioner of ~~motor vehicle safety~~ for issuance of a replacement certificate of title bearing the lien of the department unless the assessment is paid within 30 days of the receipt of notice. The Department of ~~Motor Vehicle Safety~~ Revenue may append its the lien to its records, notwithstanding the

failure of the holder of the certificate of title to surrender said certificate as required by this paragraph.

(4) Upon issuance of a title bearing the lien of the Department of ~~Motor Vehicle Safety Public Safety~~, or the appending of the lien to the records of the Department of ~~Motor Vehicle Safety Revenue~~, the owner of the vehicle or the holder of any security interest or lien shown in the records of the ~~Department of Revenue~~ may satisfy such lien by payment of the amount of the assessment, including hearing costs, if any, and payment of a reissuance fee of \$100.00. Upon receipt of such amount, the Department of ~~Motor Vehicle Safety Public Safety~~ shall release its lien and the Department of Revenue shall issue a new title without the lien.

(h)(1) The Department of ~~Motor Vehicle Safety Public Safety~~, in seeking to foreclose its lien on the motor vehicle arising out of an overweight motor vehicle citation assessed under this article, may seek an immediate writ of possession from the court before whom the petition is filed, if the petition contains a statement of facts, under oath, by the Department of ~~Motor Vehicle Safety Public Safety~~, its agents, its officers, or attorney setting forth the basis of the petitioner's claim and sufficient grounds for issuance of an immediate writ of possession.

(2) The Department of ~~Motor Vehicle Safety Public Safety~~ shall allege under oath specific facts sufficient to show that it is within the power of the defendant to conceal, encumber, convert, convey, or remove from the jurisdiction of the court the property which is the subject matter of the petition.

(3) The court before whom the petition is pending shall issue a writ for immediate possession, upon finding that the petitioner has complied with paragraphs (1) and (2) of this subsection. If the petitioner is found not to have made sufficient showing to obtain an immediate writ of possession, the court may, nevertheless, treat the petition as one being filed under Code Section 44-14-231 and proceed accordingly.

(4) When an immediate writ of possession has been granted, the Department of ~~Motor Vehicle Safety Public Safety~~ shall proceed against the defendant in the same manner as provided for in Code Sections 44-14-265 through 44-14-269.

(i)(1) Whenever any person, firm, or corporation violates this article and fails within 30 days of the date of issuance of the overweight assessment citation either to pay the assessment or appeal to the Department of ~~Motor Vehicle Safety Public Safety~~ for an administrative review as provided for under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the Department of ~~Motor Vehicle Safety Revenue~~ may act to suspend the motor vehicle registration of the vehicle involved. However, if the person, firm, or corporation requests an administrative review, the Department of ~~Motor Vehicle Safety Revenue~~ shall act to suspend the registration only after the issuance of a final decision favorable to the Department of ~~Motor Vehicle Safety Public Safety~~ and the requisite failure of the person, firm, or corporation to pay the assessment. Upon such failure to pay the assessment, the Department of ~~Motor Vehicle Safety Revenue~~ shall send a letter to the owner of such motor vehicle notifying the owner of the suspension of the motor vehicle registration issued to the motor vehicle involved in the overweight assessment citation. Upon complying with

this subsection by paying the overdue assessment and upon submitting proof of compliance and paying a \$10.00 restoration fee to the Department of ~~Motor-Vehicle Safety Revenue~~, the state revenue commissioner ~~of motor vehicle safety~~ shall reinstate any motor vehicle registration suspended under this subsection. In cases where the motor vehicle registration has been suspended under this subsection for a second or subsequent time during any two-year period, the Department of ~~Motor-Vehicle Safety Revenue~~ shall suspend the motor vehicle registration for a period of 60 days and thereafter until the owner submits proof of compliance with this subsection and pays the \$150.00 restoration fee to the Department of ~~Motor-Vehicle Safety Revenue~~.

(2) Unless otherwise provided for in this Code section, notice of the effective date of the suspension of a motor vehicle registration occurs when the owner has actual knowledge or legal notice thereof, whichever first occurs. For the purposes of making any determination relating to the restoration of a suspended motor vehicle registration, no period of suspension shall be deemed to have begun until ten days after the mailing of the notice required in paragraph (1) of this subsection.

(3) For the purposes of this subsection, except where otherwise provided, the mailing of a notice to a person at the name and address shown in records of the Department of ~~Motor-Vehicle Safety Revenue~~ maintained under Chapter 3 of Title 40 shall, with respect to the holders of liens and security interests, be presumptive evidence that such person received the required notice.

(4) For the purposes of this subsection, except where otherwise provided, the mailing of a notice to a person or firm at the name and address shown on the overweight assessment citation shall, with respect to owners and operators of vehicles involved in an overweight assessment, be presumptive evidence that such person received the required notice.

(5) The state revenue commissioner ~~of motor vehicle safety~~ may suspend the motor vehicle registration of any offending vehicle for which payment of an overweight assessment is made by a check that is returned for any reason.

(6) For the purposes of this subsection, where any provisions require the Department of Public Safety or the Department of Motor-Vehicle Safety Revenue to give notice to a person, which notice affects such person's motor vehicle license plate, the mailing of such notice and the name and address shown on the notice of overdue assessment citation supplied by the Department of ~~Motor-Vehicle Safety~~ Public Safety, as required by this subsection, shall be presumptive evidence that such person received the required notice.

#### SECTION 12-3.

Said Chapter 6 of Title 32 is further amended by striking Code Section 32-6-29, relating to regulations and enforcement, and inserting in its place a new Code section to read as follows:

. 32-6-29.

(a) The Department of Transportation shall be responsible for rules and regulations

relating to size and weight limits and issuance of permits under this article.

(b) The Department of Transportation shall not, however, employ any law enforcement officers or agents except as may be specifically authorized by other laws. Responsibility Law enforcement responsibility for enforcement of this article shall be in the Department of Motor Vehicle Public Safety.

#### SECTION 12-4.

Said Chapter 6 of Title 32 is further amended by striking Code Section 32-6-30, relating to stopping vehicles for purposes of weighing, measuring, or inspecting, and inserting in its place a new Code section to read as follows:

##### 32-6-30.

(a) Any law enforcement officer or employee of the Department of Motor Vehicle Safety Public Safety to whom law enforcement authority has been designated who observes a motor vehicle being operated upon a public road of the state and who has reason to believe that: (1) Any provision of this article is being violated; (2) The vehicle is improperly licensed in violation of Code Sections 40-2-150 through 40-2-162; or (3) A fuel tax registration card is not being carried or that a proper distinguishing identification marker is not affixed to the vehicle in violation of Code Sections 48-9-39 and 48-11-14 is authorized to stop such vehicle and weigh, measure, or inspect the same. Violations of such licensing or fuel tax registration and identification requirements shall be reported to the Department of Motor Vehicle Safety or the Department of Revenue as appropriate.

(b)(1) If the operator of the vehicle shall refuse to stop upon proper order as directed by a person authorized by subsection (a) of this Code section to stop, weigh, measure, or inspect the vehicle or its load, the operator shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$200.00. The operator shall have the right to post an appropriate bond, which shall not exceed \$400.00, when any law enforcement officer or employee of the Department of Motor Vehicle Safety Public Safety authorized to enforce this article apprehends said operator for any violation of this article.

(2) In addition, the operator's driver's license or nonresident's driving privilege may be suspended for a period of not more than 90 days by the Department of Motor Vehicle Safety Driver Services upon satisfactory proof of said refusal to stop or drive the vehicle upon the scales. Each person who shall apply for a Georgia driver's license, or for nonresident driving privileges, or for a renewal of same thereby consents to stop such vehicle for inspection or to drive such vehicle upon scales whenever so ordered by a law enforcement official or authorized employee of the Department of Motor Vehicle Safety Public Safety.

#### PART XIII Amendments to Title 33. Insurance.

## SECTION 13-1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code Section 33-9-42, relating to reduction in premiums for motor vehicle liability, first-party medical, and collision coverages for certain named drivers, by striking subsections (b) through (g) and inserting in their place new subsections to read as follows:

- . (b) Reductions in premiums shall be available if all named drivers who are 25 years of age or older:
- (1) Have committed no traffic offenses for the prior three years or since the date of licensure, whichever is shorter;
  - (2) Have had no claims based on fault against an insurer for the prior three years; and
  - (3) Complete one of the following types of driving courses:
    - (A) A course in defensive driving of not less than six hours from a driver improvement clinic or commercial or noncommercial driving school approved by and under the jurisdiction of the Department of ~~Motor Vehicle Safety~~ Driver Services;
    - (B) An emergency vehicles operations course at the Georgia Public Safety Training Center;
    - (C) A course in defensive driving of not less than six hours from a driver improvement program which is administered by a nonprofit organization such as the American Association of Retired People, the American Automobile Association, the National Safety Council, or a comparable organization and which meets the standards promulgated by the Department of ~~Motor Vehicle Safety~~ Driver Services pursuant to subsection (f) of this Code section; or
    - (D) A course in defensive driving of not less than six hours offered by an employer to its employees and their immediate families, which course has been approved by the Department of ~~Motor Vehicle Safety~~ Driver Services.
- (c) Reductions in premiums shall be available if all named drivers who are under 25 years of age:
- (1) Have committed no traffic offenses for the prior three years or since the date of licensure, whichever is shorter;
  - (2) Have had no claims based on fault against an insurer for the prior three years; and
  - (3) Complete a preparatory course offered to new drivers of not less than 30 hours of classroom training and not less than six hours of practical training by a driver's training school approved by and under the jurisdiction of the Department of ~~Motor Vehicle Safety~~ Driver Services or by an accredited secondary school, junior college, or college.
- (d) Upon completion of one of the driving courses specified in paragraph (3) of subsection (b) or paragraph (3) of subsection (c), as applicable, of this Code section by each named driver, eligibility for reductions in premiums for such policy shall continue for a period of three years, provided any named driver under such policy does not commit a traffic offense or have a claim against the policy based on any such driver's fault.
- (e) The Department of ~~Motor Vehicle Safety~~ Driver Services shall assure through the

supervision of driver improvement clinics, emergency vehicles operations courses, driver improvement programs administered by nonprofit organizations, and commercial or noncommercial driving schools approved by the Department of ~~Motor Vehicle Safety Driver Services~~ that defensive driving courses shall be available and accessible wherever practicable as determined by the department to licensed drivers throughout the state.

(f) Each insurer providing premium discounts under this Code section shall provide, upon the request of the Commissioner, information regarding the amount of such discounts in a form acceptable to the Commissioner.

(g) The power of supervision granted to the Department of ~~Motor Vehicle Safety Driver Services~~ over driver improvement programs administered by nonprofit organizations under this Code section shall be limited to the establishment of minimum standards and requirements relative to the content of specific courses offered by such programs and relative to investigation and resolution of any complaints directed towards the content or operation of any course by a person enrolled in such course. The Department of ~~Motor Vehicle Safety Driver Services~~ may adopt rules and regulations necessary to carry out the provisions of this subsection. The Department of ~~Motor Vehicle Safety Driver Services~~ shall not require a nonprofit organization to obtain a license or permit or to pay a fee in order to administer a driver improvement program in the state. The Department of ~~Motor Vehicle Safety Driver Services~~ shall not require a commercial driving school licensed by such department to obtain an additional license to teach a defensive driving course, as described in subparagraph (b)(3)(A) or paragraph (3) of subsection (c) of this Code section, at any location in this state.

#### SECTION 13-2.

Said Title 33 is further amended in Code Section 33-34-9, relating to payment of insurance for total loss motor vehicles, by striking subsection (b) and inserting in its place a new subsection to read as follows:

. (b) For the purpose of implementing this Code section, at the discretion of the ~~Commissioner of the Department of Motor Vehicle Safety state revenue commissioner~~, an insurer may be granted access via electronic means to individual motor vehicle records. Any such access shall be in accordance with Code Section 40-3-23, and the Department of ~~Motor Vehicle Safety Revenue~~ shall establish the application and approval process before allowing any such access. The information provided to an insurer pursuant to this Code section shall be limited to the verification of the vehicle owner's name, vehicle information, and any recorded security interests or liens as shown on the records of the Department of ~~Motor Vehicle Safety Revenue~~.

#### PART XIII A Amendment to Chapter 35-2. Department of Public Safety.

#### SECTION 13A-1.

Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department of Public Safety, is amended in Code Section 35-2-33, relating to additional duties of the Georgia State Patrol, by striking paragraph (1) of subsection (a) and inserting in its place a new paragraph to read as follows:

- . (1) To enforce the laws of this state relating to the use, ownership, control, licensing, and registration of motor vehicles and Code Sections 32-9-4 and 40-6-54, relating to designation of restricted travel lanes;

#### SECTION 13A-2.

Said Chapter 2 of Title 35 is further amended by adding at its end a new Article 5 to read as follows:

#### . ARTICLE 5

##### 35-2-100.

There is created and established a division of the Department of Public Safety to be known as the Motor Carrier Compliance Division, the members of which shall be known and designated as 'law enforcement officers.'

##### 35-2-101.

- (a) The Motor Carrier Compliance Division of the department shall have jurisdiction throughout this state with such duties and powers as are prescribed by law.
- (b) The primary duties of the Motor Carrier Compliance Division shall be as follows:
- (1) Enforcement of laws and regulations relating to the size and the weights of motor vehicles, trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32;
  - (2) Enforcement of laws and regulations relating to licensing and fuel tax registration requirements and the reporting of violations thereof to the Department of Revenue;
  - (3) Enforcement of safety standards for motor vehicles and motor vehicle components;
  - (4) Enforcement of laws relating to hazardous materials carriers;
  - (5) Enforcement of all state laws on the following properties owned or controlled by the Department of Transportation or the State Road and Tollway Authority: rest areas, truck-weighing stations or checkpoints, wayside parks, parking facilities, toll facilities, and any buildings and grounds for public equipment and personnel used for or engaged in administration, construction, or maintenance of the public roads or research pertaining thereto;
  - (6) Enforcement of Code Section 16-10-24, relating to obstructing or hindering law enforcement officers;
  - (7) Directing and controlling traffic on any public road which is part of the state highway system but only in areas where maintenance and construction activities are being performed and at scenes of accidents and emergencies until local police officers or Georgia State Patrol officers arrive and have the situation under control;
  - (8) Enforcement of Code Sections 32-9-4 and 40-6-54, relating to designation of

restricted travel lanes;

(9) Enforcement of Code Section 16-11-43, relating to obstructing highways, streets, sidewalks, or other public passages, on any public road which is part of the state highway system;

(10) Enforcement of Code Section 16-7-43, relating to littering public or private property or waters, on any public road which is part of the state highway system;

(11) Enforcement of Code Section 16-7-24, relating to interference with government property, on any public road which is part of the state highway system; and

(12) Enforcement of any state law when ordered to do so by the commissioner.

(c) In performance of the duties specified in subsection (b) of this Code section, certified law enforcement officers employed by the department or designated by the commissioner shall:

(1) Be authorized to carry firearms;

(2) Exercise arrest powers;

(3) Have the power to stop, enter upon, and inspect all motor vehicles using the public highways for purposes of determining whether such vehicles have complied with and are complying with laws, the administration or enforcement of which is the responsibility of the department;

(4) Have the power to examine the facilities where motor vehicles are housed or maintained and the books and records of motor carriers for purposes of determining compliance with laws, the administration or enforcement of which is the responsibility of the department; and

(5) Exercise the powers generally authorized for law enforcement officers in the performance of their duties or otherwise to the extent needed to protect any life or property when the circumstances demand action.

(d) The commissioner shall authorize law enforcement officers of the Motor Carrier Compliance Division to make use of dogs trained for the purpose of detection of drugs and controlled substances while such officers are engaged in the performance of their authorized duties. If such authorized use of such a dog indicates probable cause to indicate the presence of contraband, the officer or officers shall in those circumstances have the full authority of peace officers to enforce the provisions of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' and Article 3 of Chapter 13 of Title 16, the 'Dangerous Drug Act'; provided, however, that the department must immediately notify the local law enforcement agency and district attorney of the jurisdiction where a seizure is made.

(e)(1) Certified law enforcement officers employed by the Motor Carrier Compliance Division may use a department motor vehicle while working an approved off-duty job, provided that:

(A) The off-duty employment is of a general nature that is the subject of a contract between the off-duty employer and the department and is service in which the use of the department motor vehicle is a benefit to the department or is in furtherance of the department's mission;

(B) The off-duty employer agrees to pay and does pay to the department an amount

determined by the commissioner to be sufficient to reimburse the department for the use of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to such contract, the department shall pay the employee of the department the compensation earned on off-duty employment whenever such employee performs such service in a department motor vehicle; and

- (C) The commissioner has specifically approved, in writing, the individual use of the vehicle by the employee.
- (2) At no time will an off-duty employee be allowed use of a department motor vehicle at any political function of any kind.

PART XIV  
Amendments to Chapter 40-2.  
Registration and licensing of motor vehicles.

SECTION 14-1.

Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by striking paragraphs (2) and (3) of Code Section 40-2-1, relating to definitions, and inserting in their place new paragraphs to read as follows:

- . (2) 'Commissioner' means the ~~commissioner of motor vehicle safety state revenue commissioner~~.
- (3) 'Department' means the Department of ~~Motor Vehicle Safety~~ Revenue.

SECTION 14-2.

Said Chapter 2 of Title 40 is further amended in Code Section 40-2-8, relating to license plates, temporary plates, and unregistered vehicles, by striking division (b)(2)(B)(ii) and inserting in its place a new division to read as follows:

- . (ii) All temporary plates issued by dealers to purchasers of vehicles on or after January 1, 2001, shall be of a standard design prescribed by regulation promulgated by the ~~Department of Motor Vehicle Safety~~ department in accordance with the requirements of this subparagraph. Temporary plates issued by dealers to purchasers prior to such date may be of any design if such plates meet the requirements of this subparagraph.

SECTION 14-3.

Said Chapter 2 of Title 40 is further amended by striking Code Section 40-2-24, relating to bonding of tag agents, and inserting in its place a new Code section to read as follows:

. 40-2-24.

Each tag agent shall give bond conditioned as the commissioner may require, and in such amount as the commissioner may deem necessary and proper, not exceeding \$250,000.00, to protect the state adequately. Such bond shall be executed by a surety corporation licensed to do business in the State of Georgia, as surety, and the premiums shall be paid by the ~~Department of Motor Vehicle Safety~~ department. The bond shall

run to the Governor and his or her successors in office and shall be approved as to conditions, form, and sufficiency by the commissioner.

#### SECTION 14-3.1.

Said Chapter 2 of Title 40 is further amended by striking subsections (b) and (d) of Code Section 40-2-40, relating to registration of delinquent vehicles, and inserting in their respective places new subsections to read as follows:

- . (b) All applications for the registration of a delinquent vehicle shall, before being accepted by a tag agent, be first endorsed by a sheriff or a deputy sheriff, a chief of police or his or her designated representative, a state patrolman, a state revenue special agent or enforcement officer, a Department of Transportation law enforcement officer, a tax commissioner, or a tax collector. The officer endorsing the delinquent application shall indicate, with his or her endorsement on the application, the total amount of the prescribed registration fee together with the 25 percent penalty provided in this Code section, and the full total of such amount shall be paid to the tag agent before any license plate or revalidation decal as provided for in this chapter shall be assigned to the applicant.
- . (d) Between the first and fifth days of each calendar month, the tag agent shall remit to the respective fiscal authorities of the counties or cities employing the endorsing officers the full amount of such penalties accredited to such officers during and for the preceding calendar month. All sums accredited to state patrolmen, state revenue special agents or enforcement officers, or Department of Transportation law enforcement officers shall be paid to the fiscal authorities of the county where the vehicle is registered.

#### SECTION 14-4.

Said Chapter 2 of Title 40 is further amended by adding after Code Section 40-2-64 a new Code Section 40-2-64.1 to read as follows:

- . 40-2-64.1.
  - (a) In accordance with the Taiwan Relations Act as provided for in Code Section 50-1-2, the commissioner shall design a distinctive Foreign Organization license plate.
  - (b) Upon application and compliance with the state motor vehicle laws relating to the registration and licensing of motor vehicles and the payment of the regular license fee, official representatives of the Taipei Economic and Cultural Representatives Office in the United States who maintain a presence in Georgia shall be issued Foreign Organization license plates as prescribed in Code Section 40-2-31 in duplicate. Such license plates shall be fastened to both the front and the rear of the vehicle.
  - (c) Official representatives of the Taipei Economic and Cultural Representatives Office in Atlanta accredited by the Georgia Department of Economic Development shall be entitled to Foreign Organization license plates for the representative's privately owned motor vehicle. Such license plates shall not be used by any representative after his or her presence in Georgia has terminated.
  - (d) License plates issued under this Code section shall not be transferred so as to be

used by any person other than the person to whom such plates were originally issued but shall be transferred to another vehicle as provided in Code Section 40-2-80.

(e) The commissioner is authorized to establish procedures and promulgate rules and regulations for implementing this Code section.

#### SECTION 14-5.

Said Chapter 2 of Title 40 is further amended by striking Code Section 40-2-70, relating to special license plates for certain disabled veterans, and inserting in its place a new Code section to read as follows:

. 40-2-70.

Any citizen and resident of the State of Georgia who has been discharged from the armed forces under conditions other than dishonorable, who is disabled to any degree specified and enumerated in Code Section 40-2-69, and who is the owner of a private passenger motor vehicle, but who cannot qualify under Code Section 40-2-69, shall be entitled to a special and distinctive automobile license plate. Such license plate shall be transferred to another vehicle acquired by such veteran or jointly by such veteran and his or her spouse as provided in Code Section 40-2-80. Such veteran shall be entitled to such plate regardless of whether he or she is suffering from a service connected or nonservice connected disability. Such veteran must apply for such license plate and, upon compliance with the state motor vehicle laws for licensing of motor vehicles and payment of the regular license fee for plates as prescribed under Article 7 of this chapter, such veteran shall be issued similar license plates as prescribed in Code Section 40-2-71 for private passenger cars. There shall be no charge for the additional plate issued such veteran under this Code section. If a veteran has not been certified as disabled by the United States Department of Veterans Affairs, such veteran may submit to the Department of Veterans Service such veteran's discharge papers and a certified statement from a physician, licensed under Chapter 34 of Title 43, certifying that in the opinion of such physician such veteran is disabled to a degree enumerated in Code Section 40-2-69. If the certificate from the physician indicates the qualifying disabilities which meet the standards of the United States Department of Veterans Affairs, the commissioner of veterans service shall submit a letter to the state revenue commissioner ~~of motor vehicle safety~~ indicating that the veteran meets the requirements of this Code section and qualifies for a special license plate as provided in this Code section.

#### SECTION 14-6.

Said Chapter 2 of Title 40 is further amended by striking Code Section 40-2-82, relating to special license plates for Georgia State Patrol vehicles, and inserting in its place a new Code section to read as follows:

. 40-2-82.

The commissioner of public safety shall be issued distinctive license plates to be used on motor vehicles assigned to the Department of Public Safety and operated by troopers of the Georgia State Patrol or law enforcement officers of the Motor Carrier

Compliance Division. The distinctive plates shall be issued free of charge in accordance with procedures agreed upon by the commissioner of public safety and the state revenue commissioner ~~of motor vehicle safety~~. License plates issued pursuant to this Code section need not contain a place for the county name decal and no county name decal need be affixed to a license plate issued pursuant to this Code section.

#### SECTION 14-7.

Said Chapter 2 of Title 40 is further amended in Code Section 40-2-87, relating to definitions applicable to reciprocal agreements for registration of commercial vehicles, by striking paragraph (9) and inserting in its place a new paragraph to read as follows:

. (9) 'Commissioner' means the jurisdiction official in charge of registration of vehicles and means, for the State of Georgia, the state revenue commissioner ~~of motor vehicle safety~~.

#### SECTION 14-8.

Said Chapter 2 of Title 40 is further amended by striking 40-2-89, relating to ineligibility for registration for vehicles prohibited by federal agencies, and inserting in its place a new Code section to read as follows:

. 40-2-89.

Any vehicle which is prohibited by any federal agency acting pursuant to federal law, rule, or regulation from being operated in interstate commerce shall not be eligible for registration under this article, and the commissioner shall ~~refuse to issue, refuse to renew, suspend~~ or revoke such registration for any vehicle so prohibited from operating.

#### SECTION 14-9.

Said Chapter 2 of Title 40 is further amended by striking Code Section 40-2-135, relating to revocation of license plates, and inserting in its place a new Code section to read as follows:

. 40-2-135.

(a) The commissioner shall revoke any regular, prestige, special, or distinctive license plate which the commissioner determines was issued in error and shall revoke the special and distinctive license plate issued to a member of the General Assembly at such time as the holder ceases to hold such public office. The commissioner ~~shall or his or her designated agent may~~ revoke any license plate purchased with a ~~personal~~ check which was returned for any reason. The commissioner shall notify the holder of such regular, prestige, special, or distinctive license plate or of such other license plate of such revocation. The holder of such revoked license plate shall return the license plate to the commissioner or the commissioner's designated agent and register his or her vehicle as otherwise required by this chapter.

(b) The commissioner shall suspend or revoke any permanent registration and license plate issued in accordance with Code Section 40-2-47 when the owner has not complied with the annual requirement of the payment of ad valorem taxes and is delinquent for

more than 12 months from the last date of ad valorem tax payment.

~~(b)(c)~~ Any state or county law enforcement officer or any special agent or enforcement officer appointed under Code Section 40-2-134 may, upon the direction or request of the commissioner, go upon public or private property to seize a license plate or renewal decal which has been revoked as provided in subsection (a) of this Code section.

#### SECTION 14-10.

Said Chapter 2 of Title 40 is further amended in Code Section 40-2-137, relating to the suspension of motor vehicle registration for failure to obtain minimum insurance coverage, by striking paragraph (1) of subsection (c) and inserting in lieu thereof a new paragraph (1) to read as follows:

. (c)(1) When proof of minimum motor vehicle insurance coverage is provided within the time period specified in this Code section, but there has been a lapse of coverage for a period of more than ten days, the owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to the department within 30 days of the date on which the notification was mailed by the department will result in the suspension of the owner's motor vehicle registration by operation of law as if the proof had not been provided in a timely manner as provided in paragraph (2) of this subsection. If any lapse fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$5.00 thereof as a collection fee.

#### SECTION 14-11.

Said Chapter 2 of Title 40 is further amended in Code Section 40-2-150, relating to definitions applicable to annual license fees for operation of vehicles, by repealing paragraph (.2) which reads as follows:

. (.2) 'Commissioner' means the commissioner of motor vehicle safety.

### PART XV

#### Amendments to Chapter 40-3.

Motor vehicle certificates of title, security interests, and liens.

#### SECTION 15-1.

Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle certificates of title, security interests, and liens, is amended in Code Section 40-3-2, relating to definitions applicable to said chapter, by striking paragraphs (2) and (2.1) and inserting in their place new paragraphs to read as follows:

. (2) 'Commissioner' means the state revenue commissioner ~~of motor vehicle safety~~.  
(2.1) 'Department' means the Department of Motor Vehicle Safety Revenue.

#### SECTION 15-2.

Said Chapter 3 of Title 40 is further amended in Code Section 40-3-40, relating to reports and remittances by county tag agents, by striking subsection (a) and inserting in its place a new subsection to read as follows:

. (a) All county tag agents accepting and handling title applications shall endeavor to submit such applications and related sums of money to which the ~~Department of Revenue department~~ is entitled to the commissioner on a daily basis. All reports of title applications handled and related sums of money collected to which the ~~Department of Revenue department~~ is entitled must be submitted to the commissioner within seven calendar days from the close of the business day during which such applications were handled and related sums of money collected.

#### PART XVI

##### Amendments to Chapter 40-4.

Identification of and purchase and resale of motor vehicles and parts.

#### SECTION 16-1.

Chapter 4 of Title 40 of the Official Code of Georgia Annotated, relating to identification of and purchase and resale of motor vehicles and parts, is amended by striking Code Section 40-4-5, relating to identification of truck chassis, and inserting in its place a new Code section to read as follows:

. 40-4-5.

Truck chassis with features designed for specialized requirements of a wrecker manufactured after January 1, 1967, but before January 1, 1997, shall, at the time the vehicle is first registered on or after January 1, 1997, pursuant to Code Section 40-2-21, be issued by the Department of ~~Motor Vehicle Safety Revenue~~ a unique vehicle identification number which shall be affixed to and maintained upon the chassis by the owner in a manner consistent with the requirements of subsections (b) and (e) of Code Section 40-4-4.

#### PART XVII

##### Amendments to Chapter 40-5.

Drivers' licenses.

#### SECTION 17-1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended in Code Section 40-5-1, relating to definitions applicable to said chapter, by striking paragraphs (1), (3), (5), (7), (9), and (10) and inserting in their respective places new paragraphs to read as follows:

- . (1) 'Assessment component' means the standard screening instrument or instruments designated by the Department of ~~Human Resources~~ Driver Services which are used to screen for the extent of an individual's alcohol or drug use and its impact on driving.
- . (3) 'Cancellation of driver's license' means the annulment or termination by formal action of the ~~Department of Motor Vehicle Safety department~~ of a person's license because of some error or defect in the license or because the licensee is no longer entitled to such license. The cancellation of a license is without prejudice, and application for a new license may be made at any time after such cancellation.

- . (5) 'Commissioner' means the commissioner of ~~motor vehicle safety~~ driver services.
- . (7) 'Department' means the Department of ~~Motor Vehicle Safety~~ Driver Services.
- . (9) 'DUI Alcohol or Drug Use Risk Reduction Program' means a program certified by the Department of ~~Human Resources~~ Driver Services which consists of two components: assessment and intervention. In the case of a conviction or plea of nolo contendere to a violation of Code Section 40-6-391 or in any other instance in which a person may be referred to a DUI Alcohol or Drug Use Risk Reduction Program, the program administers the assessment component and refers such offender to the intervention component.
- (10) 'Intervention component' means a program which delivers therapeutic education about alcohol and drug use and driving and peer group counseling concerning alcohol and drug use over a period of 20 hours utilizing a methodology and curriculum approved and certified by the Department of ~~Human Resources~~ Driver Services for the DUI Alcohol or Drug Use Risk Reduction Programs under subsection (e) of Code Section 40-5-83.

#### SECTION 17-2.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-2, relating to driver's records, by striking and replacing subsection (j) and adding a new subsection (l) so that subsections (j) and (l) shall read, respectively, as follows:

- . (j) The commissioner is authorized to promulgate any rules, regulations, or policies as are necessary to carry out the provisions of this Code section. ~~The department and the Georgia Technology Authority are each authorized to charge In accordance with paragraph (6) of subsection (a) of Code Section 50-25-4,~~ reasonable fees to defray costs incurred in affording access to or disseminating ~~shall be assessed for furnishing~~ information from records or data bases pursuant to provisions of this Code section; provided, however, that the fee for furnishing an abstract of a driver's record shall not exceed \$10.00; and provided, further, that the fee for furnishing the limited information provided for purposes of insurance rating pursuant to division (e)(1)(B)(ii) of this Code section shall not exceed 20 percent of the fee for furnishing the abstract of a driver's record.
- . (l) In any case in which the release or transmittal of one or more driver's records is authorized under this Code section or any other provision of law, the commissioner may determine the method of release or transmittal of the record or records, including without limitation release or transmittal by mail or by means of the Internet or other electronic means.

#### SECTION 17-3.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-21, relating to exemptions from licensing, by striking paragraph (11) of subsection (a) and inserting in its place a new paragraph to read as follows:

- . (11) Any resident who is 15 years of age or over while taking actual in-car training in a training vehicle other than a commercial motor vehicle under the direct personal

supervision of a driving instructor when such driving instructor and training vehicle are licensed by the department in accordance with the provisions of Chapter 13 of Title 43, 'The Driver Training School License Act.' As used in the previous sentence, the term 'commercial motor vehicle' shall have the meaning specified in Code Section 40-5-142. All vehicles utilized for the in-car training authorized under this paragraph shall be equipped with dual controlled brakes and shall be marked with signs in accordance with the ~~Department of Motor Vehicle Safety~~ rules of the department clearly identifying such vehicles as training cars belonging to a licensed driving school. A driving instructor shall test the eyesight of any unlicensed person who will be receiving actual in-car training prior to commencement of such training, and no unlicensed driver shall receive in-car training unless such person has at least the visual acuity and horizontal field of vision as is required for issuance of a driver's license in subsection (c) of Code Section 40-5-27; and.

#### SECTION 17-4.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-22, relating to requirements for licensure, by striking paragraph (3) of subsection (a.1) and inserting in its place a new paragraph to read as follows:

- . (3) The State Board of Education and the commissioner of ~~motor vehicle safety~~ driver services are authorized to promulgate rules and regulations to implement the provisions of this subsection.

#### SECTION 17-5.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-22.1, relating to reinstatement of license of child under 16 years convicted of driving under influence of alcohol or drugs, and inserting in its place a new Code section to read as follows:

. 40-5-22.1.

Notwithstanding any other provision of law, if a child under 16 years of age is adjudicated delinquent of driving under the influence of alcohol or drugs or of possession of marijuana or a controlled substance in violation of Code Section 16-13-30 or of the unlawful possession of a dangerous drug in violation of Code Section 16-13-72 or convicted in any other court of such offenses, the court shall order that the privilege of such child to apply for and be issued a driver's license or learner's permit shall be suspended and delayed until such child is 17 years of age for a first conviction and until such child is 18 years of age for a second or subsequent such conviction. Upon reaching the required age, such license privilege shall be reinstated if the child submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ or an assessment and intervention program approved by the juvenile court and pays a fee of \$210.00 to the Department of ~~Motor Vehicle Safety~~ Driver Services or \$200.00 when such application is processed by mail. The court shall notify the ~~Department of Motor Vehicle Safety~~ department of its order delaying the issuance of such child's license within 15 days of the date of such

order. The ~~Department of Motor Vehicle Safety department~~ shall not issue a driver's license or learner's permit to any person contrary to a court order issued pursuant to this Code section.

#### SECTION 17-6.

Said Chapter 5 of Title 40 is further amended by striking subsections (a) through (d) of Code Section 40-5-25, relating to driver's license applications, and inserting in their respective places new subsections to read as follows:

- . (a) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department. Every application shall be accompanied by the proper license fee. The fees shall be as established by the commissioner, not to exceed:
- |   |              |
|---|--------------|
| (1) For instruction permits for Classes A, B, C, and M drivers' licenses and<br>for Class D drivers' licenses .....                     | \$ 10.00     |
| (2) For <u>five-year</u> Classes <u>A, B, C, and M noncommercial</u> drivers'<br>licenses .....   | <u>45.00</u> |
|   | <u>20.00</u> |
| (2.1) For ten-year Classes A, B, C, and M noncommercial driver's<br>licenses .....  | 35.00        |
| (3) For Classes A, <u>and B, C, and M commercial</u> drivers' licenses.....   | <u>45.00</u> |
|   | <u>20.00</u> |
| (4) For application for Classes A, B, C, and M commercial drivers'<br>licenses or a Class P commercial driver's instruction permit..... | 35.00        |
| (5) For Class P commercial drivers' instruction permits for Classes A, B,<br>C, and M commercial drivers' licenses.....                 | 10.00        |
| (6) For Classes A, B, C, and M commercial drivers' licenses, initial<br>issuance requiring a road test.....                             | <u>65.00</u> |
|   | <u>70.00</u> |
| (7) For Classes A, B, C, and M commercial drivers' licenses, initial issuance not<br>requiring a road test.....                         | <u>45.00</u> |
|   | <u>20.00</u> |
| (8) For renewal of Classes A, B, C, and M commercial drivers' licenses.....   | <u>45.00</u> |
|   | <u>20.00</u> |
| (8.1) For renewal of five-year Classes A, B, C, and M noncommercial drivers'<br>licenses .....  | <u>20.00</u> |
| (8.2) For renewal of ten-year Classes A, B, C, and M noncommercial drivers'<br>licenses .....   | 35.00        |
| (9) Initial issuance of Classes A, B, C, and M commercial drivers' licenses and Class   |              |

P commercial drivers' instruction permits shall include all endorsement fees within the license fee. Each endorsement added after initial licensing ..... 5.00  
The commissioner may by rule provide incentive discounts in otherwise applicable fees reflecting cost savings to the department where a license is renewed by means other than personal appearance. The discount for renewal of a Class C or Class M license shall be \$5.00 and any other discounts shall be as determined by the commissioner.  
Except as provided in Code Section 40-5-36, relating to veterans' licenses, and Code Section 40-5-149, relating to application fees for public school bus drivers, there shall be no exceptions to the fee requirements for a commercial driver's license or a commercial driver's license permit. Notwithstanding any other provision of this Code section, there shall be no fee whatsoever for replacement of any driver's license solely due to a change of the licensee's name or address, provided that such replacement license shall be valid only for the remaining period of such original license; and provided, further, that only one such free replacement license may be obtained within any four year the period for which the license was originally issued. Any application for the replacement of a lost license pursuant to Code Section 40-5-31 or due to a change in the licensee's name or address submitted within 150 days of the expiration of said license shall be treated as an application for renewal subject to the applicable license fees as set forth in this subsection.

(b) Notwithstanding the provisions of subsection (a) of this Code section, any Class 1 or 2 license issued prior to April 3, 1989, shall remain valid until its expiration unless otherwise lost, destroyed, suspended, or revoked prior to its expiration. A Class 3, 4, or 5 license shall remain valid unless lost, destroyed, suspended, revoked, or canceled, until its expiration or its earlier replacement under Article 7 of this chapter, the Uniform Commercial Driver's License Act.' Reserved.

(c) Every such application shall state the full legal name, date of birth, sex, and residence address of the applicant; shall briefly describe the applicant; and shall state whether the applicant has theretofore been licensed as a driver and, if so, when and by what state or country, and whether any such license has ever been suspended, revoked, or refused, and, if so, the date of and reason for such suspension, revocation, or refusal; and shall state such other information as the commissioner may require to determine the applicant's identity, competence, and eligibility. The application shall include any other information as required by paragraph (1) of subsection (a.1) of Code Section 19-11-9.1. The department shall not issue a license until a complete examination of the applicant's record has been completed. The commissioner may issue such rules and regulations as shall be necessary for the orderly processing of license applications.

(d)(1) The General Assembly finds that it is in the best interest of the state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) Notwithstanding the provisions of paragraph (2) or (3) of subsection (a) of this Code section, each applicant for the issuance, reissuance, or renewal of a Class C, M, A, or B driver's license under paragraph (2) or (3) of subsection (a) of this Code

~~section shall accompany such application with a license fee as established by the commissioner, not to exceed \$8.00, if such applicant executes an anatomical gift pursuant to Code Section 40-5-6.~~

(3)(2) The department shall make available to those federally designated organ procurement organizations the name, license number, date of birth, and most recent address of any person who obtains a an organ donor driver's license ~~with the reduced fee provided for in paragraph (2) of this subsection~~. Information so obtained by such organizations shall be used for the purpose of establishing a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

#### SECTION 17-7.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-27, relating to examination of applicants, by striking subsections (a), (d), and (e) and inserting in their respective places new subsections to read as follows:

(a) The department shall examine every applicant for a driver's license, except as otherwise provided by subsection (d) of this Code section. Such examination shall include a test of the applicant's eyesight, his or her ability to understand official traffic-control devices, and his or her knowledge of safe driving practices and the traffic laws of this state and shall also include a comprehensive on-the-road driving test during which the applicant shall be required to fully demonstrate his or her ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or general class of vehicles he or she desires a license to drive; provided, however, that the on-the-road driving test requirement shall not apply to any applicant for a Class C driver's license who holds a Class D driver's license issued on or after January 1, 2002. ~~Applicants An applicant~~ 18 years of age and older with ~~a valid and current license~~, issued by another state of the United States or the District of Columbia who ~~surrender their previous licenses~~ ~~surrenders his or her previous license~~ to obtain a Georgia license shall be exempt from taking such tests ~~other than tests of eyesight~~. The examination may also include such further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. The commissioner may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any class of license.

(d) The department shall ~~implement a six month pilot program to determine licensing requirements for licensed driver training schools to conduct on the road driving tests as provided in subsection (e) of this Code section. The department shall report the results of such pilot program to the House Committee on Motor Vehicles.~~ (e) If the department determines that the pilot program provided for in subsection (d) of this Code section is successful, it shall authorize licensed driver training schools to conduct on-the-road driving tests and other tests required for issuance of a driver's license as provided in this subsection. The department may authorize licensed driver training schools to issue driver's licenses to successful applicants as provided in this subsection.

The department shall, prior to approving a licensed driver training school to conduct ~~on-the-road driving tests or issue licenses or both~~ as provided in this subsection, make a determination that the school has been licensed for a minimum of ~~one year two years~~ and has conducted driver education ~~and adult education~~ courses on a full-time basis for such ~~one year two year~~ period and that such school meets all other standards which the department may establish as a condition for approval to conduct such tests ~~or issue licenses or both~~. The department shall authorize a driver training school licensed pursuant to Chapter 13 of Title 43 and approved by the department to administer the testing provided for in this Code section, provided that the applicant has successfully completed a driver training course which includes a minimum of 30 class hours of instruction and six hours of private in-car training. The department may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any Class C or Class D driver's license under this Code section.

#### SECTION 17-8.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-28, relating to issuance of drivers' licenses, and inserting in its place a new Code section to read as follows:

. 40-5-28.

(a) The department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a color photograph of the licensee, the licensee's full name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. Specifically but without limitation, the department may require applicants to submit fingerprints by means of an inkless fingerprint scanning device upon application.

(b) The commissioner may determine the location and manner of issuance of drivers' licenses. Without limiting the generality of the foregoing, it is specifically provided that the commissioner may designate county tag agents, if they so agree, as agents of the department for this purpose and may authorize the issuance of drivers' licenses by county tag agents. No county tag agent shall be required to issue or renew drivers' licenses unless such county tag agent agrees in writing to perform such functions. No county tag agent shall be required to issue or renew drivers' licenses for residents of any county other than the residents of the county for which he or she serves as tax commissioner.

#### SECTION 17-9.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-31, relating to replacement permits or licenses, by striking subsection (b) and inserting in its place a new subsection to read as follows:

. (b) The department shall issue a temporary permit or driver's license to each individual who has lost by misplacement, and not by revocation or suspension, his or her instruction permit or driver's license and who has made application under oath on a form furnished by the department which states that the applicant presently has a valid permit or license which has been lost or misplaced. In lieu of the applicant's signature on a form, any application for the issuance of a replacement license submitted electronically shall contain an acknowledgment and attestation under penalty of perjury that he or she meets each requirement of this Code section.

#### SECTION 17-10.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-32, relating to driver's license renewal, and inserting in its place a new Code section to read as follows:

##### . 40-5-32.

(a)(1) Every Except as otherwise provided in this Code section, every driver's license shall expire on the licensee's birthday in the fourth fifth year following the issuance of such license. Notwithstanding the foregoing, any commercial license that contains an H or X endorsement as defined in subsection (c) of Code Section 40-5-150 shall expire on the date of expiration of the licensee's security threat assessment conducted by the Transportation Security Administration of the United States Department of Homeland Security. An applicant for a Class A, B, C, or M noncommercial driver's license who is under age 60 shall at the applicant's option apply for a license which shall expire on the licensee's birthday in the fifth or tenth year following the issuance of such license. Every such license shall be renewed on or before its expiration upon application, payment of the required fee, and, if applicable, satisfactory completion of the examination required or authorized by subsection (c) of this Code section.

(2) Except as otherwise provided by subsection (c) of this Code section, every holder of a veteran's or honorary license shall meet the requirements of subsection (e) of this Code section be valid until the holder reaches age 65 and shall thereafter be subject to renewal pursuant to paragraph (1) of this subsection on or before his or her birthday every four five years, beginning from the date on which the holder was last required to take an examination under former Ga. L. 1972, p. 1076, as amended by Ga. L. 1973, pp. 916, 917. The department may allow a veteran or honorary license holder to retain his or her expired veteran's or honorary license as a souvenir.

(3) The commissioner shall issue such rules and regulations as are required to enforce this subsection.

(b) An application for driver's license renewal may be submitted by means of:

- (1) Personal appearance before the department; or
- (2) Subject to rules or regulations of the department which shall be consistent with considerations of public safety and efficiency of service to licensees, means other than such personal appearance which may include without limitation by mail or electronically. The department may by such rules or regulations exempt persons renewing drivers' licenses under this paragraph from the license surrender

requirement of subsection (c) of Code Section 40-5-20.

(c)(1) The department shall require every person who is age 64 or older applying for renewal of a driver's license to take and pass successfully such test of his or her eyesight as the department shall prescribe, ~~unless otherwise provided by rule or regulation for purposes of paragraph (2) of subsection (b) of this Code section.~~

(2) The commissioner may issue such rules and regulations as are necessary to implement this subsection.

#### SECTION 17-11.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-33, relating to change of address of a licensed driver, and inserting in its place a new Code section to read as follows:

##### . 40-5-33.

Whenever any person, after applying for or receiving a driver's license, shall move from the address named in such application or in the license issued to him or her or when the name of a licensee is changed by marriage or otherwise, such person shall apply to the department for a license showing the correct name or address within 60 days. Failure to change the name or address shall not deem the license invalid. The commissioner may determine the locations at which applications shall be accepted for applications due to change of name or address. Without limiting the generality of the foregoing, it is specifically provided that the commissioner may designate county tag agents, if they so agree, as agents of the department for this purpose.

#### SECTION 17-12.

Said Chapter 5 of Title 40 is further amended by striking subsection (b) of Code Section 40-5-53, relating to reports of convictions and forwarding of licenses by courts, and inserting in its place a new subsection to read as follows:

. (b) Every court in each county of this state having jurisdiction over offenses committed under this chapter and Chapter 6 of this title or any other law of this state or ordinance adopted by a local authority regulating the operation of motor vehicles on highways shall forward to the department, within ten days after the conviction of any person in such court for a violation of any such law other than regulations governing speeding in a noncommercial motor vehicle for which no points are assigned under Code Section 40-5-57, standing, or parking, a uniform citation form authorized by Article 1 of Chapter 13 of this title. Notwithstanding any other provision of this title, in satisfaction of the reporting requirement of this subsection, the courts of this state may shall transmit the information contained on the uniform citation form by electronic means, provided that the department has first given approval to the reporting court for using the electronic reporting method utilized approved by the department. The department shall pay to the clerk of the court forwarding the required report 40¢ for each report transmitted electronically in a timely manner as required in this subsection and 10¢ for each report transmitted otherwise; and notwithstanding any general or local law to the contrary, the clerk shall pay such fees over to the general fund of the city or county

operating the court. Where a court has not implemented transmittal by electronic means, the commissioner may require such court or courts to submit by electronic means no later than a future date to be determined by the commissioner.

#### SECTION 17-13.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-57.1, relating to suspension of licenses of young drivers, by striking subsection (b) and inserting in its place a new subsection to read as follows:

- . (b) A person whose driver's license has been suspended under subsection (a) of this Code section shall:
- (1) Subject to the requirements of subsection (c) of this Code section and except as otherwise provided by paragraph (2) of this subsection:
    - (A) Upon a first such suspension, be eligible to apply for license reinstatement and, subject to ~~successful recompletion of the examination requirements of Code Section 40-5-27~~ and payment of required fees, have his or her driver's license reinstated after six months; and
    - (B) Upon a second or subsequent such suspension, be eligible to apply for license reinstatement and, subject to ~~successful recompletion of the examination requirements of Code Section 40-5-27~~ and payment of required fees, have his or her driver's license reinstated after 12 months; or
  - (2)(A) If the driver's license was suspended upon conviction for violation of Code Section 40-6-391, be subject to the provisions of Code Section 40-5-63.
  - (B) If such driver was convicted of driving under the influence of alcohol or of having an unlawful alcohol concentration and is otherwise subject to the provisions of paragraph (1) of subsection (a) of Code Section 40-5-63, then such person shall not be eligible for a limited driving permit under Code Section 40-5-64, and:
    - (i) If the driver's alcohol concentration at the time of the offense was less than 0.08 grams, he or she shall not be eligible for license reinstatement until the end of six months; or
    - (ii) If the driver's alcohol concentration at the time of the offense was 0.08 grams or more, he or she shall not be eligible for license reinstatement until the end of 12 months.
  - (C) ~~Any driver subject to the provisions of this paragraph shall, as an additional prerequisite for license reinstatement, be required to successfully recomplete the examination requirements of Code Section 40-5-27.~~

#### SECTION 17-14.

Said Chapter 5 of Title 40 is further amended in said Code Section 40-5-57.1 by adding at the end of the Code section a new subsection (d) to read as follows:

- . (d) A suspension provided for in this Code section shall be imposed based on the person's age on the date of the conviction giving rise to the suspension.

## SECTION 17-15.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-63, relating to certain license suspension periods, and inserting in its place a new Code section to read as follows:

. 40-5-63.

(a) The driver's license of any person convicted of an offense listed in Code Section 40-5-54 or of violating Code Section 40-6-391, unless the driver's license has been previously suspended pursuant to Code Sections 40-5-67.1 and 40-5-67.2, shall by operation of law be suspended and such suspension shall be subject to the following terms and conditions; provided, however, that any person convicted of a drug related offense pursuant to Code Section 40-6-391 shall be governed by the suspension requirements of Code Section 40-5-75:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for 12 months. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving program approved by the ~~Department of Motor Vehicle Safety~~ department or a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. For purposes of this paragraph, an accepted plea of nolo contendere to an offense listed in Code Section 40-5-54 by a person who is under 18 years of age at the time of arrest shall constitute a conviction. For the purposes of this paragraph only, an accepted plea of nolo contendere by a person 21 years of age or older, with no conviction of and no plea of nolo contendere accepted to a charge of violating Code Section 40-6-391 within the previous five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered a conviction, and the court having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the record of such disposition of the case to the department and the record of such disposition shall be kept on file for the purpose of considering and counting such accepted plea of nolo contendere as a conviction under paragraphs (2) and (3) of this subsection;

- (2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving program approved by the department or a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions; or
- (3) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person shall be considered a habitual violator, and said license shall be revoked as provided for in paragraph (1) of subsection (a) of Code Section 40-5-62. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere and all prior accepted pleas of nolo contendere to a charge of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions.
- (b) The periods of suspension provided for in this Code section shall begin on the date the person is convicted of an offense listed in Code Section 40-5-54 or of violating Code Section 40-6-391.

- (c) In all cases in which the department may return a license to a driver prior to the termination of the full period of suspension, the department may require such tests of driving skill and knowledge as it determines to be proper, and the department's discretion shall be guided by the driver's past driving record and performance, and the driver shall pay the applicable restoration fee. In addition to any other requirement the department may impose, a driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid, shall remain suspended, and shall not be returned to such driver or otherwise reinstated until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~.
- (d) Any person convicted of violating subsection (a) of Code Section 40-6-393, relating to homicide by vehicle, or Code Section 40-6-394, relating to serious injury by vehicle, shall have his or her license suspended for a period of three years. Such person shall not be eligible for early reinstatement of said driver's license as provided in this Code section or in Article 4 of this chapter and shall not be eligible for a limited driving permit as provided in Code Section 40-5-64. For purposes of this subsection, an accepted plea of nolo contendere to homicide by vehicle in the first degree or serious injury by vehicle shall constitute a conviction.
- (e) The driver's license of any person under 21 years of age who is convicted of unlawful possession of alcoholic beverages in violation of Code Section 3-3-23 while operating a motor vehicle may be suspended for a period of not less than 120 days. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license. Such license shall be reinstated only if the person submits proof of completion of an approved DUI Alcohol or Drug Use Risk Reduction Program ~~prescribed by the Department of Human Resources~~ and pays a restoration fee of \$35.00 or \$25.00 when processed by mail. For purposes of this subsection, a sentence under subsection (c) of Code Section 3-3-23.1 shall not be considered a conviction, and the driver's license of such person shall not be suspended, provided that such person completes a DUI Alcohol or Drug Use Risk Reduction Program within 120 days after sentencing.
- (f) The driver's license of any person who is convicted of attempting to purchase an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23 upon the first conviction shall be suspended for a period of six months and upon the second or subsequent conviction shall be suspended for a period of one year. At the end of the period of suspension, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated upon payment of a restoration fee of \$35.00 or \$25.00 when processed by mail. For purposes of this subsection, a sentence under subsection (c) of Code Section 3-3-23.1 shall not be considered a conviction, and the driver's license of such person shall not be suspended.

#### SECTION 17-15.1.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-67.2, relating to terms and conditions applicable to certain license suspensions, by striking subsection (a)

and inserting in its place a new subsection to read as follows:

. (a) Any driver's license required to be suspended under subsection (c) of Code Section 40-5-67.1 shall be suspended subject to the following terms and conditions:

(1) Upon the first suspension pursuant to subsection (c) of Code Section 40-5-67.1 within the previous five years, as measured from the dates of previous arrests for which a suspension was obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for one year. Not sooner than 30 days following the effective date of suspension, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when processed by mail. A driver's license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee.

(2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for three years. The person shall be eligible to apply to the department for license reinstatement not sooner than 18 months following the effective date of suspension. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when processed by mail. A driver's license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee.

(3) Upon the third or subsequent suspension pursuant to subsection (c) of Code Section 40-5-67.1 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for five years. A driver's license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. The driver may apply for a probationary license pursuant to Code Section 40-5-58 after the expiration of two years from the effective date of suspension.

#### SECTION 17-16.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-75, relating to suspension of licenses by operation of law, by striking paragraphs (1) and (2) of

subsection (a) and subsection (h) and inserting in their respective places new paragraphs and a new subsection to read as follows:

- . (1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for not less than 180 days. At the end of 180 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays to the Department of ~~Motor Vehicle Safety~~ Driver Services a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. For purposes of this paragraph, a plea of nolo contendere by a person to a charge of any drug related offense listed in this subsection shall, except as provided in subsection (c) of this Code section, constitute a conviction;
- . (2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years, provided that after one year from the date of the conviction the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and paying to the Department of ~~Motor Vehicle Safety~~ Driver Services a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. For purposes of this paragraph, a plea of nolo contendere and all previous pleas of nolo contendere within such five-year period of time shall constitute a conviction; and
- . (h) Notwithstanding the provisions of subsection (a) of this Code section, licensed drivers who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ or an assessment and intervention program approved by the juvenile court.

#### SECTION 17-17.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-80, relating to the purpose of the 'Georgia Driver Improvement Act,' and inserting in its place a new Code section to read as follows:

##### 40-5-80.

The purpose of this article, the 'Georgia Driver Improvement Act,' is to improve and promote greater safety upon the highways and streets of this state; to improve the attitude and driving habits of drivers who accumulate traffic accident and motor vehicle conviction records; and to provide uniform DUI Alcohol or Drug Use Risk Reduction Programs for the rehabilitation of persons identified as reckless or negligent drivers and frequent violators. In carrying out this purpose, the Department of ~~Motor Vehicle~~

~~Safety and the Department of Human Resources, as applicable, Driver Services~~ shall:

- (1) Charge a fee for the consideration of applications for approval of driver improvement clinics and instructors. The amount of this fee shall be established by the commissioner ~~of motor vehicle safety~~ and shall, as best as the commissioner shall determine, approximate the expense incurred by the ~~Department of Motor Vehicle Safety department~~ in consideration of an application. These licenses and each renewal thereof shall be valid for a period of four years unless suspended or revoked prior to the expiration of that time period; and
- (2) Require, in addition to the criteria established by the commissioner for approval of driver improvement clinics ~~established by the commissioner of motor vehicle safety~~ and DUI Alcohol or Drug Use Risk Reduction Programs ~~established by the Department of Human Resources~~, as provided in subsections (a) and (e) of Code Section 40-5-83, respectively, that every driver improvement clinic and DUI Alcohol or Drug Use Risk Reduction Program shall, as a condition of approval, provide a continuous surety company bond for the protection of the contractual rights of students in such form as will meet with the approval of the ~~Department of Motor Vehicle Safety or the Department of Human Resources, as applicable department~~, and written by a company authorized to do business in this state. The principal sum of the bond shall be established by the commissioner ~~of motor vehicle safety or the Board of Human Resources, as applicable~~; however, in no event shall this amount be less than \$2,500.00 \$10,000.00 per location, and a single bond at such rate may be submitted for all locations under the same ownership. If at any time said bond is not valid and in force, the license of the clinic or program shall be deemed suspended by operation of law until a valid surety company bond is again in force.

#### SECTION 17-18.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-81, relating to selection of driver improvement programs, by striking subsection (c) and inserting in its place a new subsection to read as follows:

- . (c) It shall be unlawful for the owner, agent, servant, or employee of any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the ~~Department of Motor Vehicle Safety or the Department of Human Resources department~~ to directly or indirectly solicit business by personal solicitation on public property, by phone, or by mail. A violation of this subsection shall be a misdemeanor. Advertising in any mass media, including, but not limited to, newspapers, radio, television, magazines, or telephone directories by a driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program shall not be considered a violation of this subsection.

#### SECTION 17-19.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-82, relating to administration of the Driver Improvement Program, and inserting in its place a new Code section to read as follows:

. 40-5-82.

- (a) The Driver Improvement Program created by this article shall be administered by the commissioner ~~of motor vehicle safety~~. The commissioner is authorized to promulgate and adopt rules and regulations necessary to carry out this article.
- (b) For the purpose of generating greater interest in highway safety, the commissioner may solicit the assistance of local governmental authorities, associations, societies, clubs, schools, colleges, and other organizations or persons knowledgeable in highway safety driving standards to participate in conjunction with the department in the development of local driver improvement programs and in conducting driver improvement classes.
- (c) The ~~Department of Human Resources~~ department is designated as the agency responsible for the approval and certification of DUI Alcohol or Drug Use Risk Reduction Programs and staff. This responsibility includes selection of the assessment instrument, development of the intervention curricula, training of program staff, and monitoring of all DUI Alcohol or Drug Use Risk Reduction Programs under this article.
- (d) All DUI Alcohol or Drug Use Risk Reduction Program records including, but not limited to, assessment results and other components attended shall be confidential and shall not be released without the written consent of the DUI offender, except that such records shall be made available to the Department of Human Resources and the Department of ~~Motor Vehicle Safety~~ Driver Services. The provision of assessments to the Department of Human Resources shall be according to an interagency agreement between the Department of Driver Services and the Department of Human Resources, and the agreement may provide for assessment fees to be transmitted to the Department of Human Resources.
- (e) The ~~Department of Human Resources~~ department shall conduct a records check for any applicant for certification as an operator or instructor of a DUI Alcohol or Drug Use Risk Reduction Program. Each applicant shall submit two sets of classifiable fingerprints to the department. The department shall transmit both sets of fingerprints to the Georgia Crime Information Center, which shall submit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain one set and promptly conduct a search of state records. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall determine whether the applicant may be certified. No applicant shall be certified who has previously been convicted of a felony. The department shall promulgate rules and regulations regarding certification requirements, including restrictions regarding misdemeanor convictions.

SECTION 17-20.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-83, relating to establishment, approval, and operation of clinics, by striking paragraph (1) of subsection (a), paragraph (3) of subsection (b), and subsection (e) and inserting in their respective places new paragraphs and a new subsection to read as follows:

- . (a)(1) The commissioner ~~of motor vehicle safety~~ shall establish criteria for the

approval of driver improvement clinics. To be approved, a clinic shall provide and operate either a defensive driving course, an advanced defensive driving course, or a professional defensive driving course or any combination thereof. Clinics shall be composed of uniform education and training programs consisting of six hours of instruction designed for the rehabilitation of problem drivers. The commissioner shall establish standards and requirements concerning the contents of courses, qualifications of instructors, attendance requirements for students, and examinations. Approved clinics shall charge a fee of \$75.00 for a defensive driving course, an advanced defensive driving course, or a professional defensive driving course; except that such clinics may charge different fees of their own choosing if the person is not enrolling in such course pursuant to court order or department requirement. No clinic shall be approved unless such clinic agrees in writing to allow the examination and audit of the books, records, and financial statements of such clinic. Clinics may be operated by any individual, partnership, corporation, association, civic group, club, county, municipality, board of education, school, or college.

(3) Driving under the influence and alcohol and drug programs, clinics, and courses outside of the State of Georgia shall not be required to comply with the provisions of subsection (e) of this Code section; provided, however, that the department shall not accept certificates of completion from any such program, clinic, or course unless said program, clinic, or course has been certified by the ~~Department of Human Resources department~~ as substantially conforming, with respect to course content, with the standards and requirements promulgated by the ~~Department of Human Resources department~~ under subsection (e) of this Code section. Certificates of completion from an out-of-state program, clinic, or course not so certified by the ~~Department of Human Resources department~~ may be accepted only for the purpose of permitting persons who are not residents of the State of Georgia to reinstate nonresident operating privileges.

(e) The ~~Department of Human Resources department~~ is designated as the agency responsible for establishing criteria for the approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant must meet the certification criteria promulgated by the ~~Department of Human Resources department~~ through its standards and must provide the following services: (1) the assessment component and (2) the intervention component. The ~~Department of Human Resources department~~ is designated as the agency responsible for establishing rules and regulations concerning the contents and duration of the components of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of instructors, attendance requirements for students, examinations, and program evaluations. Qualified instructors shall be certified for periods of four years each, which may be renewed. Approved DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of \$75.00 for the assessment component and \$190.00 for the intervention component. An additional fee for required student program materials shall be established by the ~~Department of Human Resources department~~ in such an amount as is reasonable and necessary to cover the cost of such materials. No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic

agrees in writing to submit reports as required in the rules and regulations of the ~~Department of Human Resources~~ department and to allow the examination and audit of the books, records, and financial statements of such DUI Alcohol or Drug Use Risk Reduction Program by the ~~Department of Human Resources~~ department or its authorized agent. DUI Alcohol or Drug Use Risk Reduction Programs may be operated by any public, private, or governmental entity; provided, however, that, except as otherwise provided in this subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk Reduction Program is operated by a private entity, whether for profit or nonprofit, neither the local county board of health nor any other governmental entity shall fund any new programs in that area. Programs currently in existence which are operated by local county boards of health or any other governmental entities shall be authorized to continue operation. New programs may be started in areas where no private DUI Alcohol or Drug Use Risk Reduction Programs have been made available to said community. The Department of Corrections is authorized to operate DUI Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not authorized to participate in such programs in the community, provided that such programs meet the certification criteria promulgated by the Department of ~~Human Resources~~ Driver Services. All such programs operated by the Department of Corrections shall be exempt from all fee provisions established in this subsection specifically including the rebate of any fee for the costs of administration. No DUI Alcohol or Drug Use Risk Reduction Program will be approved unless such clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$15.00, for each offender assessed or each offender attending for points reduction, provided that nothing in this Code section shall be construed so as to allow the ~~Department of Human Resources~~ department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; and provided, further, that the ~~Department of Human Resources~~ department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds.

#### SECTION 17-21.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-88, relating to administrative penalties, and inserting in its place a new Code section to read as follows:

##### . 40-5-88.

(a) As an alternative to criminal or other civil enforcement, the commissioner of ~~motor vehicle safety or the commissioner of human resources, whichever is applicable, driver services~~ in order to enforce this article or any orders, rules, or regulations promulgated pursuant to this article, may issue an administrative fine not to exceed \$1,000.00 for each violation, whenever ~~that~~ the commissioner, after a hearing, determines that any person, firm, or corporation has violated any provisions of this article or any regulations or orders promulgated under this article. Notwithstanding the foregoing, violations that are minor in nature and committed by a person, firm, or corporation shall be punished

only by a written reprimand unless the person, firm, or corporation fails to remedy the violation within 30 days, in which case an administrative fine, not to exceed \$250.00, may be issued.

(b) The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person, firm, or corporation who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of either the commissioner of ~~motor vehicle safety or the commissioner of human resources~~ driver services shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this Code section shall be paid into the state treasury. The commissioner of ~~motor vehicle safety or the commissioner of human resources, as appropriate,~~ driver services may file, in the superior court (1) wherein the person under order resides; (2) if such person is a corporation, in the county wherein the corporation maintains its principal place of business; or (3) in the county wherein the violation occurred, a certified copy of a final order of ~~such~~ the commissioner, whether unappealed from or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by the court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to such commissioner with respect to any violation of this article or any order, rules, or regulations promulgated pursuant to this article.

#### SECTION 17-22.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-142, relating to definitions applicable to the 'Uniform Commercial Driver's License Act,' by striking paragraph (7) and inserting in its place a new paragraph to read as follows:

. (7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport passengers or property:

(A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;

(B) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(C) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F;

provided, however, that for the purposes of this article, no agricultural vehicle, military vehicle operated by military personnel, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a commercial vehicle. As used in this paragraph, the term 'agricultural vehicle' means a farm vehicle which is controlled and operated by a farmer; used to transport agricultural products, farm machinery, or

farm supplies to or from a farm; and operated within 150 miles of such person's farm; which vehicle is not used in the operations of a ~~common or contract~~ motor carrier. Any other waiver by the Federal Highway Administration pursuant to Federal Law 49 C.F.R. Parts 383, 391, RIN 2125-AB 68, of the United States Department of Transportation shall supersede state law in authorizing the Department of ~~Motor Vehicle Safety~~ Driver Services to exempt said classes.

#### SECTION 17-23.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-100, relating to issuance of identification cards, by striking subsection (b) and inserting in its place a new subsection to read as follows:

(b) The identification card shall be valid for ~~four a period of five or ten years, at the option of the applicant,~~ and shall bear the signatures of the commissioner and the Governor and shall bear an identification card number which shall not be the same as the social security number, ~~unless the person specifically requests that the social security number be used, or, in the case of an individual who is not a citizen of the United States, the passport number of the person identified or any number the department deems necessary to implement this Code section.~~

#### SECTION 17-24.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-103, relating to fees for issuance of identification cards, and inserting in its place a new Code section to read as follows:

. 40-5-103.

(a) Except as provided in subsections (b) and (c) of this Code section, the department shall collect a fee of \$10.00 for the identification card ~~\$20.00 for a five-year card and a fee of \$35.00 for a ten-year card,~~ which fee shall be deposited in the state treasury in the same manner as other motor vehicle driver's license fees.

(b) The department shall collect a fee of \$5.00 for the identification card for all persons who are referred by a nonprofit organization which organization has entered into an agreement with the department whereby such organization verifies that the individual applying for such identification card is indigent. The department shall enter into such agreements and shall adopt rules and regulations to govern such agreements.

(c) The department shall not be authorized to collect a fee for an identification card from those persons who are entitled to a free veterans' driver's license under the provisions of Code Section 40-5-36.

(d) The commissioner may by rule authorize incentive discounts where identification cards are renewed by Internet, telephone, or mail.

### PART XVIII

Amendments to Chapter 40-6.  
Uniform rules of the road.

### SECTION 18-1.

Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules of the road, is amended in Code Section 40-6-10, relating to insurance requirements for operation of motor vehicles generally, by striking paragraph (3) of subsection (a) and inserting in its place a new paragraph to read as follows:

- . (3) On and after ~~January 1, 2004~~ July 1, 2005, the requirement under this Code section that proof or evidence of minimum liability insurance be maintained in a motor vehicle at all times during the operation of the vehicle shall not apply to the owner or operator of any vehicle for which the records or data base of the Department of ~~Motor Vehicle Safety Revenue~~ indicates that required minimum insurance coverage is currently effective.

### SECTION 18-2.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-12, relating to proof of financial responsibility after failure to maintain insurance, and inserting in its place a new Code section to read as follows:

. 40-6-12.

- (a) Any person convicted of a second or subsequent violation of Code Section 40-6-10 within a five-year period, as measured from date of arrest to date of arrest, shall be required to file with the Department of ~~Motor Vehicle Safety~~ Driver Services and maintain for a period of three years from the date of conviction proof of financial responsibility, as such term is defined in paragraph (5) of Code Section 40-9-2, in addition to any other punishment.
- (b) If the proof of financial responsibility filed in accordance with subsection (a) of this Code section is based upon a policy issued by an insurance company, such insurer may not cancel the policy until the Department of ~~Motor Vehicle Safety~~ Driver Services is given at least 30 days' prior written notice of such cancellation.

### SECTION 18-3.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-142, relating to vehicles required to stop at railroad crossings, by striking subsection (a) and inserting in its place a new subsection to read as follows:

- . (a) Except as provided in subsection (b) of this Code section, the driver of any motor vehicle carrying passengers for hire, any bus, whether or not operated for hire, or of any school bus, whether carrying any school children or empty, or of any vehicle carrying any hazardous material listed in Section 392.10 of Title 49 of the Code of Federal Regulations as those regulations currently exist or as they may in the future be amended or in regulations adopted by the commissioner of ~~motor vehicle safety~~ public safety, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until he or she can do so safely. After stopping as required in this Code section and upon

proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

#### SECTION 18-4.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-221, relating to definitions applicable to handicapped parking, by striking paragraph (1) and inserting in its place a new paragraph to read as follows:

- . (1) 'Counterfeit' means any copy of any kind of parking permit for persons with disabilities which is not authorized by and does not carry the official seal of the Department of Motor Vehicle Safety Revenue.

#### SECTION 18-5.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-222, relating to handicapped parking permits, by striking subsection (a) and inserting in its place a new subsection to read as follows:

- . (a) The Department of Motor Vehicle Safety Revenue shall issue parking permits for persons with disabilities at every placee where it issues drivers' lieenses and may delegate to county tag agents responsibility for issuance of such permits to residents of the county served by the tag agent. The department shall also receive applications for and issue parking permits for persons with disabilities by mail and shall by regulation require such proof of disability or incapacity as is necessary to issue such permits by mail. Permits shall be in such form as the department prescribes but shall be of sufficient size and sufficiently distinctively marked to be easily visible when placed on or affixed to the driver's side of the dashboard or hung from the rearview mirror of the parked vehicle. Permits shall be made of plastic or heavyweight cardboard and shall be of sufficient quality to ensure that the coloring of the permit and the ink used thereon will resist fading for a period of at least four years. Permits shall be issued to individuals, and the name of the individual and an identification number shall appear on the permit. The individual to whom a permit is issued may use the permit for any vehicle he or she is operating or in which he or she is a passenger. Permits shall also be issued to institutions when the primary purpose of a vehicle operated by the institution is to transport individuals with disabilities. The name of the institution, the license number of the particular vehicle, and an identification number shall appear on the permit. The institution may use such permit only for a vehicle which is operated by the institution and which is used primarily to transport individuals with disabilities.

#### SECTION 18-6.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-223, relating to absence of fees for handicapped parking permits, and inserting in its place a new Code section to read as follows:

- . 40-6-223.

The Department of Motor Vehicle Safety Revenue and county tag agents shall not

charge or collect any fee for issuing parking permits for persons with disabilities under this part.

#### SECTION 18-7.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-253.1, relating to transportation of etiologic agents, by striking subsections (b) and (c) and inserting in their place new subsections to read as follows:

- . (b) The transportation of infectious substances and regulated medical waste, including but not limited to the marking of packages and marking or placarding of vehicles with appropriate warnings, shall comply with the requirements of the federal Hazardous Material Regulations published in Title 49 of the Code of Federal Regulations as those regulations currently exist or may in the future be amended and with compatible regulations adopted or promulgated by the commissioner of ~~motor vehicle safety public safety~~.
- (c) Nurses, physicians, and other health care professionals may utilize all applicable exceptions contained in federal regulations and in the regulations of the Department of ~~Motor Vehicle Safety Public Safety~~ when transporting infectious substances.

#### SECTION 18-8.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-277, relating to reporting of fatal accidents, and inserting in its place a new Code section to read as follows:

##### . 40-6-277.

Every sheriff and chief executive officer of a law enforcement agency other than a sheriff shall, on or before the tenth day of each month, report in writing to the Department of ~~Motor Vehicle Safety Transportation~~ the death of any person within their jurisdiction during the preceding calendar month as the result of a traffic accident known to them, giving the time and place of the accident and the circumstances relating thereto, in the manner specified by the commissioner of ~~motor vehicle safety transportation~~.

#### SECTION 18-9.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-278, relating to reporting of motor vehicle accidents, and inserting in its place a new Code section to read as follows:

##### . 40-6-278.

The commissioner of ~~motor vehicle safety transportation~~ shall prescribe, by rule, uniform motor vehicle accident reports and reporting procedures which shall be used by all police officers, whether state, county, or municipal. The rules shall be adopted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The rules may require one type of report and reporting procedure for motor vehicle accidents in which property damage alone is involved and another type of report and reporting procedure for motor vehicle accidents involving personal injury or death. The commissioner may, by rule, require additional investigation or reports in case of serious bodily injury or death.

#### SECTION 18-10.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-296, relating to bicycle safety standards, by striking subsection (a) and inserting in its place a new subsection to read as follows:

- . (a) Every bicycle when in use at nighttime shall be equipped with a light on the front which shall emit a white light visible from a distance of 300 feet to the front and with a red reflector on the rear of a type approved by the Department of ~~Motor Vehicle~~ Public Safety which shall be visible from a distance of 300 feet to the rear when directly in front of lawful upper beams of headlights on a motor vehicle. A light emitting a red light visible from a distance of 300 feet to the rear may be used in addition to the red reflector.

#### SECTION 18-11.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-315, relating to motorcycle safety standards, and inserting in its place a new Code section to read as follows:

- . 40-6-315.
- (a) No person shall operate or ride upon a motorcycle unless he or she is wearing protective headgear which complies with standards established by the commissioner of ~~motor vehicle~~ public safety.
  - (b) No person shall operate or ride upon a motorcycle if the motorcycle is not equipped with a windshield unless he or she is wearing an eye-protective device of a type approved by the commissioner of ~~motor vehicle~~ public safety.
  - (c) This Code section shall not apply to persons riding within an enclosed cab or motorized cart. This Code section shall not apply to a person operating a three-wheeled motorcycle used only for agricultural purposes.
  - (d) The commissioner of ~~motor vehicle~~ public safety is authorized to approve or disapprove protective headgear and eye-protective devices required in this Code section and to issue and enforce regulations establishing standards and specifications for the approval thereof. The commissioner shall publish lists of all protective headgear and eye-protective devices by name and type which have been approved ~~by it~~.

#### SECTION 18-12.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-316, relating to promulgation of motorcycle safety rules, and inserting in its place a new Code section to read as follows:

- . 40-6-316.
- The commissioner of ~~motor vehicle~~ public safety is authorized to promulgate rules and regulations to carry this part into effect and to establish regulations for safety standards for the operation of motorcycles.

#### SECTION 18-13.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-330, relating to motorized cart equipment regulations, and inserting in its place a new Code section to

read as follows:

. 40-6-330.

Motorized carts may be operated on streets only during daylight hours unless they comply with the equipment regulations promulgated by the commissioner of ~~motor vehicle~~ public safety.

#### SECTION 18-14.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-352, relating to moped safety standards, and inserting in its place a new Code section to read as follows:

. 40-6-352.

(a) No person shall operate or ride as a passenger upon a moped unless he or she is wearing protective headgear which complies with standards established by the commissioner of ~~motor vehicle~~ public safety. The commissioner in determining such standards shall consider the size, speed, and operational characteristics of the moped. Such standards need not necessarily be the same as for motorcyclists; however, any moped operator wearing an approved motorcycle helmet shall be deemed in compliance with this subsection. Operators of electric assisted bicycles may wear a properly fitted and fastened bicycle helmet which meets the standards of the American National Standards Institute or the Snell Memorial Foundation's Standards for Protective Headgear for Use in Bicycling, rather than a motorcycle helmet.

(b) The commissioner of ~~motor vehicle~~ public safety is authorized to approve or disapprove protective headgear for moped operators and to issue and enforce regulations establishing standards and specifications for the approval thereof. He or she shall publish lists by name and type of all protective headgear which have been approved by him or her.

#### SECTION 18-15.

Said Chapter 6 of Title 40 is further amended by striking Code Section 40-6-354, relating to promulgation of moped safety rules, and inserting in its place a new Code section to read as follows:

. 40-6-354.

The commissioner of ~~motor vehicle~~ public safety is authorized to promulgate rules and regulations to carry this part into effect and is authorized to establish regulations for safety equipment or standards for the operation of mopeds.

#### SECTION 18-15.1.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-391, relating to driving under the influence, by striking subparagraphs (c)(1)(D), (c)(2)(D), and (c)(3)(D) and inserting in their respective places new subparagraphs to read as follows:

. (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services. The sponsor of any such program shall provide written notice of such approval to the person upon enrollment

in the program; and

- . (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services. The sponsor of any such program shall provide written notice of such approval to the person upon enrollment in the program; and
- . (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services. The sponsor of any such program shall provide written notice of such approval to the person upon enrollment in the program; and

#### SECTION 18-16.

Said Chapter 6 of Title 40 is further amended in Code Section 40-6-391.1, relating to nolo contendere pleas in driving under the influence cases, by striking subsections (b) through (e) and inserting in their place new subsections to read as follows:

- . (b) If the defendant has not been convicted of or had a plea of nolo contendere accepted to a charge of violating Code Section 40-6-391 within the previous five years and if the plea of nolo contendere shall be used as provided in paragraph (1) of subsection (a) of Code Section 40-5-63, no such plea shall be accepted unless, at a minimum, the following conditions are met:
  - (1) The defendant has filed a verified petition with the court requesting that such plea be accepted and setting forth the facts and special circumstances necessary to enable the judge to determine that accepting such plea is in the best interest of justice; and
  - (2) The judge has reviewed the defendant's driving records that are on file with the Department of ~~Motor Vehicle Safety~~ Driver Services.
- (c) The judge, as part of the record of the disposition of the charge, shall set forth, under seal of the court, his or her reasons for accepting the plea of nolo contendere.
- (d) The record of the disposition of the case, including the ruling required in subsection (c) of this Code section, shall be forwarded to the Department of ~~Motor Vehicle Safety~~ Driver Services within ten days after disposition.
- (e) If a plea of nolo contendere is accepted under the conditions set forth in subsection (b) of this Code section, the defendant's driver's license shall be forwarded to the Department of ~~Motor Vehicle Safety~~ Driver Services as provided in subsection (c) of Code Section 40-5-67.

#### PART XIX Amendments to Chapter 40-8. Equipment and inspection of motor vehicles.

#### SECTION 19-1.

Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment and inspection of motor vehicles, is amended by striking Code Section 40-8-2, relating to motor vehicle safety standards, and inserting in its place a new Code section to read as follows:

- . 40-8-2.

In addition to the requirements of this article, the commissioner of ~~motor vehicle~~ public safety, as to the motor vehicles within the jurisdiction of the Department of ~~Motor Vehicle~~ Public Safety, shall have the authority to promulgate rules designed to promote safety pursuant to the provisions of Chapter 16 of this title and Chapter 7 of Title 46. Any such rules promulgated or deemed necessary by the commissioner shall include the following: every motor unit and all parts thereof shall be maintained in a safe condition at all times. The lights, brakes, and equipment shall meet such safety requirements as the commissioner shall promulgate from time to time.

#### SECTION 19-2.

Said Chapter 8 of Title 40 is further amended in Code Section 40-8-50, relating to safety standards for brakes, by striking paragraph (8) of subsection (e) and inserting in its place a new paragraph to read as follows:

. (8) For vehicles used for commercial purposes, the vehicle or combination of vehicles is used only in intrastate commerce and complies in all other respects with licensing, insurance, registration, identification, driver and vehicle safety, and hazardous materials regulations of the Department of ~~Motor Vehicle~~ Safety Public Safety and United States Department of Transportation applicable to such vehicles or combination of vehicles.

#### SECTION 19-3.

Said Chapter 8 of Title 40 is further amended in Code Section 40-8-73.1, relating to affixing of materials which reduce light transmission through windows or windshields, by striking subsection (d) and inserting in its place a new subsection to read as follows:

. (d) The Department of ~~Motor Vehicle~~ Public Safety may, upon application from a person required for medical reasons to be shielded from the direct rays of the sun and only if such application is supported by written attestation of such fact from a person licensed to practice medicine under Chapter 34 of Title 43, issue an exemption from the provisions of this Code section for any motor vehicle owned by such person or in which such person is a habitual passenger. The exemption shall be issued with such conditions and limitations as may be prescribed by the Department of ~~Motor Vehicle~~ Public Safety.

#### SECTION 19-4.

Said Chapter 8 of Title 40 is further amended in Code Section 40-8-76.1, relating to use of safety belts in passenger vehicles, by striking paragraphs (2) and (3) of subsection (e) and inserting in their place new paragraphs to read as follows:

. (2) A person failing to comply with the requirements of subsection (b) of this Code section shall be guilty of the offense of failure to wear a seat safety belt and, upon conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition of the case of failure to wear a seat safety belt to the Department of ~~Motor Vehicle~~ Safety.

Driver Services.

(3) Each minor six years of age or older who is an occupant of a passenger vehicle shall, while such passenger vehicle is being operated on a public road, street, or highway of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle Safety Standard 208. In any case where a minor passenger six years of age or older fails to comply with the requirements of this paragraph, the driver of the passenger vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and, upon conviction thereof, may be fined not more than \$25.00. The court imposing such a fine shall forward a record of the court disposition of the case of failure to secure a seat safety belt on a minor to the Department of ~~Motor Vehicle Safety Driver Services~~.

## SECTION 19-5.

Said Chapter 8 of Title 40 is further amended in Code Section 40-8-78, relating to motor vehicle safety glazing, by striking subsections (a) and (d) and inserting in their respective places new subsections to read as follows:

- . (a) No person shall sell any motor vehicle manufactured after January 1, 1954, nor shall any such motor vehicle be registered unless such vehicle is equipped with safety glazing materials of a type approved by the commissioner of ~~motor vehicle~~ public safety wherever glazing materials are used in doors, windows, and windshields. The provisions of this Code section shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing materials shall apply to all glazing materials used in doors, windows, and windshields in the drivers' compartments of such vehicles.
- . (d) The commissioner of ~~motor vehicle~~ public safety shall compile and publish a list of types of glazing materials by name approved by him or her as meeting the requirements of this Code section and the commissioner shall not register any motor vehicle which is subject to the provisions of this Code section unless it is equipped with an approved type of safety glazing materials, and he or she shall thereafter suspend the registration of any motor vehicle so subject to this Code section which he or she finds is not so equipped until it is made to conform to the requirements of this Code section.

## SECTION 19-6.

Said Chapter 8 of Title 40 is further amended in Code Section 40-8-92, relating to designation of emergency vehicles and use of flashing or revolving lights, by striking subsection (a) and inserting in its place a new subsection to read as follows:

- . (a) All emergency vehicles shall be designated as such by the commissioner of ~~motor vehicle~~ public safety. The commissioner shall so designate each vehicle by issuing to such vehicle a permit to operate flashing or revolving emergency lights of the appropriate color. Such permit shall be valid for one year from the date of issuance; provided, however, that permits for vehicles belonging to federal, state, county, or municipal governmental agencies shall be valid for five years from the date of issuance. Any and all officially marked law enforcement vehicles as specified in Code Section

40-8-91 shall not be required to have a permit for the use of a blue light. Any and all fire department vehicles which are distinctly marked on each side shall not be required to have a permit for the use of a red light.

#### SECTION 19-7.

Said Chapter 8 of Title 40 is further amended by striking Code Section 40-8-95, relating to promulgation of certain safety standards, and inserting in its place a new Code section to read as follows:

. 40-8-95.

The commissioner of ~~motor vehicle~~ public safety shall implement any and all provisions of Code Sections 40-8-90, 40-8-92, and 40-8-93 by the promulgation of necessary rules and regulations.

#### SECTION 19-8.

Said Chapter 8 of Title 40 is further amended in Code Section 40-8-220, relating to inspection of public school buses, by striking subsections (a) and (f) and inserting in their respective places new subsections to read as follows:

- . (a) Every school bus which is defined by paragraph (55) of Code Section 40-1-1 which is owned or operated by a state, county, or municipal government or under contract by any independent school system shall be inspected annually, or more frequently at the discretion of the commissioner of ~~motor vehicle~~ public safety, under the supervision of an employee of the Department of Motor Vehicle Public Safety.
- . (f) The commissioner of ~~motor vehicle~~ public safety is authorized to implement any and all provisions of this Code section by the promulgation of necessary rules and regulations. When duly promulgated and adopted, all rules and regulations issued pursuant to this Code section shall have the force of law.

### PART XX

Amendments to Chapter 40-9.  
The "Motor Vehicle Safety Responsibility Act."

#### SECTION 20-1.

Chapter 9 of Title 40 of the Official Code of Georgia Annotated, the "Motor Vehicle Safety Responsibility Act," is amended by striking in its entirety Article 1, relating to general provisions of the Act, and inserting in its place a new article to read as follows:

### ARTICLE 1

40-9-1.

This chapter shall be known and may be cited as the 'Motor Vehicle Safety Responsibility Act.'

40-9-2.

As used in this chapter, the term:

- (1) 'Accident' means the collision of any motor vehicle with another vehicle or with any object or fixture, or involvement of a motor vehicle in any manner in which any person is killed or injured or in which damage to the property of any one person to an extent of \$500.00 or more is sustained.
- (2) 'Commissioner' means the commissioner of ~~motor vehicle safety~~ driver services.
- (3) 'Department' means the Department of ~~Motor Vehicle Safety~~ Driver Services.
- (4) 'Operator' means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
- (5) 'Proof of financial responsibility' means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of said proof in the amounts specified in subparagraph (a)(1)(A) of Code Section 33-7-11.
- (6) '~~Registration~~' means the registration certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles. (7) 'Suspension of driver's license' means the temporary withdrawal by formal action of the department of a resident's license or nonresident's privilege to operate a motor vehicle on the public highways.

40-9-3.

- (a) The commissioner shall administer and enforce this chapter and is authorized to adopt and enforce rules and regulations necessary for its administration. The commissioner shall prescribe suitable forms requisite or deemed necessary for the purposes of this chapter.
- (b) The commissioner shall provide for hearings upon request of persons aggrieved by orders or acts of the commissioner under this chapter. Such hearings shall not be subject to the procedural provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
- (c) The commissioner is authorized to adopt and enforce rules and regulations necessary for the administration of such hearings, including but not limited to, hearings provided in Code Section 40-9-32. Except as provided in Code Section 40-9-32, a request for a hearing under this chapter shall not operate as a stay of any order or act of the commissioner.
- (d) The commissioner's decision as rendered at such hearing shall be final unless the aggrieved person shall desire an appeal, in which case he or she shall have the right to enter an appeal to the superior court of the county of his or her residence or the Superior Court of Fulton County by filing a complaint in the superior court, naming the commissioner as defendant, within 30 days from the date the commissioner enters his or her decision or order. The appellant shall not be required to post any bond nor pay the costs in advance. If the aggrieved person desires, the appeal may be heard by the judge at term or in chambers or before a jury at the first term. The hearing on the appeal shall be de novo. However, such appeal shall not act as a supersedeas of any order or acts of the commissioner, nor shall the appellant be allowed to operate or permit a motor vehicle to be operated in violation of any suspension or revocation by the

commissioner while such appeal is pending.

40-9-4.

This chapter shall not apply with respect to any motor vehicle owned by the United States, the State of Georgia, any political subdivision of this state, or any municipality therein, or any motor carrier required by any other law to file evidence of insurance or other surety. Code Sections 40-9-81, ~~40-9-7, 40-9-6 through~~ 40-9-8, and 40-9-12 shall apply as to the operator of such motor vehicles. All provisions of this chapter shall apply to the operator of such motor vehicles while on unofficial business.

40-9-5.

(a) If the operator or the owner of a vehicle involved in an accident in this state has no license ~~or registration~~, such operator shall not be allowed a license ~~nor shall such owner be allowed to register any vehicle until he or she~~ has complied with the requirements of this chapter to the same extent that would be necessary if, at the time of the accident, he ~~or she had held a license or been the owner of a vehicle registered~~ in this state.

(b) When a nonresident's operating privilege is suspended pursuant to Code Section 40-9-33 or 40-9-61, the department shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subsection (c) of this Code section.

(c) Upon receipt of a certification that the operating privilege of a resident of this state has been suspended in another state pursuant to a law providing for its suspension for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the department to suspend a nonresident's operating privilege had the accident occurred in this state, the department shall suspend the license of such resident ~~and such resident's vehicle registration if he was the owner or operator of a motor vehicle involved in the accident~~. Such suspension shall continue until such resident furnishes evidence of his ~~or her~~ compliance with the laws of such other state relating to the showing of proof of financial responsibility; or reinstatement of operating ~~or registration~~ privilege.

40-9-6.

Reserved. (a) ~~If an owner's vehicle registration has been suspended under this chapter, such registration shall not be transferred nor shall the vehicle in respect to which such registration was issued be registered in any other name until the department is satisfied that such transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.~~

~~(b) Nothing in this Code section shall in any way affect the rights of any conditional vendor, chattel mortgagee, or lessor of a vehicle registered in the name of another as owner who becomes subject to this chapter.~~

## 40-9-7.

- (a) Any person whose driver's license ~~or vehicle registration~~ shall have been suspended under any provision of this chapter shall immediately return his or her license ~~and registration~~ to the department. If any person shall fail to return such license ~~or registration~~ to the department, the department shall direct any peace officer to secure possession thereof and to return it to the department.
- (b) Any person willfully failing to return his or her driver's license ~~or registration~~ as required in subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.00 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

## 40-9-8.

Any person whose driver's license, ~~vehicle registration~~, or nonresident's operating privilege has been suspended under this chapter and who, during such suspension, drives any motor vehicle upon any highway ~~or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway~~, except where permitted under this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not less than five days nor more than six months and there may be imposed in addition thereto a fine of not more than \$500.00.

## 40-9-9.

Whenever a driver's license ~~or vehicle registration~~ is suspended under any provisions of this chapter and the filing of proof of financial responsibility is made a prerequisite to reinstatement of such license ~~or registration or both~~, no such license ~~or registration~~ shall be reinstated unless the driver or owner, in addition to complying with the other provisions of this chapter, pays to the department a fee of \$25.00. Only one such fee shall be paid by any one person irrespective of the number of licenses ~~and registrations~~ to be reinstated. The fees paid pursuant to this Code section shall be expendable receipts to be used only by the department toward the cost of administration of this chapter.

## 40-9-10.

This chapter shall in no respect be considered as a repeal of the state motor vehicle laws but shall be construed as supplemental thereto.

## 40-9-11.

Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

## 40-9-12.

Any person who shall violate any provision of this chapter for which no penalty is otherwise provided shall be guilty of a misdemeanor.

## SECTION 20-2.

Said Chapter 9 of Title 40 is further amended by striking Code Sections 40-9-30, relating to fees for accident reports, 40-9-31, relating to submitting accident reports, 40-9-32, relating to determination of requirement of security, and 40-9-33, relating to suspension of license and registration for noncompliance, and inserting in their place new Code sections to read as follows:

## 40-9-30.

The ~~department~~ Department of Transportation shall charge a fee of \$5.00 for each copy of any accident report received and maintained by ~~the~~ that department pursuant to Code Section 40-6-273.

## 40-9-31.

Each state and local law enforcement agency shall submit to the Department of ~~Motor Vehicle Safety~~ Transportation the original document of any accident report prepared by such law enforcement agency or submitted to such agency by a member of the public. If the Department of Driver Services receives a claim requesting determination of security, the Department of Transportation shall provide a copy or an electronic copy of any relevant accident reports to the Department of Driver Services. A law enforcement agency may transmit the information contained on the accident report form by electronic means, provided that the ~~department~~ Department of Transportation has first given approval to the reporting agency for the electronic reporting method utilized. The law enforcement agency shall retain a copy of each accident report. All such reports shall be submitted to the ~~department~~ Department of Transportation not more than 15 days following the end of the month in which such report was prepared or received by such law enforcement agency.

## 40-9-32.

(a) The department, not less than 30 days after receipt of an accident report or notice of an accident with respect to which a person claims under oath to have suffered damages and requests determination of security, shall determine the amount of security sufficient in its judgment to satisfy any judgment or judgments for damages resulting from such accident that may be recovered against each operator and owner. Such determination shall be made on the basis of the reports or other information submitted. Notwithstanding any other provisions of this chapter, the department shall not consider or take any action with respect to an accident report, notice of accident, or any claim filed under this Code section which is received more than six months after the date of the accident.

(b) The department, upon determining the amount of security required, shall give written notice to each operator and owner of the amount of security required to be deposited by him or her. Such notice shall state that each operator's and owner's license and vehicle registration shall be suspended on the thirtieth day from the date of mailing of notice unless within that time the required security is deposited and such owner or operator shall give proof of financial responsibility for the future. The license of the one

depositing the security will not then be suspended.

- (c)(1) Any person so notified may, within ten days after receipt of such notification, make a written request to the department for a hearing. Such request shall operate as a stay of any suspension pending the outcome of such hearing. The scope of such hearing, for the purposes of this Code section, shall cover the issues of whether there is a reasonable possibility that a judgment could be rendered against such person in an action arising out of the accident and whether such person is exempt from the requirement of depositing security under Code Section 40-9-34. The department may also consider at such hearing the amount of security required. The requirements of depositing security under this Code section shall not apply to any person against whom the department has found that there is not a reasonable possibility of a judgment being rendered.
- (2) For the purposes of this Code section, a hearing may consist of a department determination of such issues, such determination to be based solely on written reports submitted by the operator or owner and by investigatory officers, provided that the owner or operator in his or her request to the department for a hearing has expressly consented to this type of hearing and that the department has also consented thereto.
- (d) Any person required to give security after a hearing as provided in subsection (c) of this Code section may petition for judicial review of the decision of the department, but suspension of such person's driver's license, or operating privilege, ~~or vehicle registration~~ shall not be stayed while such appeal is pending. The superior court upon such appeal may consider the written reports considered by the department at the hearing as authorized by subsection (c) of this Code section.

#### 40-9-33.

- (a) In the event that any person required to deposit security fails to deposit such security within 30 days from the date of mailing of notice as provided in Code Section 40-9-32 and such person does not make a timely request for a hearing, or in the event any person fails to deposit security after the department has determined that there exists a reasonable possibility of a judgment being rendered against such person, the department shall thereupon suspend:
- (1) The driver's license of such person; and
- (2) ~~The registration of all vehicles owned by such person which are subject to registration under the laws of this state; and~~
- (3) If such person is a nonresident, the privilege of operating or permitting the operation of a vehicle within this state.
- (b) The license ~~and registration~~ or nonresident's operating privilege shall remain so suspended and shall not be restored, nor shall any such license ~~and registration~~ be issued to such person, nor shall such nonresident's operating privilege be restored, until:
- (1) Such person shall deposit or there shall be deposited on his or her behalf the security and proof of financial responsibility for the future as required by this chapter;
- (2) One year shall have elapsed following the date of such suspension and evidence

satisfactory to the department has been filed with it that during the period of suspension no action for damages arising out of the accident has been instituted; or  
(3) Evidence satisfactory to the commissioner has been filed with him or her of a release from liability or a final adjudication of nonliability.

#### SECTION 20-3.

Said Chapter 9 of Title 40 is further amended by striking Code Section 40-9-41, relating to inadmissibility of proceedings as evidence, and inserting in its place a new Code section to read as follows:

. 40-9-41.

Neither any accident report filed with the ~~department~~ Department of Transportation, the action taken by the ~~department~~ Department of Driver Services pursuant to this chapter, the findings, if any, of the department upon which such action is based, nor the security filed as provided in this chapter shall be referred to in any way, nor shall they be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

#### SECTION 20-4.

Said Chapter 9 of Title 40 is further amended by striking Code Sections 40-9-61 relating to suspension of driving privileges and registrations for violations, 40-9-62 relating to duration of suspensions, and 40-9-63 relating to installment payment of judgments, and inserting in their place new Code sections to read as follows:

. 40-9-61.

(a) The department, upon receipt of a certified copy of an unsatisfied judgment, shall suspend the driver's license ~~and vehicle registration~~ or nonresident's operating privilege of the person against whom such judgment was rendered except as provided in subsections (b) and (c) of this Code section.

(b) If the judgment creditor consents, in writing, in such form as the department may prescribe, the department, in its discretion, may allow the judgment debtor to retain his or her license ~~and registration~~ or nonresident's operating privilege for six months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment or of any installments as provided in Code Section 40-9-63.

(c) The department shall take no action pursuant to subsection (a) of this Code section if it shall find that an insurer was obligated to pay the judgment upon which suspension is based, at least to the extent and for the amounts required in this article, but has not paid such judgment for any reason. Such finding shall not be binding upon such insurer and shall have no legal effect whatever except for the purposes of administering this Code section. Whenever, in any judicial proceedings, it shall be determined by any final judgment, decree, or order that an insurer is not obligated to pay any such judgment, the department, notwithstanding any contrary finding theretofore made by it, shall forthwith suspend the license ~~and registration and any~~ or nonresident's operating privilege of any person against whom such judgment was rendered.

## 40-9-62.

- (a) A driver's license, ~~vehicle registration~~, or nonresident's operating privilege suspended pursuant to Code Section 40-9-61 shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of the judgment debtor, whether or not he or she was previously licensed, unless and until every such judgment is stayed, or satisfied in full or to the extent provided in subsection (b) of this Code section, subject to the exceptions provided in this article.
- (b) Judgment referred to in this article, which is based upon an accident which occurred on or after January 1, 2001, shall, for the purpose of this chapter only, be deemed satisfied:
- (1) When \$25,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;
  - (2) When, subject to such limit of \$25,000.00 because of bodily injury to or death of one person, \$50,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or
  - (3) When \$25,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.
- (c) Reserved.
- (d) Payments made in settlement of any claims because of bodily injury, death, or property damage arising from the accident shall be credited in reduction of the amounts provided for in this Code section.

## 40-9-63.

- (a) A judgment debtor, upon due notice to the judgment creditor, may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments, and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.
- (b) The department shall not suspend a license, ~~registration~~, or nonresident's operating privilege and shall restore any license, ~~registration~~, or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor obtains such an order permitting the payment of any such judgment in installments, and while the payment of any such installments is not in default.

PART XXI  
Amendments to Chapter 40-11.  
Abandoned Motor Vehicles.

## SECTION 21-1.

Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned

motor vehicles, is amended by striking Code Section 40-11-1, relating to definitions applicable to abandoned motor vehicles in general, and inserting in its place a new Code section to read as follows:

. 40-11-1.

As used in this article, the term:

(1) 'Abandoned motor vehicle' means a motor vehicle or trailer:

(A) Which has been left by the owner or some person acting for the owner with an automobile dealer, repairman, or wrecker service for repair or for some other reason and has not been called for by such owner or other person within a period of 30 days after the time agreed upon; or within 30 days after such vehicle is turned over to such dealer, repairman, or wrecker service when no time is agreed upon; or within 30 days after the completion of necessary repairs;

(B) Which is left unattended on a public street, road, or highway or other public property for a period of at least five days and when it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle. However, on the state highway system, any law enforcement officer ~~or employee of the Department of Motor Vehicle Safety to whom enforcement authority has been designated pursuant to Code Section 40-16-4~~ may authorize the immediate removal of vehicles posing a threat to public health or safety or to mitigate congestion;

(C) Which has been lawfully towed onto the property of another at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage;

(D) Which has been lawfully towed onto the property of another at the request of a property owner on whose property the vehicle was abandoned and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage; or

(E) Which has been left unattended on private property for a period of not less than 30 days.

(2) 'Motor vehicle' or 'vehicle' means motor vehicle or trailer.

(3) 'Owner' or 'owners' means the registered owner, the owner as recorded on the title, lessor, lessee, security interest holders, and all lienholders as shown on the records of the Department of Motor Vehicle Safety Revenue.

SECTION 21-2.

Said Chapter 11 of Title 40 is further amended in Code Section 40-11-2, relating to duty of person removing or storing motor vehicle, by striking subsections (e), (h), (i), and (j) and inserting in their respective places new subsections to read as follows:

. (e) If none of the owners redeems such motor vehicle as described in subsection (d) of this Code section, or if a vehicle being repaired by a repair facility or being stored by an insurance company providing insurance to cover damages to the vehicle becomes abandoned, the person removing or storing such motor vehicle shall, within seven calendar days of the day such vehicle became an abandoned motor vehicle, give notice

in writing, by sworn statement, on the form prescribed by the state revenue commissioner, to the Department of Motor Vehicle Safety Revenue with a research fee of \$2.00 as fixed by rule or regulation payable to the Department of Motor Vehicle Safety Revenue, stating the manufacturer's vehicle identification number, the license number, the fact that such vehicle is an abandoned motor vehicle, the model, year, and make of the vehicle, the date the vehicle became an abandoned motor vehicle, the date the vehicle was removed, and the present location of such vehicle and requesting the name and address of all owners of such vehicle. If the form submitted is rejected because of inaccurate or missing information, the person removing or storing the vehicle shall resubmit, within seven calendar days of the date of the rejection, a corrected notice form together with an additional research fee of \$2.00 as fixed by rule or regulation payable to the Department of Motor Vehicle Safety Revenue. Each subsequent corrected notice, if required, shall be submitted with an additional research fee of \$2.00 as fixed by rule or regulation payable to the Department of Motor Vehicle Safety Revenue. If a person removing or storing the vehicle has knowledge of facts which reasonably indicate that the vehicle is registered or titled in a certain other state, such person shall check the motor vehicle records of that other state in the attempt to ascertain the identity of the owner of the vehicle. Research requests may be submitted and research fees made payable to the office of the tax commissioner and deposited in the general fund for the county in which the remover's or storers place of business is located in lieu of the Department of Motor Vehicle Safety Revenue, but in like manner, if such office processes motor vehicle records of the Department of Motor Vehicle Safety Revenue.

(h) The Department of Motor Vehicle Safety Revenue shall provide to the Georgia Crime Information Center all relevant information from sworn statements described in subsection (e) of this Code section for a determination of whether the vehicles removed have been entered into the criminal justice information system as stolen vehicles. The results of the determination shall be provided electronically to the Department of Motor Vehicle Safety Revenue.

(i) Any person storing a vehicle under the provisions of this Code section shall notify the Department of Motor Vehicle Safety Revenue if the vehicle is recovered, is claimed by the owner, is determined to be stolen, or for any reason is no longer an abandoned motor vehicle. Such notice shall be provided within seven calendar days of such event.

(j) If vehicle information on the abandoned motor vehicle is not in the files of the Department of Motor Vehicle Safety Revenue, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vehicle.

### SECTION 21-3

Said Chapter 11 of Title 40 is further amended in Code Section 40-11-3, relating to removal of vehicles from public property, by striking subsection (b) and paragraph (1) of subsection (d) and inserting in their respective places a new subsection and paragraph to read as follows:

- . (b) Any law enforcement officer ~~or employee of the Department of Motor Vehicle Safety to whom law enforcement authority has been designated pursuant to Code Section 40-16-4~~ who finds a motor vehicle which has been left unattended on the state highway system shall be authorized to cause such motor vehicle to be removed immediately to a garage or other place of safety when such motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property, other than the state highway system, shall be authorized immediately to cause such motor vehicle to be removed immediately to a garage or other place of safety when such motor vehicle poses a threat to public health or safety or to mitigate congestion.
- . (d)(1) Any peace officer or the law enforcement agency which causes a motor vehicle to be removed to a garage or other place of safety or which is notified of the removal of a motor vehicle from private property shall within 72 hours from the time of removal or notice and if the owner is unknown attempt to determine vehicle ownership through official inquiries to the Department of ~~Motor Vehicle Safety Revenue~~ vehicle registration and vehicle title files. These inquiries shall be made from authorized criminal justice information system network terminals.

#### SECTION 21-4.

Said Chapter 11 of Title 40 is further amended in Code Section 40-11-5, relating to foreclosure of liens, by striking paragraphs (2) and (3) and inserting in their place new paragraphs to read as follows:

- . (2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by certified or registered mail or statutory overnight delivery, make a demand upon the owners for the payment of the reasonable fees for removal and storage plus the costs of any notification or advertisement. Such written demand shall include an itemized statement of all charges and may be made concurrent with the notice required by subsection (f) of Code Section 40-11-2. Such demand shall be made on a form prescribed by rule or regulation of the Department of ~~Motor Vehicle Safety Revenue~~ and shall notify the owner of his or her right to a judicial hearing to determine the validity of the lien. The demand shall further state that failure to return the written demand to the lien claimant, file with a court of competent jurisdiction a petition for a judicial hearing, and provide the lien claimant with a copy of such petition, all within ten days of delivery of the lien claimant's written demand, shall effect a waiver of the owner's right to such a hearing prior to sale. The form shall also provide the suspected owner with the option of disclaiming any ownership of the vehicle, and his or her affidavit to that effect shall control over anything contrary in the records of the Department of ~~Motor Vehicle Safety Revenue~~. No such written demand shall be required if the identity of the owner cannot be ascertained and the notice requirements of subsection (g) of Code Section 40-11-2 have been complied with;
- (3)(A) If, within ten days of delivery to the appropriate address of the written demand required by paragraph (2) of this Code section, the owner of the abandoned

motor vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to the lien claimant in accordance with the notice provided pursuant to paragraph (2) of this Code section, or if the owner of the abandoned motor vehicle cannot be ascertained, the person removing or storing the abandoned motor vehicle may foreclose such lien. The person asserting such lien may move to foreclose by making an affidavit to a court of competent jurisdiction, on a form prescribed by rule or regulation of the Department of ~~Motor-Vehicle Safety Revenue~~, showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of Code Section 40-11-2 have been complied with, and such affidavit shall also aver that a demand for payment in accordance with paragraph (2) of this Code section has been made without satisfaction or without a timely filing of a petition for a judicial hearing or that the identity of the owner cannot be ascertained. The person foreclosing shall verify the statement by oath or affirmation and shall affix his or her signature thereto.

(B) Regardless of the court in which the affidavit required by this paragraph is filed, the fee for filing such affidavit shall be \$10.00 per motor vehicle upon which a lien is asserted;

#### SECTION 21-5.

Said Chapter 11 of Title 40 is further amended by striking Code Section 40-11-7, relating to purchasers of abandoned motor vehicles, and inserting in its place a new Code section to read as follows:

##### . 40-11-7.

The purchaser at a sale as authorized in this article shall receive a certified copy of the court order authorizing such sale. Any such purchaser may obtain a certificate of title to such motor vehicle by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the Department of ~~Motor-Vehicle Safety Revenue~~. The Department of ~~Motor-Vehicle Safety Revenue~~ shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

#### SECTION 21-6.

Said Chapter 11 of Title 40 is further amended in Code Section 40-11-9, relating to derelict motor vehicles, by striking subsections (a) and (b) and inserting in their place new subsections to read as follows:

. (a) If a motor vehicle has been left unattended on private property for not less than two days or on public property for not less than three days without the owner or driver making any attempt to recover such vehicle or to leave a conspicuously placed note that such owner or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor vehicle has been left unattended for not less than five days and if because of damage, vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an operable condition would require the replacement of one or more major component parts or involves any structural damage that would affect the safety of the vehicle; or if there is evidence that the vehicle was inoperable due to major mechanical breakdown at the time it was left on the property, such as the engine,

transmission, or wheels missing, no coolant in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the vehicle is seven or more years old; or if the vehicle is not currently tagged or is not verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the vehicle has been abandoned to a wrecker service by an insurance company and the owner following the insurance company's making a total loss payment, then any person removing such vehicle shall within 72 hours of removing such vehicle obtain the identity of and address of the last known registered owner of the vehicle, the owner of the vehicle as recorded on the certificate of title of such vehicle, and any security interest holder or lienholder on such vehicle from the local law enforcement agency of the jurisdiction in which the vehicle was located. If the law enforcement agency shows no information on the vehicle, then a request for such information shall be sent to the Department of ~~Motor Vehicle Safety Revenue~~. Within 72 hours after obtaining such information, the person removing such vehicle shall, by certified mail or statutory overnight delivery, return receipt requested, notify the registered owner, title owner, and security interest holder or lienholder of the vehicle that such vehicle will be declared a derelict vehicle and the title to such vehicle will be canceled by the Department of ~~Motor Vehicle Safety Revenue~~ if such person or persons fail to respond within ten days of receipt of such notice. The ~~state revenue~~ commissioner ~~of motor vehicle safety~~ shall prescribe the form and content of such notice. If the registered owner, title owner, or security interest holder or lienholder fails to respond within 30 days from the date of such notice by certified mail or statutory overnight delivery, and if the vehicle is appraised as having a total value of less than \$300.00, the vehicle shall be considered to be a derelict vehicle. The value of the vehicle shall be determined as 50 percent of the wholesale value of a similar car in the rough section of the National Auto Research Black Book, Georgia Edition, or if a similar vehicle is not listed in such book or, regardless of the model year or book value of the vehicle, if the vehicle is completely destroyed by fire, flood, or vandalism or is otherwise damaged to the extent that restoration of the vehicle to a safe operable condition would require replacement of more than 50 percent of its major component parts, the person shall obtain an appraisal of the motor vehicle from the local law enforcement agency's auto theft section with jurisdiction in the county or municipality where such vehicle is located. Any person removing a vehicle shall complete a form, to be provided by the Department of ~~Motor Vehicle Safety Revenue~~, indicating that the vehicle meets at least four of the above-stated eight conditions for being a derelict vehicle and shall file such form with the Department of ~~Motor Vehicle Safety Revenue~~ and the law enforcement agency with jurisdiction from which such vehicle was removed.

(b) Upon determination that a vehicle is a derelict motor vehicle as provided in subsection (a) of this Code section, it may be disposed of by sale to a person who scraps, dismantles, or demolishes motor vehicles, provided that such vehicle may be sold for scrap or parts only and shall in no event be rebuilt or sold to the general public. Any person disposing of a derelict motor vehicle shall, prior to disposing of such vehicle, photograph such vehicle and retain with such photograph the appraisal required

in subsection (a) of this Code section and the notice to the Department of ~~Motor Vehicle Safety Revenue~~ required in this subsection for a period of three years after its disposition. Such person shall also notify the Department of ~~Motor Vehicle Safety Revenue~~ of the disposition of such vehicle in such manner as may be prescribed by the ~~state revenue~~ commissioner of motor vehicle safety. The Department of ~~Motor Vehicle Safety Revenue~~ shall cancel the certificate of title for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

#### SECTION 21-7.

Said Chapter 11 of Title 40 is further amended by striking Code Section 40-11-24, relating to identification numbers of forfeited motor vehicles and components, and inserting in its place a new Code section to read as follows:

. 40-11-24.

Prior to the property's being sold or returned to the owner or otherwise disposed of, the Department of ~~Motor Vehicle Safety Revenue~~ shall assign it a new identification number.

#### PART XXII

Amendments to Chapter 40-13.  
Prosecution of traffic offenses.

#### SECTION 22-1.

Chapter 13 of Title 40 of the Official Code of Georgia Annotated, relating to prosecution of traffic offenses, is amended by striking Code Section 40-13-1, relating to uniform traffic citation forms, and inserting in its place a new Code section to read as follows:

. 40-13-1.

The commissioner of ~~public safety driver services~~ shall develop a uniform traffic citation and complaint form for use by all law enforcement officers who are empowered to enforce the traffic laws and ordinances in effect in this state. Such form shall serve as the citation, summons, accusation, or other instrument of prosecution of the offense or offenses for which the accused is charged, and as the record of the disposition of the matter by the court before which the accused is brought, and shall contain such other matter as the commissioner shall provide. Each such form shall have a unique identifying number which shall serve as the docket number for the court having jurisdiction of the accused.

#### SECTION 22-2.

Said Chapter 13 of Title 40 is further amended by striking Code Section 40-13-3, relating to reports of disposition of traffic citations, and inserting in its place a new Code section to read as follows:

. 40-13-3.

Except for offenses tried in the superior courts, all other courts having jurisdiction of the offense may proceed with the adjudication of the offenses contained within the complaint without the necessity of filing an indictment or other accusation in order to bring the accused to trial. The judge or clerk of each court before whom a person

accused of such an offense is brought shall promptly report the final disposition of the case to the Department of ~~Motor Vehicle Safety~~ Driver Services. Notwithstanding the reporting requirements of this Code section, the Department of ~~Motor Vehicle Safety~~ Driver Services may by rule or regulation relieve the judge or clerk of each such court of the responsibility of reporting those offenses which do not result in convictions or adjudications of guilt or pleas of nolo contendere.

#### SECTION 22-3.

Said Chapter 13 of Title 40 is further amended in Code Section 40-13-32, relating to change of sentences in traffic cases, by striking subsections (b) and (c) and inserting in their place new subsections to read as follows:

- . (b) If the original judgment is changed or modified pursuant to this Code section, the judge shall certify to the Department of ~~Motor Vehicle Safety~~ Driver Services that such change or modification is a true and correct copy of the change or modification and that the requirements set forth in paragraphs (1) through (3) of subsection (a) of this Code section have been met.
- (c) Except for orders correcting clerical errors, the Department of ~~Motor Vehicle Safety~~ Driver Services shall not recognize as valid any change or modification order nor make any changes to a driver's history unless such change or modification as submitted to the department is in strict compliance with the requirements set forth in subsections (a) and (b) of this Code section.

#### SECTION 22-4.

Said Chapter 13 of Title 40 is further amended in Code Section 40-13-33, relating to habeas corpus challenges to traffic convictions, by striking subsection (c) and inserting in its place a new subsection to read as follows:

- . (c) When the commissioner of ~~motor vehicle safety~~ driver services is named as the respondent, all such petitions must be brought in the Superior Court of Fulton County.

#### SECTION 22-5.

Said Chapter 13 of Title 40 is further amended in Code Section 40-13-53, relating to procedure in traffic violation bureau cases, by striking subsection (b) and inserting in its place a new subsection to read as follows:

- . (b) The following offenses shall not be handled or disposed of by a traffic violations bureau:
  - (1) Any offense for which a driver's license may be suspended by the commissioner of ~~motor vehicle safety~~ driver services;
  - (2) Any motor vehicle registration violation;
  - (3) A violation of Code Section 40-5-20;
  - (4) Speeding in excess of 30 miles per hour over the posted speed limit; or
  - (5) Any offense which would otherwise be a traffic violations bureau offense but which arose out of the same conduct or occurred in conjunction with an offense which is excluded from the jurisdiction of the traffic violations bureau. Any such offense

shall be subject to the maximum punishment set by law.

#### SECTION 22-6.

Said Chapter 13 of Title 40 is further amended by striking Code Section 40-13-54, relating to processing of citations by traffic violations bureaus, and inserting in its place a new Code section to read as follows:

. 40-13-54.

The original citation and complaint shall be sent by the officer issuing it to the traffic violations bureau of the court within 24 hours of the arrest. The defendant named in the citation shall be given the second copy. The officer issuing the citation and complaint shall retain one copy for himself or herself, and the court may, by order, provide that an additional copy shall be made for the use of any municipality in the county or the Department of ~~Motor Vehicle Safety~~ Driver Services.

#### PART XXIII

Amendments to Chapters 40-14 and 40-15.

Traffic enforcement devices and motorcycle safety programs.

#### SECTION 23-1.

Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to traffic enforcement devices, is amended by striking Code Section 40-14-16, relating to effect of certain speeding violations on driver licensing, and inserting in its place a new Code section to read as follows:

. 40-14-16.

No speeding violation of less than ten miles per hour above the legal speed limit in the county or municipality or on a college or university campus in which a person is given a speeding ticket shall be used by the Department of ~~Motor Vehicle Safety~~ Driver Services for the purpose of suspending or revoking the driver's license of the violator. No speeding violation report by a county, municipality, or college or university campus to the Department of ~~Motor Vehicle Safety~~ Driver Services which fails to specify the speed of the violator shall be used by the Department of ~~Motor Vehicle Safety~~ Driver Services to revoke the driver's license of a violator.

#### SECTION 23-2.

Chapter 15 of Title 40, relating to motorcycle safety programs, is amended by in Code Section 40-15-1, relating to definitions applicable to said chapter, by striking paragraphs (1) through (4) and inserting in their place new paragraphs to read as follows:

- . (1) 'Board' means the Board of ~~Motor Vehicle Safety~~ Driver Services.
- (2) 'Commissioner' means the commissioner of ~~motor vehicle safety~~ driver services.
- (3) 'Coordinator' means the state-wide motorcycle safety coordinator provided for in Code Section 40-15-4.
- (4) 'Department' means the Department of ~~Motor Vehicle Safety~~ Driver Services.

**PART XXIV**  
Amendments to Chapter 8 of Title 42.  
Probation.

**SECTION 24-1.**

Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is amended in Code Section 42-8-26, relating to probation supervisors, by striking paragraph (2) of subsection (c) and inserting in its place a new paragraph to read as follows:

- . (2) No supervisor shall own, operate, have any financial interest in, be an instructor at, or be employed by any private entity which provides drug or alcohol education services or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the Department of Human Resources Driver Services.

**SECTION 24-2.**

Said Chapter 8 of Title 42 is further amended in Code Section 42-8-104, relating to prohibited conflicts of interest relative to agreements for probation services, by striking paragraph (1) of subsection (c) and inserting in its place a new paragraph to read as follows:

- . (c)(1) No private corporation, enterprise, or agency contracting to provide probation services under the provisions of this article on or after January 1, 1997, nor any employees of such entities, shall own, operate, have any financial interest in, be an instructor at, or be employed by any private entity which provides drug or alcohol education services or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the Department of Human Resources Driver Services.

**SECTION 24-3.**

Said Chapter 8 of Title 42 is further amended by striking subsections (a) and (d) of Code Section 42-8-110, relating to ignition interlock devices in general, and inserting in their respective places new subsections to read as follows:

- . (a) As used in this article, the term 'ignition interlock device' means a constant monitoring device certified by the commissioner of motor vehicle safety driver services which prevents a motor vehicle from being started at any time without first determining the equivalent blood alcohol concentration of the operator through the taking of a deep lung breath sample. The system shall be calibrated so that the motor vehicle may not be started if the blood alcohol concentration of the operator, as measured by the device, exceeds 0.02 grams or if the sample is not a sample of human breath.
- . (d) A provider center shall be authorized to charge the person whose vehicle is to be equipped with an ignition interlock device such installation, deinstallation, and user fees as are approved by the Department of Motor Vehicle Safety Driver Services. A provider center may also require such person to make a security deposit for the safe return of the ignition interlock device. Payment of any or all of such fees and deposits may be made a condition of probation under this order.

#### SECTION 24-4.

Said Chapter 8 of Title 42 is further amended by striking subsection (c) of Code Section 42-8-111, relating to court ordered installation of ignition interlock devices, and inserting in its place a new subsection to read as follows:

. (c) In the case of any person subject to the provisions of subsection (a) of this Code section, the court shall include in the record of conviction or violation submitted to the Department of ~~Motor Vehicle Safety~~ Driver Services notice of the requirement for, and the period of the requirement for, the use of a certified ignition interlock device. Such notice shall specify any exemption from the installation requirements of paragraph (1) of subsection (a) of this Code section and any vehicles subject to the installation requirements of paragraph (2) of said subsection. The records of the Department of ~~Motor Vehicle Safety~~ Driver Services shall contain a record reflecting mandatory use of such device and the person's driver's license or limited driving permit shall contain a notation that the person may only operate a motor vehicle equipped with a functioning, certified ignition interlock device.

#### SECTION 24-5.

Said Chapter 8 of Title 42 is further amended by striking Code Section 42-8-112, relating to required proof of compliance for reinstatement of certain licenses and for probationary licenses, and inserting in its place a new Code section to read as follows:

. 42-8-112.

(a) In any case where the court imposes the use of an ignition interlock device as a condition of probation on a resident of this state whose driving privilege is not suspended or revoked, the court shall require the person to surrender his or her driver's license to the court immediately and provide proof of compliance with such order to the court or the probation officer and obtain an ignition interlock device restricted driving license within 30 days. Upon expiration of the period of time for which such person is required to use an ignition interlock device, the person may apply for and receive a regular driver's license upon payment of the fee provided for in Code Section 40-5-25. If such person fails to provide proof of installation to the extent required by subsection (a) of Code Section 42-8-111 and receipt of the restricted driving license within such period, absent a finding by the court of good cause for that failure, which finding is entered in the court's record, the court shall revoke or terminate the probation.

(b)(1) In any case where the court imposes the use of an ignition interlock device as a condition of probation on a resident of this state whose driving privilege is suspended or revoked, the court shall require the person to provide proof of compliance with such order to the court or the probation officer and the Department of ~~Motor Vehicle Safety~~ Driver Services not later than ten days after the date on which such person first becomes eligible to apply for an ignition interlock device limited driving permit in accordance with paragraph (2) of this subsection or a habitual violator's probationary license in accordance with paragraph (3) of this subsection, whichever is applicable. If such person fails to provide proof of installation to the extent required by subsection (a) of Code Section 42-8-111 within the period required by this subsection, absent a

finding by the court of good cause for that failure, which finding is entered on the court's record, the court shall revoke or terminate the probation if such is still applicable.

(2) If the person subject to court ordered use of an ignition interlock device as a condition of probation is authorized under Code Section 40-5-63 or 40-5-67.2 to apply for reinstatement of his or her driver's license during the period of suspension, such person shall, prior to applying for reinstatement of the license, have an ignition interlock device installed and shall maintain such ignition interlock device in a motor vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111 for a period of six months running concurrently with that of an ignition interlock device limited driving permit, which permit shall not be issued until such person submits to the department proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program, proof of having undergone any clinical evaluation and of having enrolled in any substance abuse treatment program required by Code Section 40-5-63.1, and proof of installation of an ignition interlock device on a vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111. Such a person may apply for and be issued an ignition interlock device limited driving permit at the end of 12 months after the suspension of the driver's license. At the expiration of such six-month ignition interlock device limited driving permit, the driver may, if otherwise qualified, apply for reinstatement of a regular driver's license upon payment of the fee provided in Code Section 40-5-25.

(3) If the person subject to court ordered use of an ignition interlock device as a condition of probation is authorized under Code Section 40-5-58 or under Code Section 40-5-67.2 to obtain a habitual violator's probationary license, such person shall, if such person is a habitual violator as a result of two or more convictions for driving under the influence of alcohol or drugs, have an ignition interlock device installed and maintained in a motor vehicle or vehicles to the extent required by subsection (a) of Code Section 42-8-111 for a period of six months following issuance of the probationary license, and such person shall not during such six-month period drive any motor vehicle that is not so equipped, all as conditions of such probationary license. Following expiration of such six-month period with no violation of the conditions of the probationary license, the person may apply for a habitual violator probationary license without such ignition interlock device condition.

(4) In any case where installation of an ignition interlock device is required, failure to show proof of such device shall be grounds for refusal of reinstatement of such license or issuance of such habitual violator's probationary license or the immediate suspension or revocation of such license.

(c) Each resident of this state who is required to have an ignition interlock device installed pursuant to this article shall report to the provider center every 30 days for the purpose of monitoring the operation of each required ignition interlock device. If at any time it is determined that a person has tampered with the device, the Department of ~~Motor Vehicle Safety~~ Driver Services shall be given written notice within five days by the probation officer, the court ordering the use of such device, or the interlock

provider. If an ignition interlock device is found to be malfunctioning, it shall be replaced or repaired, as ordered by the court or the Department of ~~Motor Vehicle Safety Driver Services~~, at the expense of the provider.

(d)(1) If a person required to report to an ignition interlock provider as required by subsection (c) of this Code section fails to report to the provider as required or receives an unsatisfactory report from the provider at any time during the six-month period, the Department of ~~Motor Vehicle Safety Driver Services~~ shall revoke such person's ignition interlock device limited driving permit immediately upon notification from the provider of the failure to report or failure to receive a satisfactory report. Except as provided in paragraph (2) of this subsection, within 30 days after such revocation, the person may make a written request for a hearing and remit to the department a payment of \$250.00 for the cost of the hearing. Within 30 days after receiving a written request for a hearing and a payment of \$250.00, the Department of ~~Motor Vehicle Safety Driver Services~~ shall hold a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The hearing shall be recorded.

(2) Any person whose ignition interlock device limited driving permit was revoked on or before July 1, 2004, for failure to report or failure to receive a satisfactory report may make a written request for a hearing and remit to the department a payment of \$250.00 for the cost of the hearing. Within 30 days after receiving a written request for a hearing and a payment of \$250.00, the Department of ~~Motor Vehicle Safety Driver Services~~ shall hold a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The hearing shall be recorded.

(3) If the hearing officer determines that the person failed to report to the ignition interlock provider for any of the reasons specified below, the Department of ~~Motor Vehicle Safety Driver Services~~ shall issue a new ignition interlock device limited driving permit that shall be valid for a period of six months to such person. Such reasons shall be for providential cause and include, but not be limited to, the following:

- (A) Medical necessity, as evidenced by a written statement from a medical doctor;
  - (B) The person was incarcerated;
  - (C) The person was required to be on the job at his or her place of employment, with proof that the person would be terminated if he or she was not at work; or
  - (D) The vehicle with the installed interlock device was rendered inoperable by reason of collision, fire, or a major mechanical failure.
- (4) If the hearing officer determines that the person failed to report to the ignition interlock provider for any reason other than those specified in paragraph (3) of this subsection, or if the person received an unsatisfactory report from the provider, after the expiration of 120 days the person may apply to the department and the department shall issue a new ignition interlock device limited driving permit to such person.
- (5) This subsection shall not apply to any person convicted of violating Code Section 42-8-118.

#### SECTION 24-6.

Said Chapter 8 of Title 42 is further amended by striking Code Section 42-8-115, relating to certification of ignition interlock devices, and inserting in its place a new Code section to read as follows:

. 42-8-115.

- (a) The commissioner of ~~motor vehicle safety~~ driver services or the commissioner's designee shall certify ignition interlock devices required by this article and the providers of such devices and shall promulgate rules and regulations for the certification of said devices and providers. The standards for certification of such devices shall include, but not be limited to, those standards for such devices promulgated by the National Highway Traffic Safety Administration and adopted by rule or regulation of the Department of ~~Motor Vehicle Safety~~ Driver Services.
- (b) The commissioner of ~~motor vehicle safety~~ driver services may utilize information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer in accordance with rules and regulations promulgated pursuant to this article. The cost of certification shall be borne by the manufacturers of ignition interlock devices.
- (c) The commissioner of ~~motor vehicle safety~~ driver services shall adopt rules and regulations for determining the accuracy of and proper use of the ignition interlock devices in full compliance with this article. No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by such rules and regulations.

#### SECTION 24-7.

Said Chapter 8 of Title 42 is further amended by striking Code Section 42-8-116, relating to warning labels affixed to ignition interlock devices, and inserting in its place a new Code section to read as follows:

. 42-8-116.

The providers certified by the Department of ~~Motor Vehicle Safety~~ Driver Services shall design and adopt pursuant to regulations of the department a warning label which shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor and may be subject to civil liability.

#### SECTION 24-8.

Said Chapter 8 of Title 42 is further amended by striking Code Section 42-8-117, relating to revocation of driving privilege upon violation of probation, and inserting in its place a new Code section to read as follows:

. 42-8-117.

- (a)(1) In the event the sentencing court finds that a person has violated the terms of probation imposed pursuant to subsection (a) of Code Section 42-8-111, the Department of ~~Motor Vehicle Safety~~ Driver Services shall revoke that person's driving privilege for one year from the date the court revokes that person's probation. The court shall report such probation revocation to the Department of ~~Motor Vehicle~~

Safety Driver Services by court order.

- (2) This subsection shall not apply to any person whose limited driving permit has been revoked under subsection (d) of Code Section 42-8-112.
- (b) In the event the sentencing court finds that a person has twice violated the terms of probation imposed pursuant to subsection (a) of Code Section 42-8-111 during the same period of probation, the Department of ~~Motor Vehicle Safety~~ Driver Services shall revoke that person's driving privilege for five years from the date the court revokes that person's probation for a second time. The court shall report such probation revocation to the Department of ~~Motor Vehicle Safety~~ Driver Services by court order.

PART XXV  
Amendments to Title 43.  
Professions and businesses.

SECTION 25-1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended in Code Section 43-13-2, relating to definitions applicable to driver training instructors and schools, by striking paragraphs (1) through (4) and inserting in their place new paragraphs to read as follows:

- . ~~(1)~~(2) 'Department' means the Department of ~~Motor Vehicle Safety~~ Driver Services acting directly or through its duly authorized officers and agents.
- ~~(2)~~(3) 'Driver training schools' means any person, partnership, limited liability company, or corporation giving driving instruction for hire to ten or more persons per calendar year for the purpose of assisting such persons to meet the requirements for licensed driving of Class C or Class M motor vehicles in this state, except for motorcycle operator safety training programs conducted by or on behalf of the Department of ~~Motor Vehicle Safety~~ Driver Services pursuant to Chapter 15 of Title 40.
- ~~(3)~~(1) 'Commercial driver training school' means any person, partnership, limited liability company, or corporation giving driving instruction for hire to ten or more persons per calendar year for the purpose of assisting such persons to meet the requirements for licensed driving of Class A or Class B motor vehicles in this state.
- (4) 'Driver's license examiners' means examiners appointed by the Department of ~~Motor Vehicle Safety~~ Driver Services for the purpose of giving driver's license examinations.

SECTION 25-2.

Said Title 43 is further amended in Code Section 43-13-8, relating to rules, regulations, and penalties applicable to driver training instructors and schools, by striking subsection (a) and inserting in its place a new subsection to read as follows:

- . (a) The commissioner of ~~motor vehicle safety~~ driver services is authorized to prescribe, by rule, standards for the eligibility, conduct, equipment, and operation of driver training schools and instructors and commercial driver training schools and instructors and to adopt other reasonable rules and regulations to carry out this chapter.

Notwithstanding the foregoing, violations that are minor in nature and committed by a person, firm, or corporation shall be punished only by a written reprimand unless the person, firm, or corporation fails to remedy the violation within 30 days, in which case an administrative fine, not to exceed \$250.00, may be issued.

#### SECTION 25-3.

Said Title 43 is further amended by striking Code Section 43-43-3, relating to duties of scrap metal processors with respect to motor vehicle titles and license plates, and inserting in its place a new Code section to read as follows:

. 43-43-3.

Should a scrap metal processor be presented the certificate of title or vehicle license plate for any vehicle or scrap vehicle purchased, that scrap metal processor shall mail or deliver the same to the Department of ~~Motor Vehicle Safety Revenue~~ as required by law.

#### SECTION 25-4.

Said Title 43 is further amended in Code Section 43-47-3, relating to the State Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers, by striking paragraph (3) of subsection (a) and paragraphs (2) and (3) of subsection (d) and inserting in their respective places new paragraphs to read as follows:

- . (3) The state revenue commissioner of ~~motor vehicle safety~~, or a designated agent, shall be a permanent ex officio member and shall be authorized to vote on all matters before the board;
- . (2) The members of the used car division shall be the three independent used car dealers, two of the members from the public at large, the state revenue commissioner of ~~motor vehicle safety~~ or a designated agent, the administrator of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975,' or a designated agent, the representative of the automobile auction industry, and the pawnbroker. All powers and duties relating to used car dealers which are not specifically reserved to the board shall be assigned to the used car division. The used car division shall elect one of its members to serve as chairperson of the division for a period of one year.
- . (3) The members of the used parts division shall be the third member from the public at large, the state revenue commissioner of ~~motor vehicle safety~~ or a designated agent, the auto salvage pool operator, the two used motor vehicle parts dealers who are not rebuilders, the rebuilder, and the representative of the automobile insurance industry. All powers and duties relating to used parts dealers which are not specifically reserved to the board shall be assigned to the used parts division. The used parts division shall elect one of its members to serve as chairperson of the division for a period of one year.

#### SECTION 25-5.

Said Title 43 is further amended in Code Section 43-47-8, relating to licensing of used motor vehicle and used motor vehicle parts dealers, by striking subsection (d) and inserting in its place a new subsection to read as follows:

- . (d) Each division may require either that within the preceding year the applicant has

attended a training and information seminar approved by the division or that the applicant has passed a test approved by the division and administered by the division director. Such seminar or test, if required, shall include, but shall not be limited to, dealer requirements of this chapter, including books and records to be kept; requirements of the Department of Motor Vehicle Safety and the Sales and Use Tax Division of the Department of Revenue; and such other information as in the opinion of the division will promote good business practices. No seminar shall exceed one day in length.

#### SECTION 25-6.

Said Title 43 is further amended by striking Code Section 43-47-11.1, relating to dealer registration plates for used motor vehicle and used motor vehicle parts dealers, and inserting in its place a new Code section to read as follows:

. 43-47-11.1.

As provided by law, every licensee who transfers a used motor vehicle title within this state shall register with the state revenue commissioner of ~~motor vehicle safety~~, making application for a dealer's registration plate. No person not licensed in accordance with this chapter shall be entitled to receive or use any dealer's registration plates for motor vehicles under the motor vehicle laws of this state providing for the issuance of such plates.

#### SECTION 25-7.

Said Title 43 is further amended by striking Code Section 43-47-15, relating to compliance with rules and regulations relating to wrecked and salvage motor vehicles, and inserting in its place a new Code section to read as follows:

. 43-47-15.

Any licensee who purchases a wrecked or salvage motor vehicle or rebuilds a wrecked or salvage motor vehicle shall fully comply with Chapter 3 of Title 40, the 'Motor Vehicle Certificate of Title Act,' regarding titling and inspection of salvage and rebuilt vehicles, and shall comply with any rules and regulations adopted by the state revenue commissioner of ~~motor vehicle safety~~ pursuant to this chapter.

### PART XXVI

#### Amendments to Code Section 44-1-13.

Removal of improperly parked cars or trespassing personal property.

#### SECTION 26-1.

Code Section 44-1-13 of the Official Code of Georgia Annotated, relating to removal of improperly parked cars or trespassing personal property, is amended by striking subsections (a) and (b) and inserting in their place new subsections to read as follows:

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

(1) 'Commission' means the Public Service Commission.

(2) 'Private property' means any parcel or space of private real property.

. (a.1) Any person or his or her authorized agent entitled to the possession of any ~~parcel or space of private real property, hereinafter referred to as 'private property'~~ shall have

the right to remove or cause to be removed from the property any vehicle or trespassing personal property thereon which is not authorized to be at the place where it is found and to store or cause to be stored such vehicle or trespassing personal property, provided that there shall have been conspicuously posted on the private ~~real~~ property notice that any vehicle or trespassing personal property which is not authorized to be at the place where it is found may be removed at the expense of the owner of the vehicle or trespassing personal property. Such notice shall also include information as to the location where the vehicle or personal property can be recovered, the cost of said recovery, and information as to the form of payment; provided, however, that the owner of ~~private~~ residential private property containing not more than four residential units shall not be required to comply with the posting requirements of this subsection. Only towing and storage firms issued permits or licenses by the local governing authority of the jurisdiction in which they operate or by the ~~Department of Motor Vehicle Safety commission~~, and having a secure impoundment facility, shall be permitted to remove trespassing property and trespassing personal property at the request of the owner or authorized agent of the private property.

(b) Except as provided in subsection (d) of this Code section, the ~~Department of Motor Vehicle Safety, hereinafter referred to as the department, commission~~ shall have the authorization to regulate and control the towing of trespassing vehicles on private property if such towing is performed without the prior consent or authorization of the owner or operator of the vehicle, including the authority to set just and reasonable rates, fares, and charges for services related to the removal, storage, and required notification to owners of such towed vehicles. No storage fees shall be charged for the first 24 hour period which begins at the time the vehicle is removed from the property, and no such fees shall be allowed for the removal and storage of vehicles removed by towing and storage firms found to be in violation of this Code section. The ~~Department of Motor Vehicle Safety commission~~ is authorized to impose a civil penalty for any violation of this Code section in an amount not to exceed \$2,500.00.

## PART XXVII

### Amendments to Chapter 45-9.

#### Insuring and indemnification of public officers and employees.

### SECTION 27-1.

Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to insuring and indemnification of public officers and employees, is amended in Code Section 45-9-81, relating to definitions applicable to the indemnification fund for certain state employees, by striking paragraph (6) and inserting in its place a new paragraph to read as follows:

. (6) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention,

detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice of the Department of Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent and unruly children who have escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who have broken the conditions of supervision. ~~Such term also includes law enforcement officers of the Department of Motor Vehicle Safety.~~ Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor.

#### SECTION 27-2.

Said Chapter 9 of Title 45 is further amended in Code Section 45-9-102, relating to definitions applicable to a temporary disability compensation program for certain state employees, by striking paragraph (6) and inserting in its place a new paragraph to read as follows:

. (6) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes prison guards as defined under Code Section 45-9-81 and the employees designated by the commissioner of juvenile justice of the Department of Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent and unruly children who have escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who have broken the conditions of supervision ~~and employees designated and delegated law enforcement powers by the commissioner of motor vehicle safety, which personnel have the duty to enforce the laws relating to motor carriers and the transportation of hazardous materials.~~

#### PART XXVIII

##### Amendments to Title 46.

##### Public utilities and public transportation.

#### SECTION 28-1.

Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public transportation, is amended in Code Section 46-1-1, relating to definitions applicable to said title, by striking the following: paragraph (7); division (9)(C)(ii); divisions (9)(C)(x) through (9)(C)(xiii); paragraph (11); and paragraph (18) and inserting in their respective places new paragraphs and divisions to read as follows:

. (7) 'Household goods' means any personal effects and property used or to be used in a dwelling when a part of the equipment or supplies of such dwelling and such other similar property as the ~~commissioner of motor vehicle safety~~ commission may

provide for by regulation; provided, however, that such term shall not include property being moved from a factory or store except when such property has been purchased by a householder with the intent to use such property in a dwelling and such property is transported at the request of, and with transportation charges paid by, the householder.

- . (ii) Taxicabs, drays, trucks, buses, and other motor vehicles which operate within the corporate limits of municipalities and are subject to regulation by the governing authorities of such municipalities. This exception shall apply to taxicabs and buses even though such vehicles may, in the prosecution of their regular business, occasionally go beyond the corporate limits of such municipalities, ~~provided that they do not operate to or from fixed termini outside of such limits and to any dray or truck which operates within the corporate limits of a city and is subject to regulation by the governing authority of such city or by the commissioner of motor vehicle safety and which goes beyond the corporate limits only for the purpose of hauling chattels which have been seized under any court process;~~
- . (x) Motor vehicles engaged exclusively in the transportation of agricultural or dairy products, or both, between farm, market, gin, warehouse, or mill, whether such motor vehicle is owned by the owner or producer of such agricultural or dairy products or not, so long as the title remains in the producer. For the purposes of this division, the term 'producer' includes a landlord where the relations of landlord and tenant or landlord and cropper are involved. As used in this division, the term 'agricultural products' includes fruit, livestock, meats, fertilizer, wood, lumber, cotton, and naval stores; household goods and supplies transported to farms for farm purposes; or other usual farm and dairy supplies, including products of grove or orchard; poultry and eggs; fish and oysters; and timber or logs being hauled by the owner thereof or the owner's agents or employees between forest and mill or primary place of manufacture; provided, however, motor vehicles with a manufacturer's gross weight rated capacity of 44,000 pounds or more engaged solely in the transportation of unmanufactured forest products shall be subject to the Georgia Forest Products Trucking Rules which shall be adopted and promulgated by the commissioner of ~~motor vehicle public~~ safety only for application to such vehicles and vehicles defined in subparagraph (A) of paragraph (13) of this Code section; provided, further, that pulpwood trailers and pole trailers with a manufacturer's gross weight rated capacity of 10,001 pounds or more engaged solely in the transportation of unmanufactured forest products shall have two amber side marker reflectors on each side of the trailer chassis between the rear of the tractor cab and the rearmost support for the load. All such reflectors shall be not less than four inches in diameter. Such rules and any amendments thereto adopted by the commissioner of ~~motor vehicle public~~ safety shall be subject to legislative review in accordance with the provisions of Code Section 46-2-30, and, for the purposes of such rules and any amendments thereto, the Senate Natural Resources and the Environment Committee and the

House Committee on Natural Resources and Environment shall be the appropriate committees within the meaning of said Code Section 46-2-30. The first such rules adopted by the commissioner of ~~motor vehicle~~ public safety shall be effective July 1, 1991;

(xi) Reserved;

(xii) Reserved: Motor vehicles engaged in compensated intercorporate hauling whereby transportation of property is provided by a person who is a member of a corporate family for other members of such corporate family, provided:

(I) The parent corporation notifies the commissioner of motor vehicle safety of its intent or the intent of one of the subsidiaries to provide the transportation;

(II) The notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the subsidiaries;

(III) A copy of the notice is carried in the cab of all vehicles conducting the transportation; and

(IV) The transportation entity of the corporate family registers the compensated intercorporate hauling operation with the commissioner of motor vehicle safety, registers and identifies any of its vehicles, and becomes subject to the commissioner's liability insurance and motor common carrier and motor contract carrier and hazardous materials transportation rules.

For the purpose of this division, the term 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest;

(xiii) Vehicles, except limousines, transporting not more than ten persons for hire, except that any operator of such a vehicle is required to register the exempt operation with the state revenue commissioner of ~~motor vehicle~~ safety, register and identify any of its vehicles, and become subject to the state revenue commissioner's liability insurance and vehicle safety rules;

(11) 'Permit' means a registration permit issued by the ~~commissioner of motor vehicle safety~~ state revenue commissioner authorizing interstate transportation for hire exempt from the jurisdiction of the United States Department of Transportation or intrastate passenger transportation for hire exempt from the jurisdiction of the state revenue commissioner of ~~motor vehicle~~ safety or intrastate transportation by a motor carrier of property.

(18) 'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, determined by the Department of Motor Vehicle Safety state revenue commissioner.

## SECTION 28-2.

(a) Said Title 46 is further amended by striking Code Section 46-7-1, relating to definitions applicable to motor carriers, and inserting in its place a new Code section to read as follows:

. 46-7-1.

As used in this chapter, the term:(1) 'Commissioner' means the commissioner of motor vehicle safety 'commission' means the Public Service Commission.

(2) 'Department' means the Department of Motor Vehicle Safety.

(b) Said Title 46 is further amended throughout Chapter 7, relating to motor carriers and limousine carriers, by striking the term "commissioner" each place it appears in said chapter in a Code section not otherwise amended by this Act and inserting in each such place the term "commission".

(c) Said Title 46 is further amended in said Chapter 7 by striking the terms "his or her" and "he or she" and inserting respectively "its" and "it" in the following Code sections:

- (1) Code Section 46-7-4, relating to issuance of certificates of authority;
- (2) Code Section 46-7-7, relating to determination of issuance of certificates;
- (3) Code Section 46-7-13, relating to temporary emergency operating authority; and
- (4) Code Section 46-7-33, relating to administrative proceedings.

SECTION 28-2.1.

Said Title 46 is further amended by striking Code Section 46-7-12, relating to bond and insurance requirements, and inserting in its place new Code Sections 46-7-12 and 46-7-12.1 to read as follows:

. 46-7-12.

(a) No certificate or permit motor carrier of household goods or passengers shall be issued ~~or continued in operation~~ a certificate unless there is filed with the ~~commissioner~~ commission a certificate of insurance for such applicant or holder on forms prescribed by the ~~commissioner~~ commission evidencing a policy of indemnity insurance ~~in some indemnity by an~~ insurance company ~~authorized~~ licensed to do business in this state, which policy must provide for the protection, in case of passenger vehicles, of passengers and ~~baggage carried and of~~ the public against injury proximately caused by the negligence of such motor ~~common carrier or motor contract~~ carrier, its servants, or its agents; and, in the case of vehicles transporting ~~freight~~ household goods, to secure the owner or person entitled to recover ~~therefor~~ against loss or damage to such ~~freight~~ household goods for which the motor ~~common carrier or motor contract~~ carrier may be legally liable ~~and for the protection of the public against injuries proximately caused by the negligence of such motor common carrier or motor contract carrier, its servants, or its agents. The commissioner, The commission~~ shall determine and fix the amounts of such indemnity insurance and shall prescribe the provisions and limitations thereof; ~~and such insurance shall be for the benefit of and subject to action by any person who shall sustain injury or loss protected thereby. Such certificate shall be filed by the insurer. The insurer shall file such certificate.~~ The failure to file any form required by the ~~commissioner~~ commission shall not diminish the rights of any person to pursue an action directly against a motor ~~common carrier's or motor contract~~ carrier's insurer.

(b) The ~~commissioner~~ commission shall have power to permit self-insurance, in lieu of a policy of indemnity insurance, whenever in ~~his or her~~ its opinion the financial ability of the motor ~~common carrier or motor contract~~ carrier so warrants.

(c) It shall be permissible under this article for any person having a cause of action arising under this article to join in the same action the motor ~~common carrier or motor contract~~ carrier and the insurance carrier, whether arising in tort or contract.

46-7-12.1.

- (a) No motor common carrier or motor contract carrier shall be issued a permit unless there is filed with the state revenue commissioner a certificate of insurance for such applicant or holder on forms prescribed by the commissioner evidencing a policy of indemnity insurance by an insurance company licensed to do business in this state, which policy must provide for the protection of passengers in the case of passenger vehicles and for protection of the public against injury proximately caused by the negligence of such motor common or motor contract carrier, its servants, or its agents. The state revenue commissioner shall determine and fix the amounts of such indemnity insurance and shall prescribe the provisions and limitations thereof. The insurer shall file such certificate. The failure to file any form required by the state revenue commissioner shall not diminish the rights of any person to pursue an action directly against a motor common or motor contract carrier's insurer.
- (b) The state revenue commissioner shall have power to permit self-insurance, in lieu of a policy of indemnity insurance, whenever in his or her opinion the financial ability of the motor common or motor contract carrier so warrants.
- (c) It shall be permissible under this article for any person having a cause of action arising under this article to join in the same action the motor common or motor contract carrier and the insurance carrier, whether arising in tort or contract.

SECTION 28-3.

Said Title 46 is further amended by striking Code Section 46-7-15, relating to registration and licensing of carriers, Code Section 46-7-15.1, relating to permits for carriers of property, Code Section 46-7-16, relating to certain permitting and registration of certain types of carriers, and 46-7-17, relating to designation and maintenance of agents for service on nonresident carriers, and inserting in their place new Code sections to read as follows:

. 46-7-15.

- (a) Except as otherwise provided in this Code section, before any motor common or contract carrier engaged in exempt passenger intrastate commerce as provided for in subparagraph (C) of paragraph (9) of Code Section 46-1-1 shall operate any motor vehicle on or over any public highway of this state, it shall first secure a registration permit from the state revenue commissioner by making application therefor on forms supplied by the state revenue commissioner and paying a \$25.00 filing fee. The application shall show the operations claimed to be exempt. A carrier's registration permit shall be valid so long as there is no change in its operating authority but may be amended to reflect any changes by application to the state revenue commissioner on a form provided by the state revenue commissioner and payment of a \$5.00 filing fee.
- (b) Every motor ~~common or contract~~ carrier operating pursuant to a certificate or

permit shall annually on or before the thirty-first day of December of each calendar year, but not earlier than the preceding first day of October or, as to a vehicle put into use during the course of the year, before the vehicle is put into use, make application to the state revenue commissioner for the issuance of an annual identification and registration stamp or stamps, make application for the registration of all motor vehicles to be operated under such certificate or permit, in such manner and form as the state revenue commissioner may by rule or regulation prescribe, and shall pay to the state revenue commissioner a fee of \$5.00 for the registration of each vehicle and issuance of identification and registration stamp to operate same. Each annual identification and registration stamp shall be valid for a period of 16 months extending from the first day of October of any year through the thirty-first day of January of the next succeeding year.

(c) Motor carriers operating pursuant to a certificate or permit as provided for in this article may, in lieu of other vehicle registration provisions contained in this Code section, register vehicles operated as an emergency, temporary, or trip-lease vehicle for a period not exceeding 15 days by payment to the state revenue commissioner of a fee of \$8.00 for each vehicle so registered. Upon such registration, the state revenue commissioner shall issue an emergency, temporary, or trip-lease vehicle registration permit.

(d) Whenever any motor vehicle is operated on or over any public highway of this state without the motor ~~common or contract~~ carrier operating such vehicle first having obtained the annual registration and license or temporary vehicle registration permit provided for in this Code section, the motor ~~common or contract~~ carrier operating such vehicle shall be required to pay a fee of \$25.00 for the late registration of such vehicle.

(e) No subdivision of this state, including cities, townships, or counties, shall levy any excise, license, or occupation tax of any nature on a motor ~~common or contract~~ carrier, or on the equipment of a motor ~~common or contract~~ carrier, or on the right of a motor ~~common or contract~~ carrier to operate such equipment, or on any incidents of the business of a motor ~~common or contract~~ carrier.

#### 46-7-15.1.

(a) Before any motor carrier of property shall operate any motor vehicle on or over any public highway of this state, it shall first secure a motor carrier of property permit from the state revenue commissioner by making application therefor on forms supplied by the state revenue commissioner and paying ~~the required a~~ \$50.00 filing fee. The application shall be in writing and under oath and shall include such information as the state revenue commissioner may require including, but not limited to:

- (1) Whether hazardous ~~commodities~~ materials will be transported;
- (2) The number and type of vehicles to be utilized;
- (3) The carrier's safety record and safety rating; and
- (4) Proof of compliance with applicable insurance or self-insurance requirements; and
- (5) Evidence that the carrier's representative or representatives have completed an

educational seminar on motor carrier operations and applicable safety regulations which has been certified by the state revenue commissioner.

- (b) The state revenue commissioner shall issue the motor carrier of property permit if the application is complete and the applicant demonstrates compliance with the laws of this state and the rules and regulations of the commissioner regarding insurance and safety, including the handling of hazardous materials. The state revenue commissioner may refuse to issue a permit where the applicant has failed to show compliance with the applicable laws of this state and the rules and regulations of the commissioner. In any such instance where a permit is denied, the applicant shall, upon request made within 30 days of the date of denial, be entitled to a hearing to contest such denial of a permit.
- (c) The state revenue commissioner may, at any time after notice and a hearing, suspend, revoke, alter, or amend any permit issued under this title if it shall appear that the holder of the permit has violated or refused to observe any of the lawful and reasonable orders, rules, or regulations prescribed by the state revenue commissioner, any provisions of this title, or any other law of this state regulating or providing for the taxation of motor vehicles.

46-7-16.

- (a) Before any motor carrier engaged solely in interstate commerce under authority issued by the Interstate Commerce Commission or any successor agency shall operate any motor vehicle on or over any public highway of this state, it shall obtain from the state revenue commissioner or the carrier's designated base state a registration receipt issued pursuant to rules adopted by the Interstate Commerce Commission or any successor agency as determined by federal law.
- (b) Before any motor carrier engaged solely in interstate operations exempt from regulation by the Interstate Commerce Commission or any successor agency shall operate any motor vehicle on or over any public highway of this state, it shall first:
- (1) Secure a registration permit from the state revenue commissioner by making application therefor on forms supplied by the state revenue commissioner and paying a \$25.00 filing fee. A carrier's registration shall be valid so long as there is no change in its operating authority with regard to its operations in this state, but the registration may be amended to reflect such changes by application to the state revenue commissioner on forms supplied by the state revenue commissioner and payment of a \$5.00 filing fee;
  - (2) Annually on or before the thirty-first day of December of each calendar year, but not earlier than the preceding first day of October or, as to a vehicle put into use during the course of the year, before the vehicle is put into use, make application to the state revenue commissioner for the issuance of an annual identification and registration stamp or stamps, make application for the registration of all motor vehicles to be operated under such permit, in such manner and form as the state revenue commissioner may by rule or regulation prescribe, and shall pay to the state revenue commissioner a fee of \$5.00 for the registration of each vehicle and issuance of identification and registration stamp to operate same. Each annual identification

and registration stamp shall be valid for a period of 16 months extending from the first day of October of any year through the thirty-first day of January of the next succeeding year. Notwithstanding any other provision of this Code section, the state revenue commissioner is authorized to impose a vehicle identification and registration fee equal to the identification and registration fee charged by any other state, up to a maximum of \$25.00, upon vehicles licensed in that state if such state charges equipment licensed in Georgia a vehicle identification and registration fee in excess of \$5.00; and

(3) Give the bond or indemnity insurance prescribed by this article, omitting the protection in respect to their own passengers and cargoes.

(c) Motor carriers operating pursuant to a registration permit as provided for in this Code section may, in lieu of all other registration and identification requirements contained in subsection (b) of this Code section, register vehicles operated in Georgia as an emergency, temporary, or trip-lease vehicle for a period not exceeding 15 days by payment to the state revenue commissioner of a fee of \$8.00 for each vehicle so registered; and upon such payment, the state revenue commissioner shall issue an emergency, temporary, or trip-lease vehicle registration permit.

(d) Where a carrier has not previously qualified with the state revenue commissioner to operate in interstate exempt or intrastate commerce in Georgia pursuant to this Code section and thus has not secured a registration permit pursuant to this Code section, the emergency, temporary, or trip-lease vehicle registration permit provided for in subsection (c) of this Code section will also include the authority to operate in Georgia during the 15 day or less period covered by the emergency, temporary, or trip-lease vehicle registration permit, provided that the carrier has otherwise qualified its operations with the state revenue commissioner as provided for in this Code section; provided, however, that whenever any motor vehicle is operated on or over any public highway of this state without the motor carrier operating such vehicle first having obtained the annual registration and identification stamp or license or the emergency, temporary, or trip-lease vehicle registration permit provided for in this Code section, the motor carrier operating such vehicle shall be required to pay a fee of \$25.00 for the late registration and identification of such vehicle.

(e) Reserved.

(f) It shall not be necessary for any motor carrier to obtain a certificate permit from the state revenue commissioner when such carrier is engaged solely in interstate commerce over the public highways of this state.

#### 46-7-17.

(a) Each nonresident motor ~~common or contract~~ carrier shall, before any ~~certificate or~~ permit is issued to it under this article or at the time of registering as required by Code Section 46-7-16, designate and maintain in this state an agent or agents upon whom may be served all summonses or other lawful processes in any action or proceeding against such motor carrier growing out of its carrier operations; and service of process upon or acceptance or acknowledgment of such service by any such agent shall have

the same legal force and validity as if duly served upon such nonresident carrier personally. Such designation shall be in writing, shall give the name and address of such agent or agents, and shall be filed in the office of the state revenue commissioner. Upon failure of any nonresident motor carrier to file such designation with the state revenue commissioner or to maintain such an agent in this state at the address given, such nonresident carrier shall be conclusively deemed to have designated the Secretary of State and his or her successors in office as such agent; and service of process upon or acceptance or acknowledgment of such service by the Secretary of State shall have the same legal force and validity as if duly served upon such nonresident carrier personally, provided that notice of such service and a copy of the process are immediately sent by registered or certified mail or statutory overnight delivery by the Secretary of State or his or her successor in office to such nonresident carrier, if its address be known. Service of such process upon the Secretary of State shall be made by delivering to his or her office two copies of such process with a fee of \$10.00.

(b) Except in those cases where the Constitution of Georgia requires otherwise, any action against any resident or nonresident motor common or contract carrier for damages by reason of any breach of duty, whether contractual or otherwise, or for any violation of this article or of any order, decision, rule, regulation, direction, demand, or other requirement established by the state revenue commissioner, may be brought in the county where the cause of action or some part thereof arose; and if the motor common or contract carrier or its agent shall not be found for service in the county where the action is instituted, a second original may issue and service be made in any other county where the service can be made upon the motor common or contract carrier or its agent. The venue prescribed by this Code section shall be cumulative of any other venue provided by law.

#### SECTION 28-4.

Said Title 46 is further amended by striking Code Section 46-7-23, relating to examination of records of carriers, and inserting in its place a new Code section to read as follows:

. 46-7-23.

The commissioner commission shall prescribe the books and the forms of accounts to be kept by the holders of certificates under this article, which books and accounts shall be preserved for such reasonable time as may be prescribed by the commissioner commission. The books and records of every certificate holder shall be at all times open to the inspection of the commissioner or any agent of the department commission for such purpose. The commissioner commission shall have the power to examine the books and records of all motor carriers to whom he or she it has granted certificates or permits to operate under this article and to examine under oath the officers and agents of any motor carrier with respect thereto.

#### SECTION 28-5.

Said Title 46 is further amended by striking Code Section 46-7-26, relating to rules and

regulations for the safe operation of motor vehicles and drivers and the safe transportation of hazardous materials, and inserting in its place a new Code section to read as follows:

. 46-7-26.

(a) The commissioner of public safety shall have the authority to promulgate rules and regulations for the safe operation of motor vehicles and drivers and the safe transportation of hazardous materials. Any such rules and regulations promulgated or deemed necessary by the commissioner of public safety shall include the following:

- (1) Every motor vehicle and all parts thereof shall be maintained in a safe condition at all times; and the lights, brakes, and equipment shall meet such safety requirements as the commissioner of public safety shall from time to time promulgate. ~~Specifically but without limitation, the commissioner shall promulgate rules or regulations for the safe operation of trailers or semitrailers effective on and after July 1, 2000, consistent with the applicable provisions of Code Section 40-8-50;~~
- (2) Every driver employed to operate a motor vehicle for a motor ~~common or contract~~ carrier shall be at least 18 years of age, of temperate habits and good moral character, possess a valid driver's license, not use or possess prohibited drugs or alcohol while on duty, and shall be fully competent to operate the motor vehicle under his or her charge;
- (3) Accidents arising from or in connection with the operation of motor common or contract carriers shall be reported to the commissioner of transportation in such detail and in such manner as the commissioner of transportation may require; and
- (4) The commissioner of public safety shall require every motor common and contract carrier to have attached to each unit or vehicle such distinctive markings or tags as shall be adopted by the commissioner of public safety.

(b) Regulations governing the safe operation of motor vehicles and drivers and the safe transportation of hazardous materials may be adopted by administrative order referencing compatible federal regulations or standards without compliance with the procedural requirements of Chapter 13 of Title 50, provided that such compatible federal regulations or standards shall be maintained on file by the Department of Public Safety and made available for inspection and copying by the public, by means including but not limited to posting on the department's computer Internet site.

(c) The commissioner of public safety may pursuant to rule or regulation specify and impose civil monetary penalties for violations of laws, rules, and regulations relating to driver and motor carrier safety and transportation of hazardous materials. Except as may be hereafter authorized by law, the maximum amount of any such monetary penalty shall not exceed the maximum penalty authorized by law or rule or regulation for the same violation immediately prior to July 1, 2005.

#### SECTION 28-5.1.

Said Title 46 is further amended by striking Code Section 46-7-27, relating to adoption of regulations, and inserting in its place a new Code section to read as follows:

. 46-7-27.

The ~~commissioner is~~ Public Service Commission, Department of Public Safety, and Department of Revenue are authorized to adopt such rules and orders as ~~he or she they~~ may deem necessary in the enforcement of this ~~article chapter~~. Such rules and orders ~~so approved by the commissioner~~ shall have the same dignity and standing as if such rules and orders were specifically provided in this ~~article chapter~~.

#### SECTION 28-5.2.

Said Title 46 is further amended by striking Code Section 46-7-39, relating to criminal penalties, and inserting in its place a new Code section to read as follows:

46-7-39.

Every officer, agent, or employee of any corporation and every person who violates or fails to comply with this ~~article chapter~~ relating to the regulation of motor carriers, or any order, rule, or regulation of the ~~commissioner~~ Public Service Commission, Department of Public Safety, or Department of Revenue, or who procures, aids, or abets therein, shall be guilty of a misdemeanor.

#### SECTION 28-6.

Said Title 46 is further amended by striking Article 3 of Chapter 7, relating to limousine carriers, and inserting in its place a new article to read as follows:

#### ARTICLE 3

46-7-85.1.

As used in this article, the term:

- (1) 'Certificate' means a certificate issued by the ~~commissioner~~ commission.
- (2) 'Chauffeur' means any person with a Georgia state driver's license who meets the qualifications as prescribed in Code Section 46-7-85.10 and who is authorized by the ~~commissioner~~ of driver services to drive a limousine under this article.
- (3) '~~Commissioner~~' means the ~~commissioner of motor vehicle safety~~. 'Commission' means the Public Service Commission.  
~~(3.1) 'Department' means the Department of Motor Vehicle Safety.~~  
(4) 'Limousine' means any motor vehicle that meets the manufacturer's specifications for a luxury limousine with a designed seating capacity for no more than ten passengers and with a minimum of five seats located behind the operator of the vehicle, and which does not have a door at the rear of the vehicle designed to allow passenger entry or exit; further, no vehicle shall be permitted to be operated both as a taxicab and a limousine.
- (5) 'Limousine carrier' means any person operating a service regularly rendered to the public by furnishing transportation as a motor common carrier for hire, not over fixed routes, by means of limousines, or extended limousines, on the basis of telephone contract or written contract.
- (6) 'Person' means any individual, firm, partnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

(7) 'Public highway' means every public street, road, or highway in this state.

46-7-85.2.

No limousine carrier shall operate any limousine for the transportation of passengers for compensation on any public highway in this state except in accordance with the provisions of this article.

46-7-85.3.

No person may engage in the business of a limousine carrier over any public highway in this state without first having obtained from the ~~commissioner~~ commission a certificate to do so.

46-7-85.4.

(a) The ~~commissioner~~ commission shall prescribe the form of the application for the certificate and shall prescribe such reasonable requirements as to notice, publication, proof of service, maintenance of adequate liability insurance coverage, and information as may, in ~~his or her~~ its judgment, be necessary and may establish fees as part of such certificate process.

(b) A certificate shall be issued to any qualified applicant, provided that such applicant is a limousine carrier business domiciled in this state, authorizing the operations covered by the application if it is found that the applicant is fit, willing, and able to perform properly the service and conform to the provisions of this article and the rules and regulations of the ~~commissioner~~ commission and has not been convicted of any felony as such violation or violations are related to the operation of a motor vehicle.

46-7-85.5.

(a) It shall be the duty of the ~~commissioner~~ commission to regulate limousine carriers with respect to the safety of equipment.

(b) The ~~department~~ commission shall require safety and mechanical inspections at least on an annual basis for each vehicle owned and operated by a limousine carrier. The ~~commissioner~~ commission shall provide, by rule or regulation, for the scope of such inspections, the qualifications of persons who may conduct such inspections, and the manner by which the results of such inspections shall be reported to the ~~department~~ commission.

46-7-85.6.

No certificate issued under this article may be leased, assigned, or otherwise transferred or encumbered unless authorized by the ~~commissioner~~ commission.

46-7-85.7.

The ~~commissioner~~ commission may cancel, revoke, or suspend any certificate issued under this article on any of the following grounds:

- (1) The violation of any of the provisions of this article;

- (2) The violation of an order, decision, rule, regulation, or requirement established by the ~~commissioner~~ commission pursuant to this article;
- (3) Failure of a limousine carrier to pay a fee imposed on the carrier within the time required by law or by the ~~commissioner~~ commission;
- (4) Failure of a limousine carrier to maintain required insurance in full force and effect; and
- (5) Failure of a limousine carrier to operate and perform reasonable services.

46-7-85.8.

After the cancellation or revocation of a certificate or during the period of its suspension, it is unlawful for a limousine carrier to conduct any operations as such a carrier.

46-7-85.9.

Pursuant to rules and regulations prescribed by the commissioner of driver services, each chauffeur employed by a limousine carrier shall ~~register with the commissioner~~ and secure from the Department of Driver Services a permit as a limousine chauffeur. A chauffeur's permit issued under this ~~subsection~~ Code section shall be upon a form prescribed by the commissioner of driver services and shall bear thereon a distinguishing number assigned to the permittee, the full name and a photograph of the permittee, and such other information or identification as is required by the commissioner of driver services. Every chauffeur employed by a limousine carrier shall have his or her chauffeur's permit in his or her immediate possession at all times while operating a limousine. All applications for a chauffeur's permit shall be accompanied by such fee as the commissioner of driver services shall prescribe. The chauffeur's permit shall be valid for four calendar years. The ~~commissioner~~ Department of Driver Services may issue a chauffeur's permit by mail.

46-7-85.10.

In order to secure a chauffeur's permit, an applicant must provide the following information on a form provided by the commissioner of driver services. The applicant must:

- (1) Be at least 18 years of age;
- (2) Possess a valid Georgia driver's license which is not limited as defined in Code Section 40-5-64; and
- (3)(A) Not have been convicted, been on probation or parole, or served time on a sentence for a period of five years previous to the date of application for the violation of any of the following criminal offenses of this state or any other state or of the United States: criminal homicide, rape, aggravated battery, mayhem, burglary, aggravated assault, kidnapping, robbery, driving a motor vehicle while under the influence of intoxicating beverages or drugs, child molestation, any sex related offense, leaving the scene of an accident, criminal solicitation to commit any of the above, any felony in the commission of which a motor vehicle was used,

perjury or false swearing in making any statement under oath in connection with the application for a chauffeur's permit, any law involving violence or theft, or possession, sale, or distribution of narcotic drugs, barbituric acid derivatives, or central nervous system stimulants; provided, however, that all applicants shall be entitled to the full benefits of Article 3 of Chapter 8 of Title 42, relating to first offender probation.

(B) If at the time of application the applicant is charged with any of the offenses described in subparagraph (A) of this paragraph, consideration of the application shall be suspended until entry of a plea or verdict or dismissal.

(C) If after the issuance of a permit a person is charged with any of the offenses described in subparagraph (A) of this paragraph, the permit shall be suspended pending disposition of such charge. If the person is convicted of such charge, the permit shall be revoked.

(D) For purposes of this paragraph, a plea of nolo contendere to any of the offenses set out in this paragraph shall constitute a conviction.

#### 46-7-85.11.

The State of Georgia fully occupies and preempts the entire field of regulation over limousine carriers as regulated by this article; provided, however, that the governing authority of any county or municipal airport shall be authorized to permit any limousine carrier doing business at any such airport and may establish fees as part of such permitting process; provided, further, that counties and municipalities may enact ordinances and regulations which require limousine carriers which are domiciled within their boundaries to pay business license fees.

#### 46-7-85.12.

A limousine carrier operating under a certificate issued by the ~~commissioner~~ commission shall be required to file with the ~~commissioner~~ commission a tariff of rates and charges.

#### 46-7-85.13.

Before the ~~commissioner~~ commission shall enter any order, regulation, or requirement directed against any limousine carrier, such carrier shall first be given reasonable notice and an opportunity to be heard on the matter.

#### 46-7-85.14.

~~Reserved. A limousine carrier may obtain a temporary permit for a period of 21 consecutive days beginning and ending on the dates specified on the face of the permit. Temporary permits shall be obtained by limousine carriers which make only infrequent trips within and through this state. The fee for each temporary certificate shall be \$100.00 per week and \$20.00 for each vehicle. No temporary permit shall be issued without the commissioner having first received satisfactory proof that the carrier meets the insurance requirements of the rules and regulations of the commissioner. A~~

~~temporary permit shall be carried in the motor vehicle for which it was issued at all times such vehicle is in this state. The commissioner may issue a temporary permit by facsimile message or letter. Any chauffeur operating a limousine under a temporary permit issued pursuant to this Code section shall be required to obtain a chauffeur's permit.~~

46-7-85.15.

Each limousine carrier which registers any vehicle under this article shall, for each such certificated vehicle, affix to the center of the front bumper of each such certificated vehicle a standard size license plate bearing the following information: (1) limousine company name, (2) city and state of principal domicile, (3) company telephone number, and (4) the vehicle classification, IE-1. The cost for such license plate shall be the sole responsibility of the limousine carrier and must be placed on each certificated vehicle prior to said vehicle being placed in service ~~and no later than May 1, 1994, for all such vehicles currently owned and to be registered and operated by a limousine carrier.~~

46-7-85.16.

Reserved.

46-7-85.17.

The ~~commissioner~~ commission shall promulgate such rules and regulations as are necessary to effectuate and administer the provisions of this article.

SECTION 28-7.

Said Title 46 is further amended by striking Code Section 46-11-2, relating to purpose of the law relating to transportation of hazardous materials, and inserting in its place a new Code Section to read as follows:

. 46-11-2.

. The General Assembly finds that the transportation of hazardous materials on the public roads of this state presents a unique and potentially catastrophic hazard to the public health, safety, and welfare of the people of Georgia and that the protection of the public health, safety, and welfare requires control and regulation of such transportation to minimize that hazard; to that end this chapter is enacted. The Department of ~~Motor Vehicle~~ Public Safety is designated as the agency to implement this chapter.

SECTION 28-8.

Said Title 46 is further amended in Code Section 46-11-3, relating to definitions applicable to transportation of hazardous materials, by striking paragraph (2) and inserting in its place a new paragraph to read as follows:

. (2) 'Commissioner' means the commissioner of ~~motor vehicle safety~~ public safety.

SECTION 28-9.

Said Title 46 is further amended in Code Section 46-11-4, relating to regulation of

transportation of hazardous materials, by striking subsection (f) and inserting in its place a new subsection to read as follows:

. (f) Every such permit shall be carried in the vehicles or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer ~~or employee of the Department of Motor Vehicle Safety who has been given enforcement authority by the commission~~.

#### SECTION 28-10.

Said Title 46 is further amended by striking Code Section 46-11-5, relating to rules for the transportation of hazardous materials, and inserting in its place a new Code section to read as follows:

. 46-11-5.

(a) The commissioner is authorized and empowered to adopt, promulgate, amend, repeal, or modify such standards, rules, and regulations and to issue such orders, authorizations, or amendments or modifications thereof as are necessary to implement this chapter. Any standards, rules, or regulations adopted pursuant to this chapter, if consistent with the applicable laws relating to adoption of such standards, rules, or regulations, shall have the force and effect of law.

(b)(1) As used in this subsection, the term 'anhydrous ammonia' means any substance identified to contain the compound ammonia which is capable of being utilized in the production of methamphetamine or any other controlled substance.

(2) Any person, firm, or corporation transporting methamphetamine, amphetamine, any mixture containing either methamphetamine or amphetamine, anhydrous ammonia, or any mixture containing anhydrous ammonia shall be subject to all rules and regulations promulgated by the commissioner pursuant to this chapter governing the safe operation of motor vehicles and drivers and the safe transportation of hazardous materials.

(3) Notwithstanding any other provision of law, the commissioner may impose civil monetary penalties in an amount not to exceed \$25,000.00 for each violation of any rules and regulations promulgated pursuant to this chapter or Code Section 46-7-26 with respect to persons transporting methamphetamine, amphetamine, any mixture containing either methamphetamine or amphetamine, anhydrous ammonia, or any mixture containing anhydrous ammonia.

#### SECTION 28-11.

Said Title 46 is further amended by striking Code Section 46-11-6, relating to enforcement concerning hazardous materials transportation, and inserting in its place a new Code section to read as follows:

. 46-11-6.

(a) The commissioner is authorized to employ such persons as may be necessary, in the discretion of the commissioner, for the proper enforcement of this chapter, the salaries for such employees to be fixed by the commissioner.

(b) The commissioner is vested with police powers and authority to designate, deputize, and delegate to employees of the Department of ~~Motor Vehicle~~ Public Safety

the necessary authority to enforce this chapter, including the power to stop and inspect all motor vehicles using the public highways for purposes of determining whether such vehicles have complied with and are complying with the provisions of this chapter and all other laws regulating the use of the public highways by motor vehicles, and to arrest all persons found in violation thereof.

**PART XXIX**  
Amendments to Title 48.  
Revenue and taxation.

**SECTION 29-1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-5-126.1, relating to training classes for county tax collectors and tax commissioners, by striking subsections (b) through (g) and inserting in their place new subsections to read as follows:

- . (b) In the event a county tax collector or tax commissioner who has never served in such office prior to January 1, 1982, assumes the office during a regular term of office, such local tax official shall be required to obtain special training and instruction from the Department of ~~Motor Vehicle Safety and the Property Tax Division of the Department of Revenue~~ in lieu of the training requirements of subsection (a) of this Code section.
- (c) Beginning January 1, 2005, each county tax collector or tax commissioner shall be required to attend 15 hours of training classes on county tax administration, property taxation, motor vehicle titling and registration, or related matters during each year of service as a county tax collector or tax commissioner. For the purposes of satisfying the requirements of this subsection, credit will be given for attendance of the county taxation seminar conducted by the University of Georgia under the supervision of the Georgia Center for Continuing Education or any seminar conducted by the Department of Revenue, ~~the Department of Motor Vehicle Safety~~, the Georgia Association of Tax Officials, or other similarly qualified organization of affiliated tax officials, or certain management, supervisory, leadership, or accounting seminars that qualify for continuing education credits. This training shall be generally devoted to contemporary business and taxation practices and shall be germane to the duties and operational functions of the office of county tax collector or tax commissioner. This subsection shall not apply to a county tax collector or tax commissioner who is serving the first year of such official's initial term of office.
- (d) The costs of attending the training classes required by this Code section shall be met by the payment of registration fees by each local tax official attending such classes. Each local tax official shall be reimbursed by such official's county for the amount of such fees and related travel expenses.
- (e) The instructors for the training classes required by this Code section shall consist of representatives of the Department of Revenue, ~~the Department of Motor Vehicle Safety~~, the Georgia Association of Tax Officials or other similarly qualified

organization of affiliated tax officials, the Georgia Center for Continuing Education, or any other qualified persons with expertise in the field of county tax administration, property taxation, motor vehicle titling and registration, or related matters.

(f) The ~~commissioners of the Department of Revenue and the Department of Motor Vehicle Safety~~ state revenue commissioner may adopt and enforce reasonable rules and regulations governing the establishment and administration of the training classes provided for by this Code section.

(g) The ~~commissioners of the Department of Revenue and the Department of Motor Vehicle Safety~~ state revenue commissioner is authorized to work with officials and personnel of the Georgia Center for Continuing Education in establishing the training classes to be held at that institution."

#### SECTION 29-2.

Said Title 48 is further amended by striking Code Section 48-5-474, relating to return of motor vehicles for ad valorem taxation, and inserting in its place a new Code section to read as follows:

. 48-5-474.

The application for registration of a motor vehicle and for the purchase of a license plate for the motor vehicle shall constitute the return of that motor vehicle for ad valorem taxation but only if ad valorem taxes are due at the time of registration. The state revenue commissioner ~~and the commissioner of motor vehicle safety~~ are directed to jointly prescribe a form for the application for registration which shall provide the information needed by the tax commissioner or tax collector in determining the amount of taxes due under this article.

#### SECTION 29-3.

Said Title 48 is further amended by striking Code Section 48-5-475, relating to sale of motor vehicle license plates, and inserting in its place a new Code section to read as follows:

. 48-5-475.

All original motor vehicle license plates shall be sold by the tax collector or tax commissioner of the several counties. Such officials are designated as agents of the state revenue commissioner ~~of motor vehicle safety~~ for the purpose of accepting applications for the registration of motor vehicles and ~~as agents of the state revenue commissioner~~ for purposes of collecting ad valorem taxes in connection with the registration of motor vehicles. The duties and responsibilities incident to the exercise of this designation shall be a part of the official duties and responsibilities of the various tax collectors and tax commissioners.

#### SECTION 29-4.

Said Title 48 is further amended in Code Section 48-7-29.5, relating to income tax credits for driver education expenditures, by striking subsection (a) and inserting in its place a new subsection to read as follows:

(a) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 with respect to the amount expended by such taxpayer for a completed course of driver education for a dependent minor child of such taxpayer at a private driver training school licensed by the Department of ~~Motor Vehicle Safety~~ Driver Services under Chapter 13 of Title 43, 'The Driver Training School License Act,' except as otherwise provided by this Code section. The amount of such tax credit per dependent minor child of a taxpayer shall be the actual amount expended for such course, or \$150.00, whichever is less.

#### SECTION 29-5.

Said Title 48 is further amended in Code Section 48-7-40.16, relating to income tax credits for low-emission vehicles, by striking paragraph (6) of subsection (a) and inserting in its place a new paragraph to read as follows:

(6) 'Motor vehicle' means any self-propelled vehicle designed for transporting persons or property on a street or highway that is registered by the Department of ~~Motor Vehicle Safety~~ Revenue, except vehicles that are defined as 'low-speed vehicles' in paragraph (25.1) of Code Section 40-1-1.

#### SECTION 29-6.

Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales and use taxation, by striking paragraph (5) and inserting in its place a new paragraph to read as follows:

(5)(A) Fares and charges, except charges for charter and sightseeing service, collected by an urban transit system for the transportation of passengers.

(B) As used in this paragraph, the term:

(i) 'Public transit system primarily urban in character' shall include a transit system operated by any entity which provides passenger transportation services by means of motor vehicles having passenger-carrying capacity within or between standard metropolitan areas and urban areas, as those terms are defined in Code Section 32-2-3, of this state.

(ii) 'Urban transit system' means a public transit system primarily urban in character which is operated by a street railroad company or a motor common carrier, is subject to the jurisdiction of the ~~Department of Motor Vehicle Safety~~ Public Service Commission, and whose fares and charges are regulated by the ~~Department of Motor Vehicle Safety~~ Public Service Commission, or is operated pursuant to a franchise contract with a municipality of this state so that its fares and charges are regulated by or are subject to the approval of the municipality. An urban transit system certificate shall be issued by the ~~Department of Motor Vehicle Safety~~ Public Service Commission, or by the municipality which has regulatory authority, upon an affirmative showing that the applicant operates an urban transit system. The certificate shall be obtained and filed with the commissioner and shall continue in effect so long as the holder of such certificate qualifies as an urban transit system. Any urban transit system certificate granted by the ~~Department of Motor Vehicle Safety~~ prior to January 1, 2002, shall be

deemed valid as of the date it was issued;.

PART XXX  
Amendments to Title 50.  
State government.

SECTION 30-1.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by striking Code Section 50-1-2, relating to the Coordination Council for North American Affairs of the Republic of China, and inserting in its place a new Code Section 50-1-2 to read as follows:

. 50-1-2.

The ~~Atlanta office of the Coordination Council for North American Affairs of the Republic of China Taipei Economic and Cultural Representatives Office in the United States~~, while it maintains an office in ~~Atlanta~~ ~~the State of Georgia~~, shall be accorded the same privileges and exemptions concerning taxation, ~~automobile license plates~~ ~~the operation of motor vehicles~~, education, diplomatic immunity, and any other privileges and exemptions, except that the automobile license plate shall state 'foreign government' or similar words as the commissioner of motor vehicle safety shall deem appropriate in lieu of the words 'consular corps,' as were formerly enjoyed by the Consulate General of the Republic of China and which are extended to consulates general of foreign countries generally as provided by the Taiwan Relations Act, 22 U.S.C. Section 3301, et seq.

SECTION 30-2.

Said Title 50 is further amended in Code Section 50-18-72, relating to government records for which public disclosure is not required, by striking paragraph (4.1) of subsection (a) and inserting in its place a new paragraph to read as follows:

. (4.1) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the submission of a written statement of need by the requesting party, such statement to be provided to the custodian of records and to set forth the need for the report pursuant to this Code section; provided, however, that any person or entity whose name or identifying information is contained in a Georgia Uniform Motor Vehicle Accident Report shall be entitled, either personally or through a lawyer or other representative, to receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection or copying by any person absent a written statement showing the need for each such report pursuant to the requirements of this Code section. For the purposes of this subsection, the term 'need' means that the natural person or legal entity who is requesting in person or by representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

(A) Has a personal, professional, or business connection with a party to the accident;

- (B) Owns or leases an interest in property allegedly or actually damaged in the accident;
- (C) Was allegedly or actually injured by the accident;
- (D) Was a witness to the accident;
- (E) Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident;
- (F) Is a prosecutor or a publicly employed law enforcement officer;
- (G) Is alleged to be liable to another party as a result of the accident;
- (H) Is an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;
- (I) Is gathering information as a representative of a news media organization; ~~or~~
- (J) Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, this subparagraph will apply only to accident reports on accidents that occurred more than 30 days prior to the request and which shall have the name, street address, telephone number, and driver's license number redacted; or
- (K) Is a governmental official, entity, or agency, or an authorized agent thereof, requesting reports for the purpose of carrying out governmental functions or legitimate governmental duties;

#### PART XXXI

Amendment to Title 52.

Waters of the state, ports, and watercraft.

#### SECTION 31-1.

Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and watercraft, is amended in Code Section 52-7-12.6, relating to boating privileges, by striking subsection (a) and inserting in its place a new subsection to read as follows:

- . (a) Any operator's privilege to operate a vessel on the waters of this state required to be suspended under subsection (d) of Code Section 52-7-12.5 shall be suspended subject to the following terms and conditions:
  - (1) Upon the first suspension pursuant to subsection (d) of Code Section 52-7-12.5 within the previous five years, as measured from the dates of previous arrests for which a suspension was obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for one year. Not sooner than 30 days following the effective date of suspension, the person may apply to the department for reinstatement of his or her operator's privilege. Such privilege shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of Human Resources Driver Services. An operator's privilege suspended pursuant to Code Section 52-7-12.5 shall remain suspended until such person submits proof of completion of a DUI Alcohol or

Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services;

(2) Upon the second suspension pursuant to subsection (d) of Code Section 52-7-12.5 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for three years. Not sooner than 120 days following the effective date of suspension, the person may apply to the department for reinstatement of the person's operator's privilege. Such privilege shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services. An operator's privilege suspended pursuant to Code Section 52-7-12.5 shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services; and

(3) Upon the third or subsequent suspension pursuant to subsection (d) of Code Section 52-7-12.5 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for not less than five years and until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program approved by the Department of ~~Human Resources~~ Driver Services.

**PART XXXII**  
Effective dates and repealer.

**SECTION 32-1.**

This Act shall become effective July 1, 2005, except that the provisions of subsection (b) of Code Section 40-16-3.1 shall become effective upon the approval of this Act by the Governor or upon its becoming law without such approval.

**SECTION 32-2.**

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

Senator Stoner of the 6th asked for a ruling of the Chair on the need for a fiscal note for HB 501.

The President ruled that HB 501 had a significant fiscal impact and was in need of a fiscal note, and therefore was out of order.

Senator Balfour of the 9th objected and appealed the ruling of the President.

Senator Smith of the 52nd asked for a ruling of the President Pro Tempore.

The Senate Parliamentarian, President Pro Tempore Johnson of the 1st, ruled that HB 501 did not have a significant fiscal impact and therefore no fiscal note was needed.

Senator Adleman of the 42nd appealed the ruling of the Senate Parliamentarian.

Senator Stephens of the 27th moved the previous question.

On the motion to sustain the ruling of the President Pro Tempore, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	Y Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	E Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 33, nays 19. The motion prevailed and the ruling of the President Pro Tempore was sustained; therefore, a fiscal note on HB 501 was not required.

The following communication was received by the Secretary:

Senator Horacena Tate  
District 38  
110 State Capitol  
Atlanta, GA 30334  
Operations

**Committees:**  
Appropriations  
Health and Human Services  
Retirement  
State and Local Governmental

The State Senate  
Atlanta, Georgia 30334

## MEMORANDUM

TO: Mr. Frank Eldridge  
Secretary of the Senate

FROM: Senator Horacena Tate  
38th District

SUBJECT: REGISTER MISSED VOTE

DATE: March 24, 2005

Please enter my vote into the record to reflect a "NO" vote on the position regarding the judgment on a fiscal note, to agree with the position of the President Pro Tem vs. the position of the President of the Senate.

Thank you in advance for your consideration.

/s/ Horacena Tate

Senators Tolleson of the 20th and Kemp of the 46th offered the following amendment #1:

Amend the Senate Public Safety and Homeland Security Committee substitute to HB 501 by striking "subsection (b) of Code Section 40-16-3.1" on lines 6 and 7 of page 138 and inserting in lieu thereof "paragraph (2) of subsection (b) of Code Section 40-16-3".

On the adoption of the amendment, the yeas were 37, nays 0, and the Tolleson, Kemp amendment #1 was adopted.

Senators Thomas of the 2nd, Brown of the 26th and Miles of the 43rd offered the following amendment #2:

Amend the Senate Public Safety and Homeland Security Committee substitute (LC 14 9228S) to HB 501 by striking the phrase '210.00 or 200.00' on lines 16 and 17 of page 63 and replacing it with '510.00 or 500.00'.

By striking the phrase '210.00 or 200.00' on line 12 of page 64 and replacing it with '510.00 or 500.00'.

By striking the phrase '210.00 or 200.00' on lines 23 and 24 of page 66 and replacing it

with ‘510.00 or 500.00’.

By striking the phrase ‘210.00 or 200.00’ on line 35 of page 66 and replacing it with ‘510.00 or 500.00’.

By striking the phrase ‘210.00 or 200.00’ on lines 27 and 28 of page 67 and replacing it with ‘510.00 or 500.00’.

By striking the phrase ‘210.00 or 200.00’ on line 3 of page 68 and replacing it with ‘510.00 or 500.00’.

Senator Smith of the 52nd offered the following amendment #2a:

Amend amendment # 2 to the Committee substitute to HB 501 by inserting prior to the phrase “510 or 500” at each place where such phrase is located the following: “210 or 200 when such reinstatement is processed by mail unless such conviction was a recidivist conviction in which case the restoration fee shall be”

On the adoption of the amendment, the yeas were 36, nays 3, and the Smith amendment #2a to amendment #2 was adopted.

Senator Adelman of the 42nd objected to the adoption of the Smith amendment #2a because the amendment was not placed upon his desk at the time the vote was called.

The President ruled that the vote was invalid because the amendment was not fully distributed and ordered another vote be taken.

Senator Smith of the 52nd appealed the ruling of the President.

The Senate Parliamentarian, President Pro Tempore Johnson of the 1st, ruled that the previous vote would not be annulled, but that a motion to reconsider was in order.

Senator Meyer von Bremen of the 12th moved that the Senate reconsider its action in adopting the Smith amendment #2a.

Senator Seabaugh of the 28th objected.

On the motion to reconsider Senator Stephens of the 27th called for yeas and nays. The call was sustained, a roll call was taken, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens

Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas Fort	N Moody	Thompson,S
N Goggans	N Mullis	N Tolleson
Y Golden	N Pearson	N Unterman
N Grant	Y Powell	E Walker
N Hamrick	Reed	N Weber
Y Harbison	N Rogers	N Whitehead
N Harp	N Schaefer	N Wiles
N Heath	N Seabaugh	N Williams
Y Henson	Y Seay	Zamarripa
	N Shafer,D	

On the motion, the yeas were 15, nays 34. The motion lost and the Smith amendment #2a was not reconsidered.

Senator Seay of the 34th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

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 Tate of the 38th asked unanimous consent that Senator Fort of the 39th be excused. The consent was granted, and Senator Fort was excused.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
E Fort	Y Mullis	Y Tolleson
N Goggans	Y Pearson	Y Unterman

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Y Golden	Y Powell	E Walker
Y Grant	E Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 48, nays 1, and the Thomas of the 2nd et al. amendment #2 was adopted as amended.

The following communication was received by the Secretary:

Senator Greg Goggans  
District 7  
324-B Legislative Office Building  
Atlanta, GA 30334

**Committees:**  
Agriculture and Consumer Affairs  
Finance  
Health and Human Services  
Transportation

The State Senate  
Atlanta, Georgia 30334

March 24, 2005

Mr. Frank Eldridge  
Secretary of the Senate  
The State Capitol  
Atlanta, GA 30334

Dear Mr. Eldridge:

I would like it to be known that on March 24, 2005, that a malfunction in my voting machine occurred while voting on amendment #2 to HB 501. I would like the record to show that I voted "yea" on this bill.

Thank you.

Sincerely,

/s/ Greg Goggans

Senators Stoner of the 6th, Adelman of the 42nd and Jones of the 10th offered the following amendment #3:

Amend the Senate Public Safety and Homeland Security Committee substitute to HB 501 by deleting Section 17-13 in its entirety and by renumbering Sections 17-14 through 17-24 as Sections 17-13 through 17-23, respectively.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	E Thompson,S
E Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	E Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 15, nays 34, and the Stoner et al. amendment #3 was lost.

On the adoption of the substitute, the President ordered a roll call, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S

E Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	E Walker
Y Grant	E Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Zamarripa
N Henson	Y Shafer,D	

On the adoption of the substitute, the yeas were 35, nays 15, and the committee substitute was adopted as amended.

Senator Stoner of the 6th offered the following substitute to HB 501:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to revise and modernize driver's licensure practices; to change provisions relating to fees for issuance of driver's record information and the manner of issuance of such information; to change provisions relating to the period of time for which licenses shall be issued and the fees for licenses; to change provisions relating to the types of examinations required for issuance of a license under certain circumstances; to provide for the Department of Motor Vehicle Safety to contract with driver training schools for certain examination and license issuance functions; to provide for the locations at which the department may perform certain functions; to provide for electronic signatures of license applications under certain circumstances; to require courts having jurisdiction over traffic offenses to transmit conviction information to the department electronically; to eliminate reexamination for reinstatement of suspended young drivers' licenses under certain circumstances; to provide for the method of determination of the age of young drivers for certain license suspension purposes; to provide for other related matters; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended in Code Section 40-5-2, relating to drivers' records, by striking and replacing subsection (j) and adding a new subsection (l) so that subsections (j) and (l) shall read, respectively, as follows:

- . (j) The commissioner is authorized to promulgate any rules, regulations, or policies as are necessary to carry out the provisions of this Code section. ~~The department and the~~

~~Georgia Technology Authority are each authorized to charge In accordance with paragraph (6) of subsection (a) of Code Section 50-25-4, reasonable fees to defray costs incurred in affording access to or disseminating shall be assessed for furnishing information from records or data bases pursuant to provisions of this Code section; provided, however, that the fee for furnishing an abstract of a driver's record shall not exceed \$10.00; and provided, further, that the fee for furnishing the limited information provided for purposes of insurance rating pursuant to division (e)(1)(B)(ii) of this Code section shall not exceed 20 percent of the fee for furnishing the abstract of a driver's record.~~

- (l) In any case in which the release or transmittal of one or more driver's records is authorized under this Code section or any other provision of law, the commissioner may determine the method of release or transmittal of the record or records, including without limitation release or transmittal by mail or by means of the Internet or other electronic means.

## SECTION 2.

Said Chapter 5 of Title 40 is further amended by striking subsections (a) through (d) of Code Section 40-5-25, relating to driver's license applications, and inserting in their respective places new subsections to read as follows:

- . (a) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department. Every application shall be accompanied by the proper license fee. The fees shall be as established by the commissioner, not to exceed:

(1) For instruction permits for Classes A, B, C, and M drivers' licenses and for Class D drivers' licenses .....	\$ 10.00
(2) For <u>five-year</u> Classes <u>A, B, C, and M noncommercial</u> drivers' licenses .....	<u>15.00</u> <u>20.00</u>
(2.1) For <u>ten-year</u> Classes <u>A, B, C, and M noncommercial</u> driver's licenses .....	<u>35.00</u>
(3) For Classes <u>A, and B, C, and M commercial</u> drivers' licenses.....	<u>15.00</u> <u>20.00</u>
(4) For application for Classes A, B, C, and M commercial drivers' licenses or a Class P commercial driver's instruction permit.....	35.00
(5) For Class P commercial drivers' instruction permits for Classes A, B, C, and M commercial drivers' licenses.....	10.00
(6) For Classes A, B, C, and M commercial drivers' licenses, initial issuance requiring a road test.....	<u>65.00</u> <u>70.00</u>

(7) For Classes A, B, C, and M commercial drivers' licenses, initial issuance not requiring a road test.....	<u>15.00</u>
	<u>20.00</u>
(8) For renewal of Classes A, B, C, and M commercial drivers' licenses.....	<u>15.00</u>
	<u>20.00</u>
(8.1) <u>For renewal of five-year Classes A, B, C, and M noncommercial drivers' licenses.....</u>	<u>20.00</u>
(8.2) <u>For renewal of ten-year Classes A, B, C, and M noncommercial drivers' licenses.....</u>	<u>35.00</u>
(9) Initial issuance of Classes A, B, C, and M commercial drivers' licenses and Class P commercial drivers' instruction permits shall include all endorsement fees within the license fee. Each endorsement added after initial licensing.....	5.00

The commissioner may by rule provide incentive discounts in otherwise applicable fees reflecting cost savings to the department where a license is renewed by means other than personal appearance. The discount for renewal of a Class C or Class M license shall be \$5.00 and any other discounts shall be as determined by the commissioner.  
 Except as provided in Code Section 40-5-36, relating to veterans' licenses, and Code Section 40-5-149, relating to application fees for public school bus drivers, there shall be no exceptions to the fee requirements for a commercial driver's license or a commercial driver's license permit. Notwithstanding any other provision of this Code section, there shall be no fee whatsoever for replacement of any driver's license solely due to a change of the licensee's name or address, provided that such replacement license shall be valid only for the remaining period of such original license; and provided, further, that only one such free replacement license may be obtained within any four year the period for which the license was originally issued. Any application for the replacement of a lost license pursuant to Code Section 40-5-31 or due to a change in the licensee's name or address submitted within 150 days of the expiration of said license shall be treated as an application for renewal subject to the applicable license fees as set forth in this subsection.

(b) Notwithstanding the provisions of subsection (a) of this Code section, any Class 1 or 2 license issued prior to April 3, 1989, shall remain valid until its expiration unless otherwise lost, destroyed, suspended, or revoked prior to its expiration. A Class 3, 4, or 5 license shall remain valid unless lost, destroyed, suspended, revoked, or canceled, until its expiration or its earlier replacement under Article 7 of this chapter, the Uniform Commercial Driver's License Act. Reserved.

(c) Every such application shall state the full legal name, date of birth, sex, and residence address of the applicant; shall briefly describe the applicant; and shall state whether the applicant has theretofore been licensed as a driver and, if so, when and by what state or country, and whether any such license has ever been suspended, revoked,

or refused, and, if so, the date of and reason for such suspension, revocation, or refusal; and shall state such other information as the commissioner may require to determine the applicant's identity, competence, and eligibility. The application shall include any other information as required by paragraph (1) of subsection (a.1) of Code Section 19-11-9.1. The department shall not issue a license until a complete examination of the applicant's record has been completed. The commissioner may issue such rules and regulations as shall be necessary for the orderly processing of license applications.

(d)(1) The General Assembly finds that it is in the best interest of the state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) Notwithstanding the provisions of paragraph (2) or (3) of subsection (a) of this Code section, each applicant for the issuance, reissuance, or renewal of a Class C, M, A, or B driver's license under paragraph (2) or (3) of subsection (a) of this Code section shall accompany such application with a license fee as established by the commissioner, not to exceed \$8.00, if such applicant executes an anatomical gift pursuant to Code Section 40-5-6.

(3) The department shall make available to those federally designated organ procurement organizations the name, license number, date of birth, and most recent address of any person who obtains a an organ donor driver's license with the reduced fee provided for in paragraph (2) of this subsection. Information so obtained by such organizations shall be used for the purpose of establishing a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

### SECTION 3.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-27, relating to examination of applicants, by striking subsections (a), (d), and (e) and inserting in their respective places new subsections to read as follows:

. (a) The department shall examine every applicant for a driver's license, except as otherwise provided by subsection (d) of this Code section. Such examination shall include a test of the applicant's eyesight, his or her ability to understand official traffic-control devices, and his or her knowledge of safe driving practices and the traffic laws of this state and shall also include a comprehensive on-the-road driving test during which the applicant shall be required to fully demonstrate his or her ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or general class of vehicles he or she desires a license to drive; provided, however, that the on-the-road driving test requirement shall not apply to any applicant for a Class C driver's license who holds a Class D driver's license issued on or after January 1, 2002. Applicants An applicant 18 years of age and older with a valid and current license issued by another state of the United States or the District of Columbia who surrender their previous licenses surrenders his or her previous license to obtain a Georgia license shall be exempt from taking such tests other than tests of eyesight. The

examination may also include such further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. The commissioner may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any class of license.

(d) The department shall ~~implement a six month pilot program to determine licensing requirements for licensed driver training schools to conduct on the road driving tests as provided in subsection (e) of this Code section. The department shall report the results of such pilot program to the House Committee on Motor Vehicles.~~ (e) If the department determines that the pilot program provided for in subsection (d) of this Code section is successful, it shall authorize licensed driver training schools to conduct on-the-road driving tests and other tests required for issuance of a driver's license as provided in this subsection. The department may authorize licensed driver training schools to issue driver's licenses to successful applicants as provided in this subsection. The department shall, prior to approving a licensed driver training school to conduct ~~on the road driving tests or issue licenses or both~~ as provided in this subsection, make a determination that the school has been licensed for a minimum of ~~one year two years~~ and has conducted driver education ~~and adult education~~ courses on a full-time basis for such ~~one year two year~~ period and that such school meets all other standards which the department may establish as a condition for approval to conduct such tests or issue licenses or both. The department shall authorize a driver training school licensed pursuant to Chapter 13 of Title 43 and approved by the department to administer the testing provided for in this Code section, provided that the applicant has successfully completed a driver training course which includes a minimum of 30 class hours of instruction and six hours of private in-car training. The department may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any Class C or Class D driver's license under this Code section.

#### SECTION 4.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-28, relating to issuance of drivers' licenses, and inserting in its place a new Code section to read as follows:

. 40-5-28.

(a) The department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a color photograph of the licensee, the licensee's full name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. Specifically but without limitation, the department may require applicants to submit fingerprints by means of an inkless fingerprint scanning

device upon application.

(b) The commissioner shall determine the location and manner of issuance of drivers' licenses. Without limiting the generality of the foregoing, it is specifically provided that the commissioner may designate county tag agents as agents of the department for this purpose and may authorize the issuance of drivers' licenses by county tag agents.

#### SECTION 5.

Said Chapter 5 of Title 40 is further amended in Code Section 40-5-31, relating to replacement permits or licenses, by striking subsection (b) and inserting in its place a new subsection to read as follows:

. (b) The department shall issue a temporary permit or driver's license to each individual who has lost by misplacement, and not by revocation or suspension, his or her instruction permit or driver's license and who has made application under oath on a form furnished by the department which states that the applicant presently has a valid permit or license which has been lost or misplaced. In lieu of the applicant's signature on a form, any application for the issuance of a replacement license submitted electronically shall contain an acknowledgment and attestation under penalty of perjury that he or she meets each requirement of this Code section.

#### SECTION 6.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-32, relating to driver's license renewal, and inserting in its place a new Code section to read as follows:

##### . 40-5-32.

(a)(1) Every Except as otherwise provided in this Code section, every driver's license shall expire on the licensee's birthday in the fourth fifth year following the issuance of such license. Notwithstanding the foregoing, any commercial license that contains an H or X endorsement as defined in subsection (c) of Code Section 40-5-150 shall expire on the date of expiration of the licensee's security threat assessment conducted by the Transportation Security Administration of the United States Department of Homeland Security. An applicant for a Class A, B, C, or M noncommercial driver's license who is under age 60 shall at the applicant's option apply for a license which shall expire on the licensee's birthday in the fifth or tenth year following the issuance of such license. Every such license shall be renewed on or before its expiration upon application, payment of the required fee, and, if applicable, satisfactory completion of the examination required or authorized by subsection (c) of this Code section.

(2) Except as otherwise provided by subsection (c) of this Code section, every holder of a veteran's or honorary license shall meet the requirements of subsection (e) of this Code section be valid until the holder reaches age 65 and shall thereafter be subject to renewal pursuant to paragraph (1) of this subsection on or before his or her birthday every four five years, beginning from the date on which the holder was last required to take an examination under former Ga. L. 1972, p. 1076, as amended by Ga. L. 1973, pp. 916, 917. The department may allow a veteran or honorary license

- holder to retain his or her expired veteran's or honorary license as a souvenir.
- (3) The commissioner shall issue such rules and regulations as are required to enforce this subsection.
- (b) An application for driver's license renewal may be submitted by means of:
- (1) Personal appearance before the department; or
  - (2) Subject to rules or regulations of the department which shall be consistent with considerations of public safety and efficiency of service to licensees, means other than such personal appearance which may include without limitation by mail or electronically. The department may by such rules or regulations exempt persons renewing drivers' licenses under this paragraph from the license surrender requirement of subsection (c) of Code Section 40-5-20.
- (c)(1) The department shall require every person applying for renewal of a driver's license to take and pass successfully such test of his or her eyesight as the department shall prescribe, unless otherwise provided by rule or regulation for purposes of paragraph (2) of subsection (b) of this Code section.
- (2) The commissioner may issue such rules and regulations as are necessary to implement this subsection.

#### SECTION 7.

Said Chapter 5 of Title 40 is further amended by striking Code Section 40-5-33, relating to change of address of a licensed driver, and inserting in its place a new Code section to read as follows:

. 40-5-33.

Whenever any person, after applying for or receiving a driver's license, shall move from the address named in such application or in the license issued to him or her or when the name of a licensee is changed by marriage or otherwise, such person shall apply to the department for a license showing the correct name or address within 60 days. Failure to change the name or address shall not deem the license invalid. The commissioner shall designate the locations at which applications shall be accepted for applications due to change of name and shall designate the locations at which applications shall be accepted for applications due to change of address and may designate any locations for such purposes.

#### SECTION 8.

Said Chapter 5 of Title 40 is further amended by striking subsection (b) of Code Section 40-5-53, relating to reports of convictions and forwarding of licenses by courts, and inserting in its place a new subsection to read as follows:

- . (b) Every court in each county of this state having jurisdiction over offenses committed under this chapter and Chapter 6 of this title or any other law of this state or ordinance adopted by a local authority regulating the operation of motor vehicles on highways shall forward to the department, within ten days after the conviction of any person in such court for a violation of any such law other than regulations governing speeding in a noncommercial motor vehicle for which no points are assigned under Code Section 40-5-57, standing, or parking, a uniform citation form authorized by Article 1 of

Chapter 13 of this title. Notwithstanding any other provision of this title, in satisfaction of the reporting requirement of this subsection, the courts of this state ~~may shall~~ transmit the information contained on the uniform citation form by electronic means, ~~provided that the department has first given approval to the reporting court for using the electronic reporting method utilized approved by the department.~~ The department shall pay to the clerk of the court forwarding the required report 40¢ for each report transmitted electronically ~~in a timely manner as required in this subsection and 10¢ for each report transmitted otherwise;~~ and notwithstanding any general or local law to the contrary, the clerk shall pay such fees over to the general fund of the city or county operating the court. Where a court has not implemented transmittal by electronic means, the commissioner may require such court or courts to submit by electronic means no later than a future date to be determined by the commissioner.

#### SECTION 9.

Said Chapter 5 of Title 40 is further amended in said Code Section 40-5-57.1 by adding at the end of the Code section a new subsection (d) to read as follows:

. (d) A suspension provided for in this Code section shall be imposed based on the person's age on the date of the conviction giving rise to the suspension.

#### SECTION 10.

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

Pursuant to the adoption of the committee substitute to HB 501 the Stoner floor substitute was moot.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	Y Miles	N Thompson,C
Y Douglas	Y Moody	E Thompson,S
E Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	E Walker

Y Grant	E Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 35, nays 15.

HB 501, having received the requisite constitutional majority, was passed by substitute.

Senator Tolleson of the 20th asked unanimous consent that HB 501 be immediately transmitted to the House.

The consent was granted and HB 501 was immediately transmitted.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

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

SB 283. By Senators Bulloch of the 11th and Williams of the 19th:

A BILL to be entitled an Act to amend Part 3 of Article 3 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to submerged cultural resources, so as to change certain provisions relating to permits and authorization to contract for investigation, survey, or recovery operations and renewal and revocation of permits; to provide that the Department of Natural Resources shall establish a program to authorize deadhead logging operations in certain locations and under certain conditions; to provide for administration of such a program; to define certain terms; to provide for automatic repeal; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 90. By Senators Thomas of the 54th, Reed of the 35th, Unterman of the 45th, Schaefer of the 50th, Miles of the 43rd and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, so as to enact the "Georgia Smokefree Air Act of 2005"; to prohibit smoking in certain facilities and areas; to state findings; to provide for definitions; to provide for exceptions; to provide for posting of signs; to provide for violations, penalties, and state and local government enforcement and administration; to provide for construction; to provide that this prohibition shall be cumulative to other general or local acts, rules, and regulations; to repeal a former prohibition against smoking in public places; to provide for related matters; to repeal conflicting laws; and for other purposes.

Mr. President:

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

HB 846. By Representatives Benfield of the 85th, Watson of the 91st, Mitchell of the 88th, Stephenson of the 92nd, Mosby of the 90th and others:

A BILL to be entitled an Act to provide a homestead exemption from DeKalb County ad valorem taxes for county purposes for the full value of the homestead for residents of that county who are disabled or are 62 years of age or over and whose household gross income does not exceed \$25,000.00; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for the specific repeal of a certain prior homestead exemption; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 852. By Representatives Crawford of the 127th and Cole of the 125th:

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Barnesville, approved March 11, 1987 (Ga. L. 1987, p. 3865), as amended, particularly by an Act approved April 5, 1993 (Ga. L. 1993, p. 4957), so as to provide new districts for councilmembers; to provide for definitions and inclusions; to provide for continuation in office of current members of the council; to change provisions relating to wards; to provide for submission of this Act for preclearance under the federal Voting Rights

Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 853. By Representatives Harbin of the 118th, Fleming of the 117th and Burmeister of the 119th:

A BILL to be entitled an Act to authorize the governing authority of Columbia County to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 854. By Representatives Harbin of the 118th, Fleming of the 117th and Burmeister of the 119th:

A BILL to be entitled an Act to amend an Act to provide that certain officials of Columbia County who have served at least 15 years in office may, upon leaving office, continue to participate in the county health insurance program by paying the total cost of such participation, approved May 17, 2004 (Ga. L. 2004, p. 4472), so as to clarify that such Act applies to health insurance coverage for the officials as well as their spouses and dependents; to provide for related matters; to provide for intent; to repeal conflicting laws; and for other purposes.

HB 855. By Representatives Harbin of the 118th, Fleming of the 117th and Burmeister of the 119th:

A BILL to be entitled an Act to amend an Act to create a board of elections for Columbia County and provide for its powers and duties, approved March 23, 1993 (Ga. L. 1993, p. 4180), so as to revise certain term limitations on members of the board; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 857. By Representative Cole of the 125th:

A BILL to be entitled an Act to repeal an Act entitled "Jasper County Economic Development Authority Act" approved April 4, 1991 (Ga.L. 1991, p. 4524); to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 858. By Representatives Scott of the 2nd and Neal of the 1st:

A BILL to be entitled an Act to amend an Act to create a board of elections and registration for Walker County and provide for its powers and duties, approved April 4, 1997 (Ga. L. 1997, p. 3657), so as to revise the manner of appointing members of the board; to revise the manner of filling vacancies; to revise the qualifications of members of the board; to provide for related matters; to provide for the submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 859. By Representatives Lane of the 167th, Keen of the 179th and Hill of the 180th:

A BILL to be entitled an Act to amend an Act relating to the Glynn County Board of Elections and Registration, approved March 24, 1994 (Ga. L. 1994, p. 3977), so as to change provisions relating to the selection of members of the board; to provide for one member to be appointed by the board of commissioners of Glynn County rather than the grand jury; to provide for the current member in that position to complete his or her current term of office; to provide for related matters; to provide for submission under the federal Voting Rights Act; to repeal conflicting laws; and for other purposes.

HB 860. By Representatives Henson of the 87th, Watson of the 91st, Drenner of the 86th, Williams of the 89th, Sinkfield of the 60th and others:

A BILL to be entitled an Act to amend an Act establishing the DeKalb County districts from which the members of the county board of education shall be elected, approved April 12, 1963 (Ga. L. 1963, p. 3424), as amended, particularly by an Act approved March 19, 1987 (Ga. L. 1987, p. 4538), so as to change the compensation of the members of the board of education; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 861. By Representative Ralston of the 7th:

A BILL to be entitled an Act to amend an Act providing for a Board of Commissioners of Fannin County, approved August 10, 1920 (Ga. L. 1920, p. 519), as amended, particularly by an Act approved March 14, 1983 (Ga. L. 1983, p. 3939), so as to change the provision relating to the compensation of the members of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 862. By Representative Hatfield of the 177th:

A BILL to be entitled an Act to amend an Act creating the State Court of Ware County, formerly the City Court of Waycross, approved December 11, 1897 (Ga. L. 1897, p. 510), as amended, particularly by an Act approved May 17, 2004 (Ga. L. 2004, p. 4082), so as to provide for the compensation of the solicitor-general and the judge of said court; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 863. By Representatives Scott of the 153rd and Roberts of the 154th:

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Tift County, approved August 9, 1917 (Ga. L. 1917, p. 396), as amended, particularly by an Act approved April 17, 1975 (Ga. L. 1975, p. 4015), and an Act approved March 28, 1985 (Ga. L. 1985, p. 4875), so as to repeal a requirement that certain commissioners must resign on or before a certain date in order to run for chairperson of the board of commissioners; provide that the board of commissioners of Tift County may establish procedures relative to competitive bids on county purchases of new material, supplies, and equipment and contracts for county work; to provide for public inspection; to repeal conflicting laws; and for other purposes.

HB 866. By Representatives Forster of the 3rd and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act to reconstitute the Board of Education of Catoosa County, Georgia, approved March 30, 1993 (Ga. L. 1993, p. 4258), as amended, so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 867. By Representatives Forster of the 3rd and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act creating the office of commissioner of Catoosa County, approved February 23, 1943 (Ga. L. 1943, p. 858), as amended, so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance pursuant to 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 870. By Representative Freeman of the 140th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Twiggs County, approved March 26, 1982 (Ga. L. 1982, p. 3627), as amended, particularly by an Act approved March 24, 1994 (Ga. L. 1994, p. 4048), so as to provide for monthly meetings of the board of education; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 872. By Representatives Heard of the 104th, Mumford of the 95th, Rice of the 51st, Floyd of the 99th, Marin of the 96th and others:

A BILL to be entitled an Act to amend an Act creating the board of commissioners of Gwinnett County, approved January 31, 1968 (Ga. L. 1968, p. 2003), as amended, particularly by an Act approved March 24, 1988 (Ga. L. 1988, p. 4658), so as to provide for the compensation of the chairperson and the members of the board of commissioners; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 300. By Senators Rogers of the 21st, Stoner of the 6th, Wiles of the 37th and Hill of the 32nd:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Cobb County, approved June 19, 1964 (Ga. L. 1964, Ex. Sess., p. 2075), as amended, particularly by an Act approved May 17, 2004 (Ga. L. 2004, p. 4519), so as to change the provisions relating to the compensation of the chairperson and the other commissioners of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 333. By Senators Douglas of the 17th and Hudgens of the 47th:

A BILL to be entitled an Act to amend an Act creating the Walnutgrove-Youth Water Authority, now known as the Walton County Water and Sewerage Authority, approved April 3, 1972 (Ga. L. 1972, p. 3623), as amended, particularly by an Act approved April 5, 1994 (Ga. L. 1994, p. 4675), so as to continue in existence and reconstitute the authority; to provide for legislative findings; to provide for the termination of the terms of members of the authority appointed under previous law; to provide for

the appointment of members and their qualifications, terms, chairperson, quorum, meetings, vacancies, and compensation; to provide for perpetual existence of the authority; to provide for ratification of outstanding revenue bond debt; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 350. By Senator Smith of the 52nd:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Rome, approved August 19, 1918 (Ga. L. 1918, p. 813), as amended, so as to authorize the City of Rome to exercise all redevelopment and other powers authorized or granted to municipalities under Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as now or hereafter amended, and to provide for certain such powers; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 137. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act to create the office of Commissioner of Towns County, approved March 14, 1984 (Ga. L. 1984, p. 4130), as amended, so as to reconstitute the board of commissioners of Towns County and revise and restate the law relating to the board; to provide for continuation in office of the present sole county commissioner; to provide for the establishment of commissioner districts; to provide for the election and terms of office for subsequent members; to provide for filling vacancies; to provide for the powers, duties, and authority of the chairperson and members of the board; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has disagreed to the Senate substitute to the following Bill of the House:

HB 487. By Representatives Roberts of the 154th, McCall of the 30th, Floyd of the 147th, Royal of the 171st, Ray of the 136th 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 change the exemption regarding electricity sales for irrigation of farm crops; to repeal conflicting laws; and for other purposes.

Senator Eric Johnson, President Pro Tempore, assumed the Chair.

The Calendar was resumed.

HB 392. By Representatives Brown of the 69th, Harbin of the 118th, Keen of the 179th, Cooper of the 41st and Scheid of the 22nd:

A BILL to be entitled an Act to amend Chapter 8 of Title 31 of the O.C.G.A., relating to indigent and elderly patients, so as to provide for a quality assessment fee on care management organizations to be used to obtain federal financial participation for medical assistance payments; to provide for authority; to provide for definitions; to establish a segregated account within the Indigent Care Trust Fund for the deposit of assessment fees; to provide for a method for calculating and collecting the assessment fees; to authorize the Department of Community Health to inspect records of care management organizations; to provide for penalties for failure to pay an assessment fee; to provide for the collection of assessment fees by civil action and tax liens; to provide for the appropriation of funds in the segregated account for medical assistance payments; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Williams of the 19th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Stoner
Y Cagle	Jones	Tate
Y Carter	Y Kemp	Y Thomas,D

Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
E Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	E Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Zamarripa
Henson	Y Shafer,D	

On the passage of the bill, the yeas were 41, nays 2.

HB 392, having received the requisite constitutional majority, was passed.

The President resumed the Chair.

Senator Thompson of the 5th asked unanimous consent that Senator Stoner of the 6th be excused. The consent was granted, and Senator Stoner was excused.

Senator Balfour of the 9th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

Senator Balfour of the 9th asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

Senator Butler of the 55th asked unanimous consent that Senator Miles of the 43rd be excused. The consent was granted, and Senator Miles was excused.

HB 170. By Representatives Golick of the 34th, Roberts of the 154th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th and others:

A BILL to be entitled an Act to enact the "Criminal Justice Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and appeals in criminal cases; to provide for a short title; to amend Chapter 7 of Title 5 of the Official Code of Georgia Annotated, relating to appeal or certiorari by the state in criminal cases, so as to provide that the state may appeal from an order, decision, or judgment of a superior court granting a motion for new trial or denying a motion by the state to recuse or disqualify a judge; to amend Article 5 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to trial juries, so as to provide the state and the

accused with the same number of peremptory challenges in misdemeanor, felony, and death penalty cases and in challenging alternate jurors; to provide the manner in which peremptory challenges are made; to change the size of the jury panel in felony and death penalty cases; to provide the manner in which the number of alternative jurors is determined; to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to provide the state with an equal number of additional peremptory challenges in trials for jointly indicted defendants; to provide that the prosecuting attorney shall always conclude the argument to the jury; to change the provision relating to notice and argument in presentence hearings; to provide that provisions relating to discovery apply to sentencing proceedings; to amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to change the provisions relating to the impeachment of witnesses; to provide for the admission of evidence of character of a witness; to provide for the impeachment of witnesses through evidence of conviction of a crime; to provide for the admission of specific instances of conduct by a witness; to provide for other matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

The Senate Judiciary Committee offered the following substitute to HB 170:

**A BILL TO BE ENTITLED  
AN ACT**

To enact the "Criminal Justice Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and appeals in criminal cases; to provide for a short title; to amend Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, so as to specifically provide that the denial of a defendant's motion to recuse may be subject to interlocutory appeal; to provide that the state may appeal from an order, decision, or judgment of a superior court granting a motion for new trial or denying a motion by the state to recuse or disqualify a judge; to amend Article 5 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to trial juries, so as to provide the state and the accused with the same number of peremptory challenges in misdemeanor, felony, and death penalty cases and in challenging alternate jurors; to provide the manner in which peremptory challenges are made; to change the size of the jury panel in felony and death penalty cases; to provide for excuses for cause under certain circumstances; to provide the manner in which the number of alternative jurors is determined; to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to provide for additional peremptory challenges in trials for jointly indicted defendants; to provide that the prosecuting attorney shall always conclude the argument to the jury; to provide that provisions relating to discovery apply to

sentencing proceedings; to change certain provisions relating to discovery; to amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to change the provisions relating to the impeachment of the defendant; to change provisions relating to when a witness has been impeached; to provide for the impeachment of witnesses through evidence of conviction of a crime and bad character; to provide for the admission of specific instances of conduct by a witness; to provide for other matters relative to the foregoing; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Criminal Justice Act of 2005."

SECTION 2.

Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended by striking subsection (b) of Code Section 5-6-34, relating to direct appeal and other review, and inserting in its place a new subsection (b) to read as follows:

. (b) Where the trial judge in rendering an order, decision, or judgment, not otherwise subject to direct appeal, including but not limited to the denial of a defendant's motion to recuse in a criminal case, certifies within ten days of entry thereof that the order, decision, or judgment is of such importance to the case that immediate review should be had, the Supreme Court or the Court of Appeals may thereupon, in their respective discretions, permit an appeal to be taken from the order, decision, or judgment if application is made thereto within ten days after such certificate is granted. The application shall be in the nature of a petition and shall set forth the need for such an appeal and the issue or issues involved therein. The applicant may, at his or her election, include copies of such parts of the record as he or she deems appropriate, but no certification of such copies by the clerk of the trial court shall be necessary. The application shall be filed with the clerk of the Supreme Court or the Court of Appeals and a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties in the case in the manner prescribed by Code Section 5-6-32, except that such service shall be perfected at or before the filing of the application. The opposing party or parties shall have ten days from the date on which the application is filed in which to file a response. The response may be accompanied by copies of the record in the same manner as is allowed with the application. The Supreme Court or the Court of Appeals shall issue an order granting or denying such an appeal within 45 days of the date on which the application was filed. Within ten days after an order is issued granting the appeal, the applicant, to secure a review of the issues, may file a notice of appeal as provided in Code Section 5-6-37. The notice of appeal shall act as a supersedeas as provided in Code Section 5-6-46 and the procedure thereafter shall be the same as in an appeal from a final judgment.

### SECTION 3.

Said title is further amended by striking subsection (a) of Code Section 5-7-1, relating to orders, decisions, or judgments appealable by state, and inserting in lieu thereof a new subsection (a) to read as follows:

- . (a) An appeal may be taken by and on behalf of the State of Georgia from the superior courts, state courts, City Court of Atlanta, and juvenile courts and such other courts from which a direct appeal is authorized to the Court of Appeals of Georgia and the Supreme Court of Georgia in criminal cases and adjudication of delinquency cases in the following instances:
- (1) From an order, decision, or judgment setting aside or dismissing any indictment, accusation, or petition alleging that a child has committed a delinquent act or any count thereof;
  - (2) From an order, decision, or judgment arresting judgment of conviction or adjudication of delinquency upon legal grounds;
  - (3) From an order, decision, or judgment sustaining a plea or motion in bar, when the defendant has not been put in jeopardy;
  - (4) From an order, decision, or judgment suppressing or excluding evidence illegally seized or excluding the results of any test for alcohol or drugs in the case of motions made and ruled upon prior to the impaneling of a jury or the defendant being put in jeopardy, whichever occurs first;
  - (5) From an order, decision, or judgment of a court where the court does not have jurisdiction or the order is otherwise void under the Constitution or laws of this state;
  - (6) From an order, decision, or judgment of a superior court transferring a case to the juvenile court pursuant to subparagraph (b)(2)(B) of Code Section 15-11-28; or
  - (7) From an order, decision, or judgment of a superior court granting a motion for new trial or an extraordinary motion for new trial; or
  - (8) From an order, decision, or judgment denying a motion by the state to recuse or disqualify a judge made and ruled upon prior to the defendant being put in jeopardy.

### SECTION 4.

Article 5 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to trial juries, is amended by striking Code Section 15-12-125, relating to demand of jury panels for misdemeanor trials, and inserting in lieu thereof a new Code Section 15-12-125 to read as follows:

. 15-12-125.

For the trial of misdemeanors in all courts, each party may demand a full panel of 12 competent and impartial jurors from which to select a jury. When one or more of the regular panel of trial jurors is absent or for any reason disqualified, the judge, at the request of counsel for either party, shall cause the panel to be filled by additional competent and impartial jurors to the number of 12 before requiring the parties or their counsel to strike a jury. From this panel, the accused shall have the right to challenge four peremptorily, defendant and the state two shall each have the right to challenge three jurors peremptorily. The defendant and the state shall exercise their challenges as

provided in Code Section 15-12-166. The remaining six jurors shall constitute the jury.

#### SECTION 5.

Said article is further amended by striking Code Section 15-12-160, relating to required panel of jurors in felony trial, and inserting in lieu thereof a new Code Section 15-12-160 to read as follows:

. 15-12-160.

When any person stands indicted for a felony, the court shall have impaneled ~~30~~ 24 jurors from which the defense and prosecution may strike jurors; provided, however, that in any case in which the state announces its intention to seek the death penalty, the court shall have impaneled 42 jurors from which the defense and state may strike jurors. If, for any reason, after striking from the panel there remain less than 12 qualified jurors to try the case, the presiding judge shall summon such numbers of persons who are competent jurors as may be necessary to provide a full panel. In making up the panel or successive panels, the presiding judge shall draw the tales jurors from the jury box of the county and shall order the sheriff to summon them.

#### SECTION 6.

Said article is further amended by adding at the end of Code Section 15-12-164, relating to challenges to jurors in a felony trial, a new subsection (d) to read as follows:

. (d) The court shall also excuse for cause any juror who from the totality of the juror's answers on voir dire is determined by the court to be substantially impaired in the juror's ability to be fair and impartial. The juror's own representation that the juror would be fair and impartial is to be considered by the court but is not determinative.

#### SECTION 7.

Said article is further amended by striking Code Section 15-12-165, relating to number of peremptory challenges, and inserting in lieu thereof a new Code Section 15-12-165 to read as follows:

. 15-12-165.

Every person indicted for a crime or offense accused of a felony may peremptorily challenge ~~42~~ six of the jurors impaneled to try him or her. The state shall be allowed ~~one~~ half the same number of peremptory challenges allowed to the accused defendant; provided, however, that in any case in which the state announces its intention to seek the death penalty, the person indicted for the crime defendant may peremptorily challenge ~~20~~ 15 jurors and the state shall be allowed ~~one~~ half the same number of peremptory challenges allowed to the accused.

#### SECTION 8.

Said article is further amended by striking Code Section 15-12-169, relating to manner of selecting alternate jurors, and inserting in lieu thereof a new Code Section 15-12-169 to read as follows:

. 15-12-169.

Alternate jurors must be drawn from the same source and in the same manner and have the same qualifications as the jurors already sworn. They shall be subject to the same examination and challenges. The number of alternate jurors shall be determined by the court. The state and the defendant shall be entitled to as many peremptory challenges to alternate jurors as there are alternate jurors called. The defendant shall be entitled to additional peremptory challenges in an amount twice greater than the additional peremptory challenges of the state. The peremptory challenges allowed to the state and to the defendant in such event shall be in addition to the regular number of peremptory challenges allowed in criminal cases to the defendant and to the state as provided by law. When two or more defendants are tried jointly, each defendant shall be entitled to as many peremptory challenges to alternate jurors as there are alternate jurors called the number and manner of exercising peremptory challenges shall be determined as provided in Code Section 17-8-4.

#### SECTION 9.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking Code Section 17-8-4, relating to procedure for trial of jointly indicted defendants, and inserting in lieu thereof a new Code Section 17-8-4 to read as follows:

. 17-8-4.

(a) When two or more defendants are jointly indicted for a capital offense, any defendant so electing shall be separately tried unless the state shall waive the death penalty. When indicted for a capital felony when the death penalty is waived, or for a felony less than capital, or for a misdemeanor, such defendants may be tried jointly or separately in the discretion of the trial court. In any event, a jointly indicted defendant may testify for another jointly indicted defendant or on behalf of the state. When separate trials are ordered in any case, the defendants shall be tried in the order requested by the state. If the offense requires joint action and concurrence of two or more persons, acquittal or conviction of one defendant shall not operate as acquittal or conviction of others not tried.

(b) When two or more defendants are tried jointly for a crime or offense, such defendants shall be entitled to the same number of strikes as a single defendant if tried separately. The strikes shall be exercised jointly by the defendants or shall be apportioned among the defendants in the manner the court shall direct. In the event two or more defendants are tried jointly, the court, upon request of the defendants, acting in its sole discretion, may shall allow an equal number of additional strikes to the defendants, not to exceed five each, as the court shall deem necessary, to the ends that justice may prevail. The court may allow the state additional strikes not to exceed the number of additional strikes as are allowed to the defendants.

#### SECTION 10.

Said title is further amended by striking Code Section 17-8-71, relating to order of argument after evidence presented, and inserting in lieu thereof a new Code Section 17-8-

71 to read as follows:

. 17-8-71.

After the evidence is closed on both sides, the prosecuting attorney shall open and conclude the argument to the jury. ~~If the defendant introduces no evidence, his counsel shall open and conclude the argument to the jury after the evidence on the part of the state is closed. The defendant shall be entitled to make a closing argument prior to the concluding argument of the prosecuting attorney.~~

#### SECTION 11.

Said title is further amended by striking subsection (a) of Code Section 17-10-2, relating to conduct of presentence hearings in felony cases, and inserting in lieu thereof a new subsection (a) to read as follows:

. (a)(1) Except in cases in which the death penalty or life without parole may be imposed, upon the return of a verdict of 'guilty' by the jury in any felony case, the judge shall dismiss the jury and shall conduct a presentence hearing at which the only issue shall be the determination of punishment to be imposed. In the hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or nolo contendere of the defendant, or the absence of any prior conviction and pleas, ~~provided that only such evidence in aggravation as the state has made known to the defendant prior to the defendant's trial shall be admissible.~~

(2) The judge shall also hear argument by the defendant or the defendant's counsel and the ~~district~~ prosecuting attorney, as provided by law, regarding the punishment to be imposed. ~~The district~~ Except in cases where the death penalty may be imposed, the prosecuting attorney shall open and ~~the defendant or the defendant's counsel shall~~ conclude the argument. In cases where the death penalty may be imposed, the prosecuting attorney shall open and the defendant or the defendant's counsel shall conclude the argument.

(3) Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence to be imposed under advisement. The judge shall fix a sentence within the limits prescribed by law.

#### SECTION 12.

Said title is further amended by adding a new subsection (e) to Code Section 17-16-2, relating to applicability of discovery in criminal cases, to read as follows:

. (e) Except as provided in paragraph (3) of subsection (b) of Code Section 17-16-4, if a defendant has elected to have the provisions of this article apply, the provisions of this article shall also apply to sentencing hearings and the sentencing phase of a death penalty trial.

#### SECTION 13.

Said title is further amended in Code Section 17-16-4, relating to discovery disclosure required by the prosecuting attorney and defendant, by adding a new paragraph (5) at the end of subsection (a) and a new paragraph (3) at the end of subsection (b) to read as

follows:

- . (5) The prosecuting attorney shall, no later than ten days prior to trial, or at such time as the court orders but in no event later than the beginning of the trial, provide the defendant with notice of any evidence in aggravation of punishment that the state intends to introduce in sentencing.
- . (3)(A) The defendant shall, no later than the announcement of the verdict of the jury or if the defendant has waived a jury trial at the time the verdict is published by the court, serve upon the prosecuting attorney all books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof and to inspect and photograph buildings or places which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in the presentence hearing.
- (B) The defendant shall, no later than the announcement of the verdict of the jury or if the defendant has waived a jury trial at the time the verdict is published by the court, serve upon the prosecuting attorney all reports of any physical or mental examinations and scientific tests or experiments, including a summary of the basis for the expert opinions rendered in the reports, or copies thereof, if the defendant intends to introduce in evidence in the presentence hearing the results of the physical or mental examination or scientific test or experiment. If the report is oral or partially oral, the defendant shall reduce all relevant and material oral portions of such report to writing and shall serve opposing counsel with such portions.
- (C) The defendant shall, no later than five days before the trial commences, serve upon the prosecuting attorney a list of witnesses that the defendant intends to call as a witness in the presentence hearing. No later than the announcement of the verdict of the jury or if the defendant has waived a jury trial at the time the verdict is published by the court, the defendant shall produce for the opposing party any statement of such witnesses that is in the possession, custody, or control of the defendants or the defendant's counsel that relates to the subject matter of the testimony of such witnesses unless such statement is protected from disclosure by the privilege contained in paragraph (5), (6), (7), or (8) of Code Section 24-9-21.

#### SECTION 14.

Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by striking subsections (b) and (c) of Code Section 24-9-20, relating to testimony of criminal defendant, and inserting in lieu thereof new subsections (b) and (c) to read as follows:

- . (b) If a defendant in a criminal case wishes to testify and announces in open court his or her intention to do so, he the defendant may so testify in his or her own behalf. If a defendant testifies, he or she shall be sworn as any other witness and may be examined and cross-examined as any other witness, except that no evidence of general bad character or prior convictions shall be admissible unless and until the defendant shall have first put his character in issue. Evidence of prior felony convictions may be admitted in those cases where the prior felony convictions are alleged in the indictment, as provided by law. The failure of a defendant to testify shall create no presumption

against him or her, and no comment shall be made because of such failure.

(e) ~~In the event that a defendant elects to be sworn and examined, he shall not lose his right to open and conclude the argument to the jury, if he has not introduced other evidence in the trial.~~

#### SECTION 15.

Said title is further amended by striking Code Section 24-9-81, relating to when own witness may be impeached, and inserting in lieu thereof a new Code Section 24-9-81 to read as follows:

. 24-9-81.

~~A party may not impeach a witness voluntarily called by him, except where he can show to the court that he has been entrapped by said witness by a previous contradictory statement. Any party, including the party calling the witness, may attack the credibility of a witness. However, in~~ In the trial of all civil cases, either plaintiff or defendant shall be permitted to make the opposite party, or anyone for whose immediate benefit the action is prosecuted or defended, or any agent of said party, or agent of any person for whose immediate benefit such action is prosecuted or defended, or officer or agent of a corporation when a corporation is such party or for whose benefit such action is prosecuted or defended a witness, with the privilege of subjecting such witness to a thorough and sifting examination and with the further privilege of impeachment, as if the witness had testified in his or her own behalf and were being cross-examined.

#### SECTION 16.

Said title is further amended by striking Code Section 24-9-84, relating to how witnesses are impeached by proof of general bad character, and inserting in lieu thereof new Code Sections 24-9-84 and 24-9-84.1 to read as follows:

. 24-9-84.

~~A witness may be impeached by evidence as to his general bad character. Any party may impeach the credibility of a witness by offering evidence of the witness's bad character in the form of reputation, but subject to the following limitations:~~

(a) The evidence may refer only to character for truthfulness or untruthfulness;

(b) Evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by reputation evidence or otherwise;

(c) In a criminal case, the character for untruthfulness of the defendant may be introduced in evidence only if the defendant testifies and offers evidence of his or her truthful character; and

(d) The impeaching character witness should first be questioned as to his or her knowledge of the general character of the witness, next as to what that character is, and lastly he the character witness may be asked if from that character he or she would believe him or her on his or her oath. The witness may be sustained by similar proof of character. The particular transactions or the opinions of single individuals shall not be inquired of on either side, except upon cross-examination in seeking for the extent and foundation of the witness's knowledge.

24-9-84.1.

(a) General rule. For the purpose of attacking the credibility of a witness, or of the defendant, if the defendant testifies:

(1) Evidence that a witness has been convicted of a crime shall be admitted if the crime was punishable by death or imprisonment of one year or more under the law under which the witness was convicted if the court determines that the probative value of admitting the evidence outweighs its prejudicial effect to the witness; and

(2) Evidence that the defendant has been convicted of a crime shall be admitted if the crime was punishable by death or imprisonment of one year or more under the law under which the defendant was convicted if the court determines that the probative value of admitting the evidence substantially outweighs its prejudicial effect to the defendant; and

(3) Evidence that any witness or the defendant has been convicted of a crime shall be admitted if it involved dishonesty or making a false statement, regardless of the punishment that could be imposed for such offense.

(b) Time limit. Evidence of a conviction under subsection (a) of this Code section is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness or the defendant from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interest of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than ten years old, as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of pardon or annulment. Evidence of a conviction is not admissible under this Code section if:

(1) The conviction has been the subject of a pardon or annulment based on a finding of the rehabilitation of the person convicted and such person has not been convicted of a subsequent crime that was punishable by death or imprisonment for one year or more; or

(2) The conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) Juvenile adjudications. An adjudication of delinquency in juvenile court shall be inadmissible against a defendant in a criminal case. An adjudication of delinquency in juvenile court shall be presumed to be inadmissible against a witness in a criminal case; however, this presumption may be rebutted only if it is shown that:

(1) The factual basis for the proven allegations of delinquency would have constituted a crime under the laws of the state of the juvenile court if committed by an adult at the time they were committed by the juvenile;

(2) The probative value of the evidence substantially outweighs the prejudicial effect of its admission; and

(3) The court finds that admission of the adjudication into evidence is necessary for a

fair determination of the issue of guilt or innocence of the defendant.

(e) Pendency of appeal. The pendency of an appeal from a conviction does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal shall be admissible.

SECTION 17.

This Act shall apply to all trials which commence on or after July 1, 2005.

SECTION 18.

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

Senator Butler of the 55th offered the following amendment #1 to the committee substitute to HB 170:

By inserting immediately following line 12 of page 8 a new section:

“SECTION 13.1.

Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by striking subsections (a) and (b) of Code Section 24-2-3, relating to direct evidence or cross-examination of a complaining witness or other witnesses, and inserting in lieu thereof new subsections (a) and (b) to read as follows:  
24-2-3.

(a) In any prosecution for a sexually violent offense as defined in Code Section 42-1-12 rape, evidence relating to the past sexual behavior of the complaining witness shall not be admissible, either as direct evidence or on cross-examination of the complaining witness or other witnesses, except as provided in this Code section. For the purposes of this Code section, evidence of past sexual behavior includes, but is not limited to, evidence of the complaining witness's marital history, mode of dress, general reputation for promiscuity, nonchastity, or sexual mores contrary to the community standards.

(b) In any prosecution for a sexually violent offense as defined in Code Section 42-1-12 rape, evidence relating to the past sexual behavior of the complaining witness may be introduced if the court, following the procedure described in subsection (c) of this Code section, finds that the past sexual behavior directly involved the participation of the accused and finds that the evidence expected to be introduced supports an inference that the accused could have reasonably believed that the complaining witness consented to the conduct complained of in the prosecution.”

Senators Smith of the 52nd and Butler of the 55th offered the following amendment #1a:

Amend Amendment #1 to the Committee Substitute to HB 170 by striking on page 1, in both paragraphs (a) and (b) the words, “a sexually violent offense as defined in Code Section 42-1-12” and inserting in lieu thereof the following:

"a violation of Code Section 16-6-1, relating to rape; Code Section 16-6-2, relating to aggravated sodomy; Code Section 16-6-4, relating to aggravated child molestation; or Code Section 16-6-22.2, relating to aggravated sexual battery

On the adoption of the amendment, the yeas were 31, nays 1, and the Smith, Butler amendment #1a was adopted.

On the adoption of the amendment, the yeas were 33, nays 0, and the Butler amendment #1 to the committee substitute was adopted as amended.

On the adoption of the substitute, the yeas were 33, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
N Butler	E Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
E Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 3.

HB 170, having received the requisite constitutional majority, was passed by substitute.

Senator Johnson of the 1st recognized the 2005 Senate Aides and Interns, commended by SR 522 and SR 523, adopted previously.

The following bill was taken up to consider House action thereto:

HB 487. By Representatives Roberts of the 154th, McCall of the 30th, Floyd of the 147th, Royal of the 171st, Ray of the 136th 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 change the exemption regarding electricity sales for irrigation of farm crops; to repeal conflicting laws; and for other purposes.

Senator Bulloch of the 11th asked unanimous consent that the Senate insist on its substitute to HB 487.

The consent was granted, and the Senate insisted on its substitute to HB 487.

The following bill was taken up to consider House action thereto:

HB 36. By Representatives Willard of the 49th, Geisinger of the 48th and Wilkinson of the 52nd:

A BILL to be entitled an Act to revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the O.C.G.A., relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements; to provide that new municipal corporations shall have a minimum amount of time to arrange for service delivery; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to amend Code Section 48-8-89.1 of the O.C.G.A., relating to distribution of joint county and municipal local option sales tax with respect to new qualified municipalities; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Senator Moody of the 56th asked unanimous consent that the Senate adhere to its substitute to HB 36 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Moody of the 56th, Wiles of the 37th and Shafer of the 48th.

The following bill was taken up to consider House action thereto:

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 33-20A-5 of the Official Code of Georgia Annotated, relating to standards for certification of qualified managed care plans, so as to change certain provisions relating to standards for certification of qualified managed care plans; to amend Article 2 of Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to PeachCare for Kids, so as to provide for a definition; to change certain provisions relating to the creation of PeachCare, availability, eligibility, payment of premiums, and enrollment; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 33-20A-5 of the Official Code of Georgia Annotated, relating to standards for certification of qualified managed care plans, is amended by striking division (1)(A)(ix) and inserting in lieu thereof the following:

(ix)(I) Except as provided for in subdivision (II) of this division, the The existence of restrictive formularies or prior approval requirements for prescription drugs. An enrollee or a prospective enrollee shall be entitled, upon request, to a description of specific drug and therapeutic class restrictions;

(II) For a managed care plan offered pursuant to Article 1 of Chapter 18 of Title 45, a statement that the managed care entity shall not utilize restrictive formularies or prior approval requirements for prescription drugs and that the managed care entity shall provide coverage for any drug legally prescribed pursuant to the laws of this state;

## SECTION 2.

Article 2 of Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to the patient's right to independent review, is amended by striking such article in its entirety and inserting in lieu thereof a new Article 2 to read as follows:

### ARTICLE 2

33-20A-30.

This article shall be known and may be cited as the 'Patient's Right to Independent Review Act.'

33-20A-31.

As used in this article:

(1) 'Department' means the Department of Community Health established under Chapter 5A of Title 31.

(2) 'Eligible enrollee' means a person who:

(A) Is an enrollee or an eligible dependent of an enrollee of a managed care plan or was an enrollee or an eligible dependent of an enrollee of such plan at the time of the request for treatment; and

(B) Seeks a treatment which reasonably appears to be a covered service or benefit under the enrollee's evidence of coverage; provided, however, that this subparagraph shall not apply if the notice from a managed care plan of the outcome of the grievance procedure was that a treatment is experimental; and

(C) Is not a Medicaid care management member.

(2)(3) 'Grievance procedure' means the grievance procedure established pursuant to Code Section 33-20A-5.

(3)(4) 'Independent review organization' means any organization certified as such by the planning agency department under Code Section 33-20A-39.

(5) 'Medicaid care management member' means a recipient of medical assistance, as that term is defined in paragraph (7) of Code Section 49-4-141, and shall also include a child receiving health care benefits pursuant to Article 13 of Chapter 5 of Title 49.

(4)(6) 'Medical and scientific evidence' means:

- (A) Peer reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;
- (B) Peer reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base or Health Services Technology Assessment Research (HSTAR);
- (C) Medical journals recognized by the United States secretary of health and human services, under Section 1861(t)(2) of the Social Security Act;
- (D) The following standard reference compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information; or
- (E) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, the Centers for Medicare and Medicaid Services, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

~~(5)~~(7) 'Medical necessity,' 'medically necessary care,' or 'medically necessary and appropriate' means care based upon generally accepted medical practices in light of conditions at the time of treatment which is:

- (A) Appropriate and consistent with the diagnosis and the omission of which could adversely affect or fail to improve the eligible enrollee's condition;
- (B) Compatible with the standards of acceptable medical practice in the United States;
- (C) Provided in a safe and appropriate setting given the nature of the diagnosis and the severity of the symptoms;
- (D) Not provided solely for the convenience of the eligible enrollee or the convenience of the health care provider or hospital; and
- (E) Not primarily custodial care, unless custodial care is a covered service or benefit under the eligible enrollee's evidence of coverage.

~~(6) 'Planning agency' means the Health Planning Agency established under Chapter 6 of Title 31 or its successor agency.~~

~~(7)~~(8) 'Treatment' means a medical service, diagnosis, procedure, therapy, drug, or device.

~~(8)~~(9) Any term defined in Code Section 33-20A-3 shall have the meaning provided for that term in Code Section 33-20A-3 except that 'enrollee' shall include the enrollee's eligible dependents.

## 33-20A-32.

An eligible enrollee shall be entitled to appeal to an independent review organization when:

- (1) The eligible enrollee has received notice of an adverse outcome pursuant to a grievance procedure or the managed care entity has not complied with the requirements of Code Section 33-20A-5 with regard to such procedure; or
- (2) A managed care entity determines that a proposed treatment is excluded as experimental under the managed care plan, and all of the following criteria are met:
  - (A) The eligible enrollee has a terminal condition that, according to the treating physician, has a substantial probability of causing death within two years from the date of the request for independent review or the eligible enrollee's ability to regain or maintain maximum function, as determined by the treating physician, would be impaired by withholding the experimental treatment;
  - (B) After exhaustion of standard treatment as provided by the evidence of coverage or a finding that such treatment would be of substantially lesser or of no benefit, the eligible enrollee's treating physician certifies that the eligible enrollee has a condition for which standard treatment would not be medically indicated for the eligible enrollee or for which there is no standard treatment available under the evidence of coverage of the eligible enrollee more beneficial than the treatment proposed;
  - (C) The eligible enrollee's treating physician has recommended and certified in writing treatment which is likely to be more beneficial to the eligible enrollee than any available standard treatment;
  - (D) The eligible enrollee has requested a treatment as to which the eligible enrollee's treating physician, who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the eligible enrollee's condition, has certified in writing that scientifically valid studies using accepted protocols, such as control group or double-blind testing, published in peer reviewed literature, demonstrate that the proposed treatment is likely to be more beneficial for the eligible enrollee than available standard treatment; and
  - (E) A specific treatment recommended would otherwise be included within the eligible enrollee's certificate of coverage, except for the determination by the managed care entity that such treatment is experimental for a particular condition.

## 33-20A-33.

Except where required pursuant to Code Section 51-1-49, a proposed treatment must require the expenditure of a minimum of \$500.00 to qualify for independent review.

## 33-20A-34.

- (a) The parent or guardian of a minor who is an eligible enrollee may act on behalf of the minor in requesting independent review. The legal guardian or representative of an incapacitated eligible enrollee shall be authorized to act on behalf of the eligible enrollee in requesting independent review. Except as provided in Code Section 51-1-49,

independent review may not be requested by persons other than the eligible enrollee or a person acting on behalf of the eligible enrollee as provided in this Code section.

(b) A managed care entity shall be required to pay the full cost of applying for and obtaining the independent review.

(c) The eligible enrollee and the managed care entity shall cooperate with the independent review organization to provide the information and documentation, including executing necessary releases for medical records, which are necessary for the independent review organization to make a determination of the claim.

33-20A-35.

(a) In the event that the outcome of the grievance procedure under Code Section 33-20A-5 is adverse to the eligible enrollee, the managed care entity shall include with the written notice of the outcome of the grievance procedure a statement specifying that any request for independent review must be made to the planning agency department on forms developed by the planning agency department, and such forms shall be included with the notification. Such statement shall be in simple, clear language in boldface type which is larger and bolder than any other typeface which is in the notice and in at least 14 point typeface.

(b) An eligible enrollee must submit the written request for independent review to the planning agency department. Instructions on how to request independent review shall be given to all eligible enrollees with the written notice required under this Code section together with instructions in simple, clear language as to what information, documentation, and procedure are required for independent review.

(c) Upon receipt of a completed form requesting independent review as required by subsection (a) of this Code section, the planning agency department shall notify the eligible enrollee of receipt and assign the request to an independent review organization on a rotating basis according to the date the request is received.

(d) Upon assigning a request for independent review to an independent review organization, the planning agency department shall provide written notification of the name and address of the assigned organization to both the requesting eligible enrollee and the managed care entity.

(e) No managed care entity may be certified by the Commissioner under Article 1 of this chapter unless the entity agrees to pay the costs of independent review to the independent review organization assigned by the planning agency department to conduct each review involving such entity's eligible enrollees.

33-20A-36.

(a) Within three business days of receipt of notice from the planning agency department of assignment of the application for determination to an independent review organization, the managed care entity shall submit to that organization the following:

(1) Any information submitted to the managed care entity by the eligible enrollee in support of the eligible enrollee's grievance procedure filing;

(2) A copy of the contract provisions or evidence of coverage of the managed care

plan; and

- (3) Any other relevant documents or information used by the managed care entity in determining the outcome of the eligible enrollee's grievance.

Upon request, the managed care entity shall provide a copy of all documents required by this subsection, except for any proprietary or privileged information, to the eligible enrollee. The eligible enrollee may provide the independent review organization with any additional information the eligible enrollee deems relevant.

(b) The independent review organization shall request any additional information required for the review from the managed care entity and the eligible enrollee within five business days of receipt of the documentation required under this Code section. Any additional information requested by the independent review organization shall be submitted within five business days of receipt of the request, or an explanation of why the additional information is not being submitted shall be provided.

(c) Additional information obtained from the eligible enrollee shall be transmitted to the managed care entity, which may determine that such additional information justifies a reconsideration of the outcome of the grievance procedure. A decision by the managed care entity to cover fully the treatment in question upon reconsideration using such additional information shall terminate independent review.

(d) The expert reviewer of the independent review organization shall make a determination within 15 business days after expiration of all time limits set forth in this Code section, but such time limits may be extended or shortened by mutual agreement between the eligible enrollee and the managed care entity. The determination shall be in writing and state the basis of the reviewer's decision. A copy of the decision shall be delivered to the managed care entity, the eligible enrollee, and the planning agency department by at least first-class mail.

(e) The independent review organization's decision shall be based upon a review of the information and documentation submitted to it.

(f) Information required or authorized to be provided pursuant to this Code section may be provided by facsimile transmission or other electronic transmission.

33-20A-37.

(a) A decision of the independent review organization in favor of the eligible enrollee shall be final and binding on the managed care entity and the appropriate relief shall be provided without delay. A managed care entity bound by such decision of an independent review organization shall not be liable pursuant to Code Section 51-1-48 for abiding by such decision. Nothing in this Code section shall relieve the managed care entity from liability for damages proximately caused by its determination of the proposed treatment prior to such decision.

(b) A determination by the independent review organization in favor of a managed care entity shall create a rebuttable presumption in any subsequent action that the managed care entity's prior determination was appropriate and shall constitute a medical record for purposes of Code Section 24-7-8.

(c) In the event that, in the judgment of the treating health care provider, the health

condition of the enrollee is such that following the provisions of Code Section 33-20A-36 would jeopardize the life or health of the eligible enrollee or the eligible enrollee's ability to regain maximum function, as determined by the treating health care provider, an expedited review shall be available. The expedited review process shall encompass all elements enumerated in Code Sections 33-20A-36 and 33-20A-40; provided, however, that a decision by the expert reviewer shall be rendered within 72 hours after the expert reviewer's receipt of all available requested documents.

33-20A-38.

Neither an independent review organization nor its employees, agents, or contractors shall be liable for damages arising from determinations made pursuant to this article, unless an act or omission thereof is made in bad faith or through gross negligence, constitutes fraud or willful misconduct, or demonstrates malice, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to the consequences.

33-20A-39.

(a) The planning agency department shall certify independent review organizations that meet the requirements of this Code section and any regulations promulgated by the planning agency department consistent with this article. The planning agency department shall deem certified any independent review organization meeting standards developed for this purpose by an independent national accrediting organization. To qualify for certification, an independent review organization must show the following:

(1) Expert reviewers assigned by the independent review organization must be physicians or other appropriate providers who meet the following minimum requirements:

(A) Are expert in the treatment of the medical condition at issue and are knowledgeable about the recommended treatment through actual clinical experience;

(B) Hold a nonrestricted license issued by a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of review; and

(C) Have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restriction, taken or pending by any hospital, government, or regulatory body;

(2) The independent review organization shall not be a subsidiary of, nor in any way owned or controlled by, a health plan, a trade association of health plans, a managed care entity, or a professional association of health care providers; and

(3) The independent review organization shall submit to the planning agency department the following information upon initial application for certification, and thereafter within 30 days of any change to any of the following information:

(A) The names of all owners of more than 5 percent of any stock or options, if a publicly held organization;

- (B) The names of all holders of bonds or notes in excess of \$100,000.00, if any;
  - (C) The names of all corporations and organizations that the independent review organization controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business; and
  - (D) The names of all directors, officers, and executives of the independent review organization, as well as a statement regarding any relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care entity or organization, provider group, or board or committee.
- (b) Neither the independent review organization nor any expert reviewer of the independent review organization may have any material professional, familial, or financial conflict of interest with any of the following:
- (1) A managed care plan or entity being reviewed;
  - (2) Any officer, director, or management employee of a managed care plan which is being reviewed;
  - (3) The physician, the physician's medical group, health care provider, or the independent practice association proposing a treatment under review;
  - (4) The institution at which a proposed treatment would be provided;
  - (5) The eligible enrollee or the eligible enrollee's representative; or
  - (6) The development or manufacture of the treatment proposed for the eligible enrollee whose treatment is under review.
- (c) As used in subsection (b) of this Code section, the term 'conflict of interest' shall not be interpreted to include a contract under which an academic medical center or other similar medical research center provides health care services to eligible enrollees of a managed care plan, except as subject to the requirement of paragraph (4) of subsection (b) of this Code section; affiliations which are limited to staff privileges at a health care facility; or an expert reviewer's participation as a contracting plan provider where the expert is affiliated with an academic medical center or other similar medical research center that is acting as an independent review organization under this article. An agreement to provide independent review for an eligible enrollee or managed care entity is not a conflict of interest under subsection (b) of this Code section.
- (d) The independent review organization shall have a quality assurance mechanism in place that ensures the timeliness and quality of the reviews, the qualifications and independence of the experts, and the confidentiality of medical records and review materials.
- (e) The planning agency department shall provide upon the request of any interested person a copy of all nonproprietary information filed with it pursuant to this article. The planning agency department shall provide at least quarterly a current list of certified independent review organizations to all managed care entities and to any interested persons.

33-20A-40.

- (a) For the purposes of this article, in making a determination as to whether a treatment is medically necessary and appropriate, the expert reviewer shall use the definition

provided in paragraph ~~(5)(7)~~ of Code Section 33-20A-31.

(b) For the purposes of this article, in making a determination as to whether a treatment is experimental, the expert reviewer shall determine:

- (1) Whether such treatment has been approved by the federal Food and Drug Administration; or
- (2) Whether medical and scientific evidence demonstrates that the expected benefits of the proposed treatment would be greater than the benefits of any available standard treatment and that the adverse risks of the proposed treatment will not be substantially increased over those of standard treatments.

For either determination, the expert reviewer shall apply prudent professional practices and shall assure that at least two documents of medical and scientific evidence support the decision.

#### 33-20A-41.

The ~~planning agency department~~ shall provide necessary rules and regulations for the implementation and operation of this article.

#### 33-20A-42.

~~Medicaid care management members shall, after first exhausting the grievance procedure of the managed care plan providing health care benefits pursuant to Article 7 of Chapter 4 of Title 49 or Article 13 of Chapter 5 of Title 49, be afforded the fair hearing rights provided pursuant to Code Section 49-4-153 or the state plan provided for in Article 13 of Chapter 5 of Title 49.~~

#### SECTION 3.

Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, is amended by striking Code Section 49-4-156, which is reserved, and inserting in lieu thereof a new Code Section 49-4-156 to read as follows: 49-4-156.

~~Reserved. The provisions of Code Section 33-21-16 shall not apply to health maintenance organizations with respect to contracts entered into with the department for the furnishing of health care services to persons pursuant to this article.~~

#### SECTION 4.

Article 13 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to PeachCare for Kids, is amended by striking Code Section 49-5-272, relating to definitions, and inserting in lieu thereof the following:

. 49-5-272.

As used in this article, the term:

(1) 'Board' means the Board of Community Health.

(2) 'Department' means the Department of Community Health.

(2)(3) 'Federal law' means Title XXI of the federal Social Security Act.

(3)(4) 'Medicaid' means medical assistance provided under Article 7 of Chapter 4 of

this title, the 'Georgia Medical Assistance Act of 1977.'

~~(4)(5)~~ 'PeachCare' or 'program' means the PeachCare for Kids Program created by Code Section 49-5-273.

#### SECTION 5.

Said article is further amended by striking subsections (g) through (o) of Code Section 49-5-273, relating to the creation of PeachCare, availability, eligibility, payment of premiums, and enrollment, and inserting in lieu thereof the following:

- "(g) The department shall provide for outreach for the purpose of enrolling children in the program. Applications shall be accepted by mail or in person. All necessary and appropriate steps shall be taken to achieve administrative cost efficiency, reduce administrative barriers to application for and receipt of services under the program, verify eligibility for the program and enforce eligibility standards, and ensure that enrollment in the program does not substitute for coverage under a group health insurance plan.
- (h) Any health care provider who is enrolled in the Medicaid program shall be deemed to be enrolled in the program.
- (i) The department shall file a Title XXI plan to carry out the program with the United States Department of Health and Human Services Centers for Medicare and Medicaid Services ~~by June 1, 1998~~. The department shall have the authority and flexibility to make such decisions as are necessary to secure approval of that plan consistent with this article. The department shall provide a copy of the plan to the General Assembly. The department shall operate this program consistent with federal law.
- (j) The department shall publish an annual report, copies of which shall be provided to the Governor and the General Assembly, setting forth the number of participants in the program, the health services provided, the amount of money paid to providers, and other pertinent information with respect to the administration of the program.
- (k) All state agencies shall cooperate with the department and its designated agents by providing requested information to assist in the administration of the program.
- (l) The department, through the Department of Administrative Services or any other appropriate entity, may contract for any or all of the following: the collection of premiums, processing of applications, verification of eligibility, outreach, data services, and evaluation, if such contracting achieves administrative or service cost efficiency. The department, and other state agencies as appropriate, shall provide necessary information to any entity which has contracted with the department for services related to the administration of the program upon request. For purposes of compliance with Code Section 34-8-125, a request by any entity which has contracted with the department for services related to the administration of the program shall be deemed to be a request by a responsible official of the department and considered to be a request by the department.
- (m) Nothing in this article shall be interpreted in a manner so as to preclude the department from contracting with licensed health maintenance organizations (HMO) or provider sponsored health care corporations (PSHCC) for coverage of program services and eligible children ~~in a metropolitan statistical area~~; provided, however, that such

contracts shall require payment of premiums and copayments in a manner consistent with this article. The department may ~~not~~ require enrollment in a health maintenance organization (HMO) or provider sponsored health care corporation (PSHCC) as a condition of receiving coverage under the program.

(n) ~~There shall be created a separate budget unit 'C' and a separate appropriation in the department for the purpose of carrying out the provisions of this article.~~

(e) The Department of Education and local boards of education shall cooperate with and provide assistance to the department and its designated agents for the purposes of identifying and enrolling eligible children in the program.

#### SECTION 6.

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

#### SECTION 7.

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

Senator Williams of the 19th asked unanimous consent that the Senate disagree to the House substitute to SB 140.

The consent was granted, and the Senate disagreed to the House substitute to SB 140.

Senator Harp of the 29th asked unanimous consent that Senator Grant of the 25th be excused. The consent was granted, and Senator Grant was excused.

The Calendar was resumed.

HB 172. By Representatives Golick of the 34th, Roberts of the 154th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th and others:

A BILL to be entitled an Act to enact the "Crime Victims Restitution Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and the impact of the criminal justice system on victims of crime; to amend Article 5 of Chapter 3 of Title 9 of the O.C.G.A., relating to tolling of limitations in civil cases, so as to provide for a statute of repose in certain tort actions brought by victims of crimes against the persons accused of such crimes; to amend Title 17 of the O.C.G.A., relating to criminal procedure, so as to change the provisions relating to victim impact statements; to amend Code Section 48-7-161 of the O.C.G.A., relating to definitions relating to setoff debt collection, so as to change the provisions relating to collection of restitution for victims of crime; to provide for effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

The Senate Judiciary Committee offered the following substitute to HB 172:

**A BILL TO BE ENTITLED  
AN ACT**

To enact the "Crime Victims Restitution Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and the impact of the criminal justice system on victims of crime; to amend Article 5 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to tolling of limitations in civil cases, so as to provide for a statute of repose in certain tort actions brought by victims of crimes against the persons accused of such crimes; to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to change the provisions relating to victim impact statements; to codify certain common law procedures relating to the collection of fines and restitution in criminal cases which authorize a fine to be reduced to a judgment and recorded on the general execution docket; to provide that actions to collect fines and restitution may be instituted; to substantially revise the procedures for the award of restitution to victims of crime; to provide for definitions; to provide for a hearing and burden of proof; to provide procedures for certain transfers of property to be set aside; to provide for a statute of limitations on a cause of action based upon a fraudulent transfer; to amend Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions relating to setoff debt collection, so as to change the provisions relating to collection of restitution for victims of crime; to provide for other matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

This Act shall be known and may be cited as the "Crime Victims Restitution Act of 2005."

**SECTION 2.**

Article 5 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to tolling of limitations of actions, is amended by inserting a new Code Section 9-3-99 to read as follows:

. 9-3-99.

The running of the period of limitations with respect to any cause of action in tort that may be brought by the victim of an alleged crime which arises out of the facts and circumstances relating to the commission of such alleged crime committed in this state shall be tolled from the date of the commission of the alleged crime or the act giving rise to such action in tort until the prosecution of such crime or act has become final or otherwise terminated, provided that such time does not exceed six years.

## SECTION 3.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking in its entirety Code Section 17-10-1.1, relating to judicial consideration of victim impact statements, and inserting in lieu thereof the following:

. 17-10-1.1.

(a) (1) A prosecuting attorney bringing charges against a defendant shall notify, where practical, the alleged victim or, when the victim is no longer living, a member of the victim's family of his or her right under certain circumstances to submit a victim impact statement:

(A)(1) Where the charge is a felony, if the defendant allegedly caused physical, psychological, or, if restitution is sought, economic injury to the victim; or

(B)(2) Where the charge is a misdemeanor, if the defendant allegedly caused serious physical injury or death to the victim.

(2) ~~A victim impact statement submitted by a victim shall be attached to the case file and may be used by the prosecuting attorney or the judge during any stage of the proceedings against the defendant involving predisposition, plea bargaining, sentencing, or determination of restitution.~~

(b) A victim impact statement shall:

(1) Identify the victim of the offense and the perpetrator;

(2) Itemize any economic loss suffered by the victim as a result of the offense;

(3) Identify any physical injury suffered by the victim as a result of the offense along with its seriousness and permanence;

(4) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;

(5) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and

(6) Contain any other information related to the impact of the offense upon the victim that the court requires.

(c) The State Board of Pardons and Paroles shall establish a form document which shall include the elements set forth in subsection (b) of this Code section and shall make copies of such form available to prosecuting attorneys in the state. When requested by the victim, the victim impact statement form document shall be provided to the victim by the prosecuting attorney. The form shall include the address of the State Board of Pardons and Paroles and contain a statement that the victim must maintain a copy of his or her address with the State Board of Pardons and Paroles and must notify the board of any change of address.

(d) The victim may complete the victim impact statement form and submit such form to the appropriate prosecuting attorney charged with the prosecution of the case. If the victim is unable to do so because of such victim's mental, emotional, or physical incapacity, or because of such victim's age, the victim's attorney or a family member may complete the victim impact statement form on behalf of the victim. ~~The prosecuting attorney shall file any such written victim impact statement, if in existence at that time, with the court.~~

(e)(1) The ~~court prosecuting attorney~~ shall, in the manner prescribed by rule of court, provide the defendant with a copy of the victim impact statement within a reasonable period of time prior to any stage of the proceedings against the defendant involving predisposition or plea bargaining, and within a reasonable period of time, but not less than ten days, prior to any hearing at which it is to be considered and sentencing or determination of restitution is being considered so as to allow the defendant to have the opportunity to respond to and rebut the victim's written statements victim impact statement.

(2) The court shall consider the victim impact statement prior to sentencing or any determination of restitution.

(f) If for any reason a victim was not allowed an opportunity to make a written victim impact statement, the victim may submit a victim impact statement to the State Board of Pardons and Paroles in any case prior to consideration of parole.

(g) No sentence shall be invalidated because of failure to comply with the provisions of this Code section. This Code section shall not be construed to create any cause of action or any right of appeal on behalf of any person.

#### SECTION 4.

Said title is further amended by adding a new Code Section 17-10-20 at the end of Article 1, to read as follows:

##### . 17-10-20.

(a) In any case in which a fine or restitution is imposed as part of the sentence, such fine and restitution shall constitute a judgment against the defendant. Upon the request of the prosecuting attorney, it shall be the duty of the clerk of the sentencing court to issue a writ of fieri facias thereon and enter it on the general execution docket of the superior court of the county in which such sentence was imposed. Such fieri facias may also be entered on the general execution docket in any county in which the defendant owns real property.

(b) If, in imposing sentence, the court sets a time certain for such fine or restitution to be paid in full, no execution shall issue upon the writ of fieri facias against the property of the defendant until such time as the time set by the court for payment of the fine or restitution shall have expired.

(c) If the fine or restitution is not paid in full, such judgment may be enforced by instituting any procedure for execution upon the writ of fieri facias through levy, foreclosure, garnishment, and all other actions provided for the enforcement of judgments in the State of Georgia and in other states and foreign nations where such judgment is afforded full faith and credit under the Uniform Foreign Money Judgments Act or domestication thereof.

(d) If the fine is not paid in full by the expiration of the time set by the court for payment of the fine, the governing authority of the county or municipality entitled to such fine may institute procedures to enforce such judgment as provided by subsection (c) of this Code section.

(e) If the restitution is not paid in full by the expiration of the time set by the court for

payment of the restitution, the prosecuting attorney or the victim entitled to receive such restitution may institute procedures to enforce such judgment as provided by subsection (c) of this Code section.

(f) Notwithstanding the provisions of Code Section 9-12-60, a judgment entered on the general execution docket pursuant to this Code section shall not become dormant during any period when the defendant is incarcerated and for seven years thereafter. Such judgment shall be subject to revival in the same manner as provided for dormant judgments under Code Section 9-12-60.

(g) No fees, costs, or other charges authorized by law in civil cases shall be charged by a clerk of superior court for entering a judgment arising out of a criminal case on the general execution docket or for any action brought by the state to enforce such judgment.

(h) The provisions of this Code section shall be supplemental to any other provision of law applicable to the collection of fines or restitution in criminal cases.

## SECTION 5.

Said title is further amended by striking Article 1 of Chapter 14, relating to restitution, in its entirety and inserting in lieu thereof a new Article 1 to read as follows:

### ARTICLE 1

#### 17-14-1.

It is declared to be the policy of this state that restitution to their victims by those found guilty of crimes or adjudicated as having committed delinquent acts is a primary concern of the criminal justice system and the juvenile justice system.

#### 17-14-2.

As used in this article, the term:

(1) 'Board' means the State Board of Pardons and Paroles. 'Conviction' means an adjudication of guilt of or a plea of guilty or nolo contendere to the commission of an offense against the laws of this state. Such term includes any such conviction or plea, notwithstanding the fact that sentence was imposed pursuant to Article 3 of Chapter 8 of Title 42. Such term also includes the adjudication or plea of a juvenile to the commission of an act which, if committed by an adult, would constitute a crime under the laws of this state.

(2) 'Damages' means all special damages which a victim could recover against an offender in a civil action, including a wrongful death action, based on the same act or acts for which the offender is sentenced, except punitive damages and damages for pain and suffering, mental anguish, or loss of consortium. Such special damages shall not be limited by any law which may cap economic damages. Special damages may include the reasonably determined costs of transportation to and from court proceedings related to the prosecution of the crime.

(3) 'Department' means the Department of Corrections.

(4)(3) 'Offender' means any natural person, firm, partnership, association, public or private corporation, or other legal entity who ~~that~~ has been placed on probation under Article 3 of Chapter 8 of Title 42 or sentenced for any crime or any juvenile who has been adjudged delinquent ~~or unruly~~.

(5)(4) 'Ordering authority' means the:

- (A) A court of competent jurisdiction;
- (B) The State Board of Pardons and Paroles;
- (C) The Department of Corrections, or;
- (D) The Department of Juvenile Justice; or
- (E) Any combination thereof, as is required by the context.

(5) 'Parent' means a person who is the legal mother as defined in paragraph (10.2) of Code Section 15-11-2, the legal father as defined in paragraph (10.1) of Code Section 15-11-2, or the legal guardian. Such term shall not include a foster parent.

(6) 'Relief' means any suspended or probated sentence, including probation imposed under Article 3 of Chapter 8 of Title 42; any parole or other conditional release from incarceration; the awarding of earned time allowances; reduction in security status; or placement in prison rehabilitation programs, including, but not limited to, those in which the offender receives monetary compensation.

(7) 'Restitution' means any property, lump sum, or periodic payment ordered to be made by any offender ~~or other person~~ to any victim by any ordering authority. Where the victim is a public corporation or governmental entity or where the offender is a juvenile, restitution may also be in the form of services ordered to be performed by the offender.

(8) 'Restitution order' means any order, decree, or judgment of an ordering authority which requires an offender to make restitution ~~as a condition or term of any relief granted to an offender~~.

(9) 'Victim' means any:

- (A) Natural person or his ~~or her~~ personal representative or, if the victim is deceased, his ~~or her~~ estate; or
- (B) Any firm, partnership, association, public or private corporation, or governmental entity

suffering damages caused by an offender's unlawful act; provided, however, that the term 'victim' shall not include any person who is concerned in the commission of such unlawful act as defined in Code Section 16-2-20.

#### 17-14-3.

(a) Subject to the provisions of Code Section 17-14-10, notwithstanding the provisions contained in Chapter 11 of Title 15, and in addition to any other penalty imposed by law, a The judge of any court of competent jurisdiction may ~~shall~~ order that an adult offender ~~to~~ make full restitution as a condition of any relief ordered by the court. The board may order that an adult offender make restitution as a condition of any relief ordered by the board. The department may order that an adult offender make restitution as a condition of any relief ordered by the department to any victim.

(b) If the offender is placed on probation, including probation imposed pursuant to Chapter 11 of Title 15 or Article 3 of Chapter 8 of Title 42, or sentence is suspended, deferred, or withheld, restitution ordered under this Code section shall be a condition of that probation, sentence, or order.

(c) If the offender is granted relief by the Department of Juvenile Justice, Department of Corrections, or the State Board of Pardons and Paroles, the terms of any court order requiring the offender to make restitution to a victim shall be a condition of such relief in addition to any other terms or conditions which may apply to such relief.

17-14-4.

Notwithstanding any provision of Code Section 42-9-45 to the contrary, the ~~board~~ State Board of Pardons and Paroles may grant parole prior to the completion of one-third of the sentence if restitution is ordered as a condition of the parole.

17-14-5.

(a) ~~The juvenile courts are expressly directed to consider the strong policy of this state in favor of restitution but are not required to place the goal of restitution by juveniles above the goal of rehabilitation or treatment of delinquent or unruly juveniles. It is; however, declared to be the policy of this state to recognize that the goal of restitution is consistent with the goal of rehabilitation of delinquent or unruly juveniles and to seek to provide restitution in such cases.~~

(b) ~~Notwithstanding any provision of Chapter 11 of Title 15, the~~ The juvenile courts are expressly authorized to order restitution as a condition or limitation of the probation of ~~shall order restitution in any case involving~~ delinquent or unruly juveniles in the same manner as is authorized by this article for adult offenders.

(c) ~~For purposes of ensuring compliance with the restitution order, the juvenile courts are authorized to retain jurisdiction over a juvenile subject to a to such restitution order for a reasonable period after the juvenile reaches the age of majority until the juvenile reaches 21 years of age. If the juvenile court retains jurisdiction of such offender as provided in this Code section and the terms of the restitution order are not completed before the offender's twenty-first birthday, the juvenile court shall transfer the restitution order to the superior court.~~

(d) As an alternative to subsection (c) of this Code section, the juvenile courts are authorized to transfer to the superior courts, and the superior courts are authorized to accept, jurisdiction over enforcement of restitution orders against juveniles who, since entry of the order, have attained ~~the age of majority~~ 18 years of age.

(e) If the court determines that a juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents to pay any portion of the restitution ordered that is outstanding where the court or a jury finds by clear and convincing evidence that the parent or parents knew or should have known of the juvenile's propensity to commit such acts and the acts are due to the parent's or parents' negligence or reckless disregard for the juvenile's propensity to commit such

acts. Upon the eighteenth birthday of the juvenile, the parental obligation to pay restitution shall be terminated.

(f) If the court orders a parent to pay restitution under subsection (e) of this Code section, the court shall take into account the considerations identified in Code Section 17-14-10. If the parent or parents are required to pay restitution under subsection (e) of this Code section, the court shall provide for payment to be made in specified installments and within a specified period of time.

17-14-6.

(a) Where an offender has made total or partial restitution to a victim, the ordering authority shall consider the fact of such restitution in considering any case within its power set off any such amounts and reduce the amount payable to the victim.

(b) The ordering authority shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive full compensation for that loss from the offender as a result of a civil proceeding.

(c) Any amount paid to a victim or victim's estate under a restitution order shall reduce the amount payable to a victim or a victim's estate by an award from the Georgia Crime Victims Compensation Board made prior to or after a restitution order under this article.

(d) The ordering authority shall order restitution be paid to the Georgia Crime Victims Compensation Board, other governmental entities, or to any individuals, partnerships, corporations, associations, or other legal entities acting on behalf of a governmental entity that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The ordering authority shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the crime. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, a restitution order shall require that all restitution to a victim or victim's estate under the restitution order be made before any restitution to any other person or entity under that restitution order is made.

(e) In the event the ordering authority provides for a setoff or priority in terms of payment of restitution, the ordering authority shall state on the record with specificity the reasons for its action.

17-14-7.

(a) Any offender may offer a restitution plan to the ordering authority. If a plan is offered, it shall be the duty of the ordering authority to consider the factors stated in Code Section 17-14-10 and to make the plan part of a restitution order if acceptable to the ordering authority.

(b) If the parties have not agreed on the amount of restitution prior to sentencing, the ordering authority shall set a date for a hearing to determine restitution. Any dispute as to the proper amount or type of restitution shall be resolved by the ordering authority by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the state. The burden of

demonstrating the financial resources of the offender or person being ordered to pay restitution and the financial needs of his or her dependents shall be on the offender or person being ordered to pay restitution. The burden of demonstrating such other matters as the ordering authority deems appropriate shall be upon the party designated by the ordering authority as justice requires.

(c) If the ordering authority finds that more than one offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution to the victim's loss and economic circumstances of each offender.

(d) If the ordering authority finds that more than one victim has sustained a loss requiring restitution by an offender, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the state or any of its political subdivisions is a victim and thus is due restitution, the ordering authority shall ensure that any other victim receives full restitution before the state or a political subdivision receives restitution.

(e) A victim may waive his or her right to obtain restitution pursuant to this chapter. Any such waiver shall be made in writing and filed with the court or ordering authority having jurisdiction over the criminal case. Such waiver shall not affect any other rights or remedies that the victim may have against the offender under the laws of this state or the United States or any of the several states.

17-14-8.

(a) In deciding any case subject to this article, before granting any relief the ordering authority shall make a written finding either:

- (1) That there are no victims to whom restitution should be made under the policy of this state;
- (2) That the circumstances of the case are such that no restitution order or plan is reasonably possible;
- (3) That the offender, in cooperation with the ordering authority, has developed and consented to a plan of restitution, which plan shall be made a part of a restitution order; or
- (4) That restitution will be ordered as a condition of the relief.

(b) The failure to make a finding as required by this Code section, however, shall not invalidate any order or other action of the ordering authority.

(a) In any case in which a court sentences an offender to pay restitution and a fine, if the court permits the offender to pay such restitution and fine in other than a lump sum, the clerk of any superior court of this state, probation officer or parole officer, or other official who receives such partial payments shall apply not less than one-half of each payment to the restitution before paying any portion of such fine or any forfeitures, costs, fees, or surcharges provided for by law to any agency, department, commission, committee, authority, board, or bureau of state or local government.

(b) The clerk of any court of this state, probation officer or parole officer, or other

official who receives partial payments for restitution shall pay the restitution amount to the victim as provided in the restitution order not later than the last day of each month, provided that the amount exceeds \$100.00. If the amount does not exceed \$100.00, the clerk of any court of this state, probation officer or parole officer, or other official may allow the amount of restitution to accumulate until such time as it exceeds \$100.00 or until the end of the next calendar quarter, whichever occurs first.

## 17-14-9.

The amount of restitution ordered may be equal to or less than, but not more than, shall not exceed the victim's damages.

## 17-14-10.

(a) In determining the nature and amount of restitution, the ordering authority shall consider:

(1) The present financial condition resources and other assets of the offender and his dependents or person ordered to pay restitution including whether any of the assets are jointly controlled;

(2) The probable future earning capacity of the offender and his dependents earnings and other income of the offender or person ordered to pay restitution;

(3) Any financial obligations of the offender or person ordered to pay restitution, including obligations to dependents;

~~(3)~~(4) The amount of damages;

~~(4)~~(5) The goal of restitution to the victim and the goal of rehabilitation of the offender;

~~(5)~~(6) Any restitution previously made;

~~(6)~~(7) The period of time during which the restitution order will be in effect; and

~~(7)~~(8) Other appropriate factors which the ordering authority deems to be appropriate.

(b) If, subsequent to restitution being ordered pursuant to this article, a victim is convicted of a crime for which restitution is ordered, the ordering authority shall consider the previously ordered restitution as part of the financial resources of such victim.

## 17-14-11.

An order for restitution shall not bar any civil action against the offender. However, any payments made by an offender to a victim under an order for restitution may be a setoff against any judgment awarded to the victim in a civil action based on the same facts for which restitution was ordered. The fact of restitution or a restitution order under this article shall not be placed before the jury on the issue of liability. If the amount of restitution made is in dispute and liability is established, the court shall order further appropriate proceedings to determine the amount of setoff.

## 17-14-12.

The ordering authority shall retain jurisdiction to modify a restitution order at any time before the expiration of the relief ordered.

## 17-14-13.

- (a) A restitution order shall be enforceable as is a civil judgment by execution as provided in Code Section 17-10-20.
- (b) If an offender or other person ordered to pay restitution willfully refuses to comply with a restitution order, the order, in the discretion of the court, may be enforced by attachment for contempt, upon the application of the prosecuting attorney or the victim.
- (c) Failure to comply with a restitution order may, in the discretion of the ordering authority, be grounds to revoke or cancel the relief at any time the restitution order is in effect. Where the relief is earned time allowances, the department Department of Corrections may suspend the offender from earning earned time allowances for a specified period of time.
- (d) When an inmate offender has been ordered to make restitution for any damage to state property caused by such offender, the department may order the seizure of all moneys in or coming into the monetary account of the inmate offender.

## 17-14-14.

- (a) Payments pursuant to an order for restitution shall be made to the clerk of the court or to any other person, for the benefit of the victim or victims, as the ordering authority shall order.
- (b) In each case in which payment of restitution is ordered as a condition of probation or parole, the ordering authority may require any employed offender to execute a wage assignment to pay the restitution.
- (c) Until such time as the restitution has been paid or the sentence has been completed, the clerk of court or the probation or parole officer assigned to the case, whoever is responsible for collecting restitution, shall review the case not less frequently than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the case shall be reviewed at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted before the sentence or probationary or parole period expires. If it is determined at any review that restitution is not being paid as ordered, a written report of the violation shall be filed with the court on a form prescribed by the Council of Superior Court Clerks of Georgia.
- (d) If the ordering authority permits the offender to pay restitution in other than a lump sum, the ordering authority may require the offender to pay interest on the amount of restitution due the victim or the victim's estate. Such interest shall be set at the same rate as is provided by Code Section 7-4-12 for judgments.

## 17-14-15.

- (a) Nothing in this article shall authorize peonage; and this article shall be construed

and diligently administered to prevent peonage.

(b) No offender shall be denied any benefit, relief, or privilege to which he or she might otherwise be entitled or eligible solely because he or she is financially unable and cannot become financially able to make restitution.

17-14-16.

~~This article shall not be construed to limit or abrogate any power of any court, agency, or board to place other conditions, limits, terms, rules, or regulations on any relief in the nature of suspension of sentence, probation, parole, pardon, or restoration of rights. If an offender who is ordered to pay restitution under this article is remanded to the jurisdiction of the Department of Corrections or the Department of Juvenile Justice, the court shall provide a copy of the restitution order to such department when the offender is remanded to such department's jurisdiction.~~

17-14-17.

(a) ~~For purposes of this Code section only, the term:~~

~~(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought.~~

~~(2) 'Victim' means any natural person against whom a crime specified in Chapter 7 or 8 of Title 16 has been committed.~~

~~(b) Notwithstanding the provisions of Code Section 17-14-3, the judge of any court of competent jurisdiction shall order that an adult offender, upon a conviction of any crime specified in Chapter 7 or 8 of Title 16, make restitution to any victim as a condition of any relief ordered by the court.~~

~~(c) The amount of restitution ordered shall be equal to the unreimbursed or uncompensated portion of the victim's damages.~~

~~(d) For purposes of this Code section only, the court is not required to make any written findings in accordance with Code Section 17-14-8 when ordering restitution; provided, however, that a court may order a restitution plan in accordance with the provisions of Code Sections 17-14-7 and 17-14-10.~~

~~(e) The provisions of Code Sections 17-14-11 through 17-14-16 shall apply to any restitution orders issued in accordance with this Code section.~~

~~(a) The state or the victim of a crime may institute an action against an offender pursuant to Article 4 of Chapter 2 of Title 18, the 'Uniform Fraudulent Transfers Act,' to set aside a transfer of real, personal, or other property made voluntarily by the offender on or after the date of the crime committed by the offender against the victim with the intent to:~~

~~(1) Conceal the crime or the fruits of the crime;~~

~~(2) Hinder, delay, or defraud any victim; or~~

~~(3) Avoid the payment of restitution.~~

~~(b) Any such action shall be filed within four years of the date the crime was committed.~~

17-14-18.

If a person or entity entitled to restitution cannot be located or refuses to claim such restitution within two years after the date on which he or she could have claimed such restitution, the restitution paid to such person or entity shall be deposited in the Crime Victims Emergency Fund created pursuant to Chapter 15 of Title 17 or its successor fund. However, a person or entity entitled to such restitution may claim such restitution any time within five years of the date on which he or she could have claimed such restitution by applying in writing to Georgia Crime Victims Compensation Board. Upon receipt of such application and verification that the person making the claim is in fact entitled to such restitution, the Georgia Crime Victims Compensation Board shall pay such restitution to the person or entity.

17-14-19.

This article shall not be construed to limit or abrogate any power of any court, agency, or board to place other conditions, limits, terms, rules, or regulations on any relief in the nature of suspension of sentence, probation, parole, pardon, or restoration of rights.

## SECTION 6.

Said title is further amended by striking subsection (b) of Code Section 17-15-5, relating to the filing of victim compensation claims, and inserting in lieu thereof a new subsection (b) to read as follows:

. (b) A claim must be filed by the claimant not later than one year after the occurrence of the crime upon which such claim is based or not later than one year after the death of the victim; provided, however, that, upon good cause shown, the board may extend that time for filing for a period not exceeding two three years after such occurrence. Claims shall be filed in the office of the board in person or by mail.

## SECTION 7.

Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions regarding setoff debt collection, is amended by striking subparagraphs (E) and (F) of paragraph (1) and inserting in lieu thereof new subparagraphs (E), (F), (G), and (H) to read as follows:

. (E) The Department of Labor with respect to the collection of debts arising under Code Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the Department of Labor establishes that the debtor has been afforded required due process rights by such Department of Labor with respect to the debt and all reasonable collection efforts have been exhausted; and

(F) The Department of Corrections with respect to probation fees arising under Code Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence imposed on a person convicted of a crime and placed on probation by the court if such person has absconded or ended probation in warrant status, who is in the legal custody of the department;

- (G) The State Board of Pardons and Paroles with respect to restitution imposed on a person convicted of a crime and subject to the jurisdiction of the board; and  
(H) The Department of Juvenile Justice with respect to restitution imposed on a juvenile for a delinquent act which would constitute a crime if committed by an adult.

#### SECTION 8.

This Act shall become effective on July 1, 2005.

#### SECTION 9.

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

Senators Carter of the 13th and Smith of the 52nd offered the following amendment:

Amend the Senate Judiciary Committee substitute to HB 172 by striking lines 15 through 35 on page 2 and lines 1 through 24 of page 3 and inserting in lieu thereof the following:

- . victim's family of his or her right ~~under certain circumstances~~ to submit a victim impact statement form:
- (A) ~~Where the charge is a felony, if the defendant allegedly caused physical, psychological, or, if restitution is sought, economic injury to the victim; or~~  
(B) ~~Where the charge is a misdemeanor, if the defendant allegedly caused serious physical injury or death to the victim.~~
- (2) ~~A victim impact statement submitted by a victim shall be attached to the case file and may be used by the prosecuting attorney or the judge during any stage of the proceedings against the defendant involving predisposition, plea bargaining, sentencing, or determination of restitution.~~
- (b)(1) A victim impact statement form shall:
- (1) ~~Identify~~ identify the victim of the offense and the perpetrator;  
(2) ~~A victim impact form may itemize~~ Itemize any economic loss suffered by the victim as a result of the offense; ~~and may~~.
- (3)(A) Identify any physical injury suffered by the victim as a result of the offense along with its seriousness and permanence;  
(4)(B) Describe any change in the victim's personal welfare or familial relationships as a result of the offense; ~~and~~
- (5) ~~Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and~~
- (6)(C) Contain any other information related to the impact of the offense upon the victim ~~that the court requires or the victim's family that the victim wishes to include.~~
- (c) The State Board of Pardons and Paroles Prosecuting Attorneys' Council of Georgia shall establish a form document which shall include the elements set forth in forms which are designed to obtain the information specified by subsection (b) of this Code

section, The Prosecuting Attorneys' Council of Georgia and shall make copies of such form available to prosecuting attorneys in the state. ~~When requested by the victim, the victim impact statement form document shall be provided to the victim by the prosecuting attorney. The form shall include the address of the State Board of Pardons and Paroles and contain a statement that the victim must maintain a copy of his address with the State Board of Pardons and Paroles and must notify the board of any change of address. It shall be the duty of the prosecuting attorney or his or her designee to make such forms available to crime victims.~~

(d) The victim may complete the a victim impact statement form and submit such form to the appropriate prosecuting attorney charged with the prosecution of the case. If the victim is unable to do so because of such victim's mental, emotional, or physical incapacity, or because of such victim's age, the victim's attorney or a family member may complete the victim impact statement form on behalf of the victim. ~~The prosecuting attorney shall file any such written victim impact statement, if in existence at that time, with the court.~~

(e)(1) If, prior to trial, the defendant engages in discussion with the prosecuting attorney for the purpose of reaching a plea agreement or other pretrial disposition of his or her case, the prosecuting attorney shall, upon the request of the defendant, The court shall, in the manner prescribed by rule of court, provide the defendant with a copy of the victim impact statement form relating to the defendant's case within a reasonable time prior to any hearing at which it is to be considered and allow the defendant to have the opportunity to rebut the victim's written statements such discussions.

(2) If the prosecuting attorney intends to present information from a victim impact form to the court at any hearing at which sentencing or a determination of restitution will be considered by the court, the prosecuting attorney shall furnish a copy of the victim impact form to the defendant not less than five days prior to any such hearing. The defendant shall have the right to rebut the information contained in the victim impact form.

(3) The court shall consider the victim impact form that is presented to the court prior to imposing a sentence or making a determination as to the amount of restitution.

On the adoption of the amendment, the yeas were 34, nays 0, and the Carter, Smith amendment was adopted.

On the adoption of the substitute, the yeas were 34, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	E Stephens
Y Butler	E Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
E Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 172, having received the requisite constitutional majority, was passed by substitute.

Senator Carter of the 13th asked unanimous consent that HB 172 be immediately transmitted to the House.

The consent was granted and HB 172 was immediately transmitted.

Senator Hamrick of the 30th asked unanimous consent that HB 170 be immediately transmitted to the House.

The consent was granted and HB 170 was immediately transmitted.

The Calendar was resumed.

Senator Hill of the 4th asked unanimous consent to drop HB 509 to the foot of today's Senate Rules Calendar.

The consent was granted and HB 509 was placed at the foot of the Rules Calendar.

Senator Thompson of the 5th asked unanimous consent that he be excused from voting on HB 437 pursuant to Senate Rule 5-1.8(d). The consent was granted, and Senator Thompson was excused.

Senator Stephens of the 27th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

HB 437. By Representative Scott of the 153rd:

A BILL to be entitled an Act to amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to exceptions from the requirements of public disclosure, so as to exempt disclosure of certain personal information; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Whitehead, Sr. of the 24th.

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:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
N Butler	E Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	E Thompson,C
Y Douglas	Y Moody	E Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 32, nays 17.

HB 437, having received the requisite constitutional majority, was passed.

Senator Balfour of the 9th introduced Ashley Smith, commended by SR 529, adopted previously.

The Calendar was resumed.

HB 340. By Representatives Hembree of the 67th, Richardson of the 19th, Smith of the 113th, Smith of the 129th, Royal of the 171st and others:

A BILL to be entitled an Act to amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure of records is not required, so as to provide that records maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations shall not be subject to disclosure; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Harp of the 29th.

The Senate Higher Education Committee offered the following substitute to HB 340:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure of records is not required, so as to provide that records maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain certain personal information concerning donors or potential donors to such institutions or foundations shall not be subject to disclosure; to provide definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure of records is not required, is amended by striking the word "or" at the end of paragraph (16) of subsection (a), by striking the period at the end of paragraph (17) of subsection (a) and inserting in lieu thereof "; or", and by adding a new paragraph (18) to read as follows:

- (18) Records maintained by public postsecondary educational institutions in this state

and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations; provided, however, that the name of any donor and the amount of donation made by such donor shall be subject to disclosure if such donor or any entity in which such donor has a substantial interest transacts business with the public postsecondary educational institution to which the donation is made within three years of the date of such donation. As used in this paragraph, the term 'transact business' means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative in an amount in excess of \$10,000.00 in the aggregate in a calendar year and the term 'substantial interest' means the direct or indirect ownership of more than 25 percent of the assets or stock of an entity.

#### SECTION 2.

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

#### SECTION 3.

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

Senator Adelman of the 42nd offered the following amendment:

Amend the committee substitute to HB 340 by deleting at p. 1, line 19 beginning at "if" through line 26 at "entity"

Senator Adelman of the 42nd asked unanimous consent that his amendment be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Brown of the 26th moved the previous question.

On the adoption of the substitute, the yeas were 37, nays 4, 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:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	E Johnson	N Stoner
N Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D

Y Chance	N Me V Bremen	Thomas,R
N Chapman	N Miles	N Thompson,C
Y Douglas	Y Moody	E Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
N Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
N Heath	N Seay	N Zamarripa
N Henson	N Shafer,D	

On the passage of the bill, the yeas were 30, nays 21.

HB 340, having received the requisite constitutional majority, was passed by substitute.

Senator Harp of the 29th asked unanimous consent that HB 340 be immediately transmitted to the House.

The consent was granted and HB 340 was immediately transmitted.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has agreed to the Senate substitute, as amended by the House, to the following Bill of the House:

HB 200. By Representatives Coan of the 101st, Ehrhart of the 36th, Knox of the 24th, Keen of the 179th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Article 9 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, so as to provide that the Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for an injury occurring after April 15, 2005, for which a claim is made after April 15, 2005; to provide that the fund shall continue to reimburse self-insured employers and insurers for claims made prior to April 15, 2005; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has disagreed to the Senate amendments to the following Bill of the House:

- HB 291. By Representatives Rogers of the 26th, Knox of the 24th, Meadows of the 5th and Dodson of the 75th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to remove the requirement that managed care plans obtain certain acknowledgments; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate amendment, as amended by the House, to the following Bill of the House:

- HB 312. By Representatives Freeman of the 140th, May of the 111th, Roberts of the 154th, Golick of the 34th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Title 50 of the O.C.G.A., relating to state government, and Title 45 of the O.C.G.A., relating to public officers and employees, so as to provide for the substantial revision and transfer of certain powers, duties, and authority of the Department of Administrative Services, the Georgia Technology Authority, the Office of Planning and Budget, the Board of Regents of the University System of Georgia, the Department of Agriculture, the Department of Veterans Service, and the state accounting officer; to change certain provisions regarding the establishment, powers, purchasing authority, procedures, and limitations and vendor qualification of the Georgia Technology Authority; to change certain provisions regarding powers, purchasing personnel, competitive bidding, emergency purchasing, and prohibited practices with respect to the

Department of Administrative Services; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Mr. President:

The House insists on its position in disagreeing to the Senate substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 487. By Representatives Roberts of the 154th, McCall of the 30th, Floyd of the 147th, Royal of the 171st, Ray of the 136th 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 change the exemption regarding electricity sales for irrigation of farm crops; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Roberts of the 154th, O'Neal of the 146th and Maddox of the 172nd.

The following bill was taken up to consider House action thereto:

HB 487. By Representatives Roberts of the 154th, McCall of the 30th, Floyd of the 147th, Royal of the 171st, Ray of the 136th 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 change the exemption regarding electricity sales for irrigation of farm crops; to repeal conflicting laws; and for other purposes.

Senator Bulloch of the 11th asked unanimous consent that the Senate adhere to its substitute to HB 487 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Bulloch of the 11th, Hudgens of the 47th and Williams of the 19th.

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

HB 846. By Representatives Benfield of the 85th, Watson of the 91st, Mitchell of the 88th, Stephenson of the 92nd, Mosby of the 90th and others:

A BILL to be entitled an Act to provide a homestead exemption from DeKalb

County ad valorem taxes for county purposes for the full value of the homestead for residents of that county who are disabled or are 62 years of age or over and whose household gross income does not exceed \$25,000.00; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for the specific repeal of a certain prior homestead exemption; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 852. By Representatives Crawford of the 127th and Cole of the 125th:

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Barnesville, approved March 11, 1987 (Ga. L. 1987, p. 3865), as amended, particularly by an Act approved April 5, 1993 (Ga. L. 1993, p. 4957), so as to provide new districts for councilmembers; to provide for definitions and inclusions; to provide for continuation in office of current members of the council; to change provisions relating to wards; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 853. By Representatives Harbin of the 118th, Fleming of the 117th and Burmeister of the 119th:

A BILL to be entitled an Act to authorize the governing authority of Columbia County to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 854. By Representatives Harbin of the 118th, Fleming of the 117th and Burmeister of the 119th:

A BILL to be entitled an Act to amend an Act to provide that certain officials of Columbia County who have served at least 15 years in office may, upon leaving office, continue to participate in the county health insurance program

by paying the total cost of such participation, approved May 17, 2004 (Ga. L. 2004, p. 4472), so as to clarify that such Act applies to health insurance coverage for the officials as well as their spouses and dependents; to provide for related matters; to provide for intent; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 855. By Representatives Harbin of the 118th, Fleming of the 117th and Burmeister of the 119th:

A BILL to be entitled an Act to amend an Act to create a board of elections for Columbia County and provide for its powers and duties, approved March 23, 1993 (Ga. L. 1993, p. 4180), so as to revise certain term limitations on members of the board; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 857. By Representative Cole of the 125th:

A BILL to be entitled an Act to repeal an Act entitled "Jasper County Economic Development Authority Act" approved April 4, 1991 (Ga.L. 1991, p. 4524); to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 858. By Representatives Scott of the 2nd and Neal of the 1st:

A BILL to be entitled an Act to amend an Act to create a board of elections and registration for Walker County and provide for its powers and duties, approved April 4, 1997 (Ga. L. 1997, p. 3657), so as to revise the manner of appointing members of the board; to revise the manner of filling vacancies; to revise the qualifications of members of the board; to provide for related matters; to provide for the submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 859. By Representatives Lane of the 167th, Keen of the 179th and Hill of the 180th:

A BILL to be entitled an Act to amend an Act relating to the Glynn County Board of Elections and Registration, approved March 24, 1994 (Ga. L. 1994, p. 3977), so as to change provisions relating to the selection of members of the board; to provide for one member to be appointed by the board of commissioners of Glynn County rather than the grand jury; to provide for the current member in that position to complete his or her current term of office; to provide for related matters; to provide for submission under the federal Voting Rights Act; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 860. By Representatives Henson of the 87th, Watson of the 91st, Drenner of the 86th, Williams of the 89th, Sinkfield of the 60th and others:

A BILL to be entitled an Act to amend an Act establishing the DeKalb County districts from which the members of the county board of education shall be elected, approved April 12, 1963 (Ga. L. 1963, p. 3424), as amended, particularly by an Act approved March 19, 1987 (Ga. L. 1987, p. 4538), so as to change the compensation of the members of the board of education; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 861. By Representative Ralston of the 7th:

A BILL to be entitled an Act to amend an Act providing for a Board of Commissioners of Fannin County, approved August 10, 1920 (Ga. L. 1920, p. 519), as amended, particularly by an Act approved March 14, 1983 (Ga. L. 1983, p. 3939), so as to change the provision relating to the compensation of the members of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 862. By Representative Hatfield of the 177th:

A BILL to be entitled an Act to amend an Act creating the State Court of Ware County, formerly the City Court of Waycross, approved December 11, 1897 (Ga. L. 1897, p. 510), as amended, particularly by an Act approved May 17, 2004 (Ga. L. 2004, p. 4082), so as to provide for the compensation of the

solicitor-general and the judge of said court; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 863. By Representatives Scott of the 153rd and Roberts of the 154th:

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Tift County, approved August 9, 1917 (Ga. L. 1917, p. 396), as amended, particularly by an Act approved April 17, 1975 (Ga. L. 1975, p. 4015), and an Act approved March 28, 1985 (Ga. L. 1985, p. 4875), so as to repeal a requirement that certain commissioners must resign on or before a certain date in order to run for chairperson of the board of commissioners; provide that the board of commissioners of Tift County may establish procedures relative to competitive bids on county purchases of new material, supplies, and equipment and contracts for county work; to provide for public inspection; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 866. By Representatives Forster of the 3rd and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act to reconstitute the Board of Education of Catoosa County, Georgia, approved March 30, 1993 (Ga. L. 1993, p. 4258), as amended, so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 867. By Representatives Forster of the 3rd and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act creating the office of commissioner of Catoosa County, approved February 23, 1943 (Ga. L. 1943, p. 858), as amended, so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for

preclearance pursuant to 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.

Referred to the State and Local Governmental Operations Committee.

HB 870. By Representative Freeman of the 140th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Twiggs County, approved March 26, 1982 (Ga. L. 1982, p. 3627), as amended, particularly by an Act approved March 24, 1994 (Ga. L. 1994, p. 4048), so as to provide for monthly meetings of the board of education; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 872. By Representatives Heard of the 104th, Mumford of the 95th, Rice of the 51st, Floyd of the 99th, Marin of the 96th and others:

A BILL to be entitled an Act to amend an Act creating the board of commissioners of Gwinnett County, approved January 31, 1968 (Ga. L. 1968, p. 2003), as amended, particularly by an Act approved March 24, 1988 (Ga. L. 1988, p. 4658), so as to provide for the compensation of the chairperson and the members of the board of commissioners; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

Senator Douglas of the 17th asked unanimous consent that Senator Chance of the 16th be excused. The consent was granted, and Senator Chance was excused.

Senator Whitehead of the 24th asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

Senator Whitehead of the 24th asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Miles of the 43rd asked unanimous consent that Senator Goggans of the 7th be excused. The consent was granted, and Senator Goggans was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Hudgens of the 47th be excused. The consent was granted, and Senator Hudgens was excused.

The Calendar was resumed.

SR 184. By Senators Zamarripa of the 36th, Tate of the 38th, Fort of the 39th, Thomas of the 2nd and Jones of the 10th:

A RESOLUTION creating the Georgia Capital Punishment Study Commission to study the death penalty; to provide for the powers, duties, and compensation of its members; to urge the suspension of executions until such time as a report from such study commission is submitted to the General Assembly and the General Assembly and the Governor act in response to recommendations from the study commission; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SR 184:

**A RESOLUTION**

Creating the Georgia Capital Punishment Study Commission to study the death penalty; to provide for the powers, duties, and compensation of its members; to urge the suspension of executions until such time as a report from such study commission is submitted to the General Assembly and the General Assembly and the Governor act in response to recommendations from the study commission; and for other purposes.

WHEREAS, life is the most valuable possession of a human being; and

WHEREAS, the state should exercise utmost care to protect its residents' lives from homicide, accident, or arbitrary or wrongful taking of life by the state; and

WHEREAS, there has been increasing public awareness of cases of individuals wrongfully convicted of murder, in Georgia and elsewhere in the nation; and

WHEREAS, the General Assembly is troubled that the possibility of mistake in the death penalty process may undermine public confidence in our criminal justice system; and

WHEREAS, the execution of an innocent person by the State of Georgia would be a grave and irreversible injustice; and

WHEREAS, there is public concern that racial and socioeconomic factors influence decisions to seek or impose the death penalty; and

WHEREAS, there is a lack of any meaningful procedure to ensure uniform application of the death penalty in each county throughout the state; and

WHEREAS, the experience of this state with the death penalty has been characterized by

significant expenditures of money and time; and

WHEREAS, in order for the state to protect its moral and ethical integrity, the state must ensure a justice system which is impartial, uncorrupted, equitable, competent, and in line with evolving standards of decency.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

There is created the Georgia Capital Punishment Study Commission. The commission shall be composed of 13 members. Appointments should reflect the diversity of the population of Georgia. Members shall be appointed as follows: three members appointed by the Governor, two of whom shall be appointed from the religious community in Georgia and one from the social work profession; two members appointed by the Senate Committee on Assignments; two members appointed by the Speaker of the House of Representatives; the director of the Office of the Georgia Capital Defender or his or her designee; the director of the Georgia Public Defender Standards Council or his or her designee; the director of District Attorneys' Association of Georgia or his or her designee; the Attorney General or his or her designee; the president of the State Bar of Georgia or his or her designee; and the director of Murder Victims' Families for Reconciliation or his or her designee. Members shall be appointed within three months of enactment of this resolution. The commission shall choose a chairperson from among its members. Any vacancy in the membership shall be filled in the same manner as the original appointment.

SECTION 2.

- (a) The commission shall study all aspects of the death penalty as currently administered in the State of Georgia, including, but not limited to, the following issues:
  - (1) Whether the selection of defendants in Georgia for capital trials is arbitrary, unfair, or discriminatory in any way and whether there is unfair, arbitrary, or discriminatory variability in the sentencing phase or at any stage of the process including, but not limited to, the issue of race, socioeconomic status, or geography;
  - (2) Whether there is a significant difference in the crimes of those selected for the punishment of death as opposed to those who receive life in prison;
  - (3) Whether the death penalty is serving the needs of families of victims and the general safety needs of the public, taking into account any other services that might better serve their needs and whether those services are being provided;
  - (4) Whether the death penalty rationally serves a legitimate penological interest such as deterrence;
  - (5) Whether the death penalty as it is currently applied is consistent with evolving standards of decency; and
  - (6) Whether there is a significant difference between the cost of the death penalty from indictment to execution and the cost of life in prison without parole. In considering the overall cost of the death penalty in Georgia, the cost of all the capital

trials that result in life sentences as well as the death sentences that are reversed on appeal must be factored into the equation.

(b) The commission shall review:

- (1) The June, 2001, Protocols of the American Bar Association Section of Individual Rights and Responsibilities;
- (2) Mandatory Justice: Eighteen Reforms to the Death Penalty, a report of The Constitution Project's bipartisan, blue ribbon commission of capital punishment supporters and opponents; and
- (3) Other nonpartisan, academic, or government inquiries into the administration of capital punishment at state and national levels.

(c) The commission shall make recommendations to guarantee that the application and administration of capital punishment in this state and the public policy of this state regarding capital punishment is free from bias and error and designed to guarantee fairness and accuracy and propose new legislation, if appropriate.

SECTION 3.

The commission is entitled to the assistance and service of the employees of any state, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes and to employ stenographic and clerical assistance.

SECTION 4.

The commission shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend to the Governor and the General Assembly any action or legislation which the commission deems necessary or appropriate. The commission may conduct such meetings at such places and at such times as it deems necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia Annotated as well as the mileage or transportation allowance authorized for state employees. Members of the commission who are state officials, other than legislative members, and state employees shall receive no compensation for their services on the commission, but they shall be reimbursed for expenses incurred by them in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective departments. All other funds necessary to carry out the provisions of this resolution shall come from funds appropriated to the House of Representatives and the Senate. The expenses and allowances authorized by this resolution shall not be received by any member of the commission for more than five days unless additional days are authorized. The

commission shall make a report of its findings and recommendations, with suggestions for proposed legislation, if any; such report shall be made on or before December 31, 2006. The commission shall stand abolished on December 31, 2006.

#### SECTION 5.

The General Assembly acknowledges the seriousness of the questions raised herein. The General Assembly also acknowledges that the commission will need to dispassionately examine all questions surrounding the use of the death penalty in the State of Georgia. It is further acknowledged that the pressures of a pending execution might affect the deliberations of the commission. It is therefore recommended that no execution shall be carried out until the commission has completed its report. The General Assembly urges the State Board of Pardons and Paroles to issue appropriate stays of execution so that no execution shall be carried out prior to the issuance of the report and final action of the General Assembly and the Governor in response to the Georgia Capital Punishment Study Commission's report and recommendations.

On the adoption of the substitute, the yeas were 36, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
Bulloch	Hudgens	N Stephens
Y Butler	N Johnson	Stoner
Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
E Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Thompson,C
N Douglas	Y Moody	E Thompson,S
Y Fort	N Mullis	E Tolleson
E Goggans	N Pearson	N Unterman
Golden	Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	E Rogers	N Whitehead
Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	Williams
Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

THURSDAY, MARCH 24, 2005

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On the adoption of the resolution, the yeas were 15, nays 23.

SR 184, having failed to receive the requisite constitutional majority, was lost.

The following communication was received by the Secretary:

Senator George Hooks  
District 14  
420-A State Capitol  
Atlanta, GA 30334

**Committees:**  
Appropriations  
Natural Resources and the Environment  
Reapportionment and Redistricting  
Special Judiciary  
State Institutions and Property

The State Senate  
Atlanta, Georgia 30334

March 24, 2005

Mr. Frank Eldridge, Jr.  
Secretary of the Senate  
353 State Capitol  
Atlanta, Georgia 30334

Dear Mr. Secretary,

I wish my vote to be recorded as no on SR 184 which was cast incorrectly today.

Sincerely,

/s/ George Hooks  
Senator, 14th District

HB 25. By Representatives Brooks of the 63rd, Coan of the 101st, Keen of the 179th, Richardson of the 19th, Porter of the 143rd and others:

A BILL to be entitled an Act to amend Part 2 of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to postsecondary education, so as to repeal a provision which grants the Governor the power to close any school or institution under the control of the board of regents; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Harp of the 29th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	E Hudgens	Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 0.

HB 25, having received the requisite constitutional majority, was passed.

HB 26. By Representatives Brooks of the 63rd, Coan of the 101st, Keen of the 179th, Richardson of the 19th, Porter of the 143rd and others:

A BILL to be entitled an Act to amend Subpart 2 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to compulsory attendance, so as to repeal a provision authorizing the Governor to suspend all or any part of said subpart because of a riot, insurrection, public disorder, disturbance of the peace, natural calamity, or disaster; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Moody of the 56th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 26, having received the requisite constitutional majority, was passed.

Senator Wiles of the 37th asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

Senator Balfour of the 9th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

HB 27. By Representatives Brooks of the 63rd, Coan of the 101st, Keen of the 179th, Richardson of the 19th, Porter of the 143rd 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 repeal Article 14, relating to education grants; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Moody of the 56th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	E Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 27, having received the requisite constitutional majority, was passed.

HB 97. By Representatives Ralston of the 7th and Graves of the 12th:

A BILL to be entitled an Act to amend Code Section 15-6-2 of the O.C.G.A., relating to the number of judges of superior courts, so as to provide for a third judge of the superior courts of the Appalachian Judicial Circuit; to provide for the appointment of such additional judge by the Governor; to provide for the election of successors to the judge initially appointed; to prescribe the powers of said judge; to prescribe the compensation, salary, and expense allowance of said judge to be paid by the State of Georgia and the counties comprising said circuit; to authorize the judges of said court to divide and allocate the work and duties thereof; to provide for the manner of impaneling jurors; to provide for an additional court reporter for said circuit; to declare inherent authority; to provide for a conditional effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Smith of the 52nd.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

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

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

The following communication was received by the Secretary:

Senator David Shafer  
District 48  
109 State Capitol  
Atlanta, GA 30334

**Committees:**

Science and Technology  
Insurance and Labor  
Regulated Industries and Utilities  
Banking and Financial Institutions  
Reapportionment and Redistricting

The State Senate  
Atlanta, Georgia 30334

March 24, 2005

Honorable Frank Eldridge  
Secretary of the Senate  
State Capitol  
Atlanta, Georgia 30334

Dear Frank:

My machine failed to record my vote in favor of House Bill 97. Please let the Journal reflect that I voted for House Bill 97.

Very truly yours,

/s/ David Shafer  
State Senator, District 48

The following bill was taken up to consider House action thereto:

HB 291. By Representatives Rogers of the 26th, Knox of the 24th, Meadows of the 5th and Dodson of the 75th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to remove the requirement that managed care plans obtain certain acknowledgments; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hudgens of the 47th asked unanimous consent that the Senate insist on its amendments to HB 291.

The consent was granted, and the Senate insisted on its amendments to HB 291.

Senator Stoner of the 6th asked unanimous consent that Senator Golden of the 8th be excused. The consent was granted, and Senator Golden was excused.

Senator Chance of the 16th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

The Calendar was resumed.

HB 307. By Representatives Rogers of the 26th and Ralston of the 7th:

A BILL to be entitled an Act to amend Code Section 8-2-40 of the Official Code of Georgia Annotated, relating to the effect of a claimant's acceptance of a settlement in relation to a construction defect claim, so as to provide that a contractor's fulfillment of an offer for settlement or repair does not create insurance coverage or affect the parties' rights under a contractor's liability policy; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles

Y Harp  
Y Heath  
Y Henson

E Seabaugh  
Y Seay  
Y Shafer,D

Y Williams  
Y Zamarripa

On the passage of the bill, the yeas were 47, nays 1.

HB 307, having received the requisite constitutional majority, was passed.

Senator Tate of the 38th introduced Clarence Harrison whose grievance was to be addressed later on today's Rules Calendar by HR 108.

Senator Hill of the 32nd asked unanimous consent that Senator Hamrick of the 30th be excused. The consent was granted, and Senator Hamrick was excused.

The Calendar was resumed.

HB 341. By Representatives Burkhalter of the 50th, Keen of the 179th and Harbin of the 118th:

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 sales and use taxation, so as to provide for the tax treatment of certain airline industry transactions; to provide for a partial exemption under certain circumstances of jet fuel sold to certain qualifying airlines and provide for the manner of collection of tax with respect to nonexempt sales; to provide that jet fuel sold to certain qualifying airlines shall be exempt from certain local sales and use taxes under certain circumstances; to provide that certain sales of food and beverages for consumption by airline passengers and crew shall be exempt from taxation under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Balfour of the 9th.

The Senate Finance Committee offered the following substitute to HB 341:

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 sales and use taxation, so as to provide for the tax treatment of certain airline industry transactions; to provide for a limited period of time for a partial exemption under certain circumstances of jet fuel sold to certain qualifying airlines and provide for the manner of collection of tax with respect to nonexempt sales; to provide

for a limited period of time that jet fuel sold to certain qualifying airlines shall be exempt from certain local sales and use taxes under certain circumstances; to provide that certain sales of food and beverages for consumption by airline passengers and crew shall be exempt from sales and use taxes under certain circumstances; to provide for related matters; to provide for effective dates; to provide for automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxation, is amended by striking subparagraph (B) of paragraph (33) and inserting in its place a new subparagraph (B) to read as follows:

. (B) ~~In Except as otherwise provided in paragraph (33.1) of this Code section, in~~ lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;

SECTION 2.

Said Code section is further amended by striking subparagraph (B) of paragraph (33) and inserting in its place a new subparagraph (B) to read as follows:

. (B) In lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;

SECTION 3.

Said Code section is further amended by adding after paragraph (33) a new paragraph (33.1) to read as follows:

. (33.1)(A) The sale or use of jet fuel to or by a qualifying airline, to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B)(i) For each fiscal year beginning after June 30, 2005, each qualifying airline shall pay the first \$15 million of state sales and use tax, plus applicable local sales and use tax, levied or imposed by this chapter on the purchase or use of jet fuel. Thereafter, the purchase of jet fuel by a qualifying airline during the fiscal year shall be exempt from state and local sales and use tax except as provided in division (ii) of this subparagraph.

(ii) The exemption provided in division (i) of this subparagraph shall not apply to

any local option sales tax for educational purposes authorized pursuant to the authority of Article VIII, Section VI, Paragraph IV of the Constitution of Georgia and which is effective before July 1, 2005.

(C) The sale or use of jet fuel to or by a qualifying airline shall not be subject to any local sales and use tax which becomes effective on or after July 1, 2005.

(D) Each qualifying airline purchasing jet fuel on which state sales and use tax is reasonably expected to exceed \$15 million shall report and pay directly to the Department of Revenue the tax applicable to the purchase of jet fuel under procedures required by the commissioner.

(E) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(F) The exemption provided for in this paragraph shall apply only as to transactions occurring on or after July 1, 2005, and prior to July 1, 2007.

(G) For purposes of this paragraph, a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.

(H) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph.

(I) This paragraph shall stand repealed in its entirety on July 1, 2007;

#### SECTION 4.

Said Code Section 48-8-3 is further amended by striking the word "or" at the end of paragraph (79); substituting the symbol and word ";" or" for the period at the end of paragraph (80); and adding a new paragraph (81) to read as follows:

. (81) The sale of food and beverages, except for alcoholic beverages, to a qualifying airline for service to passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing without charge of food and beverages to qualifying airline passengers and crew in the aircraft, whether in flight or on the ground; and for purposes of this paragraph a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.

#### SECTION 5.

(a) Except as otherwise provided in this section, this Act shall become effective July 1, 2005.

- (b) Section 2 of this Act shall become effective July 1, 2007.
- (c) Section 1 of this Act shall stand repealed in its entirety on July 1, 2007.

#### SECTION 6.

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

On the adoption of the substitute, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the substitute, the yeas were 43, nays 8, and the committee substitute was adopted.

Senator Seay of the 34th offered the following substitute to HB 341:

#### 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 sales and use taxation, so as to provide for the tax treatment of certain airline industry transactions; to provide for a partial exemption under certain circumstances of jet fuel sold to certain qualifying airlines and provide for the manner of collection of tax with respect to nonexempt sales; to provide that jet fuel sold to certain qualifying airlines shall be exempt from certain local sales and use taxes under certain

circumstances; to provide that certain sales of food and beverages for consumption by airline passengers and crew shall be exempt from taxation under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxation, is amended by striking subparagraph (B) of paragraph (33) and inserting in its place a new subparagraph to read as follows:

. (B) ~~In Except as otherwise provided in paragraph (33.1) of this Code section, in~~ lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;

SECTION 2.

Said Code Section 48-8-3 is further amended by adding after paragraph (33) a new paragraph (33.1) to read as follows:

. (33.1)(A) The sale or use of jet fuel to or by a qualifying airline, to the extent provided in subparagraphs (B), (C), and (D) of this paragraph.

(B)(i) For each fiscal year beginning after June 30, 2005, each qualifying airline shall pay the first \$13 million of state sales and use tax that is applicable to the purchase of jet fuel. Thereafter, the purchase of jet fuel by a qualifying airline during the fiscal year shall be exempt from state sales and use tax.

(ii) Each qualifying airline purchasing jet fuel on which state sales and use tax is reasonably expected to exceed \$13 million shall report and pay directly to the Department of Revenue the tax applicable to the purchase of jet fuel under procedures required by the commissioner.

(C)(i) Effective July 1, 2006, the sale or use of jet fuel to or by any qualifying airline shall not be subject to any local sales and use tax levied or imposed at any time, except as provided in division (ii) of this subparagraph.

(ii) The exemption provided for in this subparagraph shall not apply to the local option tax for educational purposes authorized pursuant to the authority of Article VIII, Section VI, Paragraph IV of the Constitution of Georgia or Article 2 of this chapter.

(iii) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga.

L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(D) Except as provided in division (i) of subparagraph (C) of this paragraph, the exemption provided for in this paragraph shall apply only as to transactions occurring on or after July 1, 2005.

(E) For purposes of this paragraph, a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.

(F) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph.

### SECTION 3.

Said Code Section 48-8-3 is further amended by striking the word "or" at the end of paragraph (79); substituting the symbol and word ";" or" for the period at the end of paragraph (80); and adding a new paragraph (81) to read as follows:

. (81) The sale of food and beverages to a commercial airline for service to passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing or sale of food and beverages to commercial airline passengers and crew in the aircraft, whether in flight or on the ground.

### SECTION 4.

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

Pursuant to the adoption of the committee substitute, the Seay floor substitute was moot.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman

E Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 4.

HB 341, having received the requisite constitutional majority, was passed by substitute.

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.

Senator Goggans of the 7th asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Jones of the 10th asked unanimous consent that Senator Adelman of the 42nd be excused. The consent was granted, and Senator Adelman was excused.

HB 373. By Representatives Brooks of the 63rd, Coan of the 101st, Keen of the 179th, Richardson of the 19th, Porter of the 143rd and others:

A BILL to be entitled an Act to amend Article 4 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to membership in the Teachers Retirement System of Georgia, so as to repeal a provision relating to the eligibility of public school teachers and employees who are covered by a local retirement fund and who accept employment with nonsectarian schools; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Brown of the 26th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 3, 2005

THURSDAY, MARCH 24, 2005

2321

The Honorable Tyrone Brooks  
State Representative  
Legislative Office Building, Room 511-H  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 373 (LC 21 8113)

Dear Representative Brooks:

This bill would amend provisions relating to membership under the Teachers Retirement System. Specifically, this bill would repeal a provision that allows any teacher or school employee who is employed in a public school and covered by a local retirement system to continue membership in the local system if they become employed in a nonsectarian private school in this State that is attended by students who are eligible for grants from the State.

This is to certify that this 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:

E Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber

E Hamrick	E Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 373, having received the requisite constitutional majority, was passed.

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Schaefer of the 50th.

The Senate Economic Development Committee offered the following substitute to HB 374:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide that certain counties may levy and collect such a tax at the rate of 5 percent; to provide that funds shall be expended in a certain way; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and

municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, is amended by striking in its entirety subparagraph (D) of paragraph (1) of subsection (a) and inserting in lieu thereof the following:

- . (D) Except as provided in paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), and (5.2), and (5.3) of this subsection, no tax levied pursuant to this Code section shall be levied or collected at a rate exceeding 3 percent of the charge to the public for the furnishings.

## SECTION 2.

Said Code section is further amended by striking in its entirety paragraph (2) of subsection (a) and inserting in lieu thereof the following:

- . (2) A county or municipality levying a tax as provided in paragraph (1) of this subsection shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of promoting tourism, conventions, and trade shows a percentage of the total taxes collected under this Code section which is not less than the percentage of such tax collections expended for such purposes during the immediately preceding fiscal year. In addition, if during such immediately preceding fiscal year any portion of such tax receipts was expended for such purposes through a grant to or a contract or contracts with the state, a department of state government, a state authority, or a private sector nonprofit organization, then in each fiscal year beginning on or after July 1, 1987, at least the same percentage shall be expended through a contract or contracts with one or more such entities for the purpose of promoting tourism, conventions, and trade shows. The expenditure requirements of this paragraph shall cease to apply to a county or municipality which levies a tax at a rate in excess of 3 percent, as authorized under paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), and (5.2), and (5.3) of this subsection; and in such case the expenditure requirements of such paragraph of this subsection pursuant to which such tax is levied shall apply instead.

## SECTION 3.

Said Code section is further amended by striking paragraph (4) of subsection (a) and inserting in lieu thereof a new paragraph (4) to read as follows:

- . (4) Notwithstanding any other provision of this subsection, a county (within the territorial limits of the special district located within the county) or municipality may levy a tax under this Code section at a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph (4)) an amount equal to at least 43 1/3 percent of the total taxes collected at the rate of 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (C) supporting a facility owned or operated by a local authority or local government for convention and trade show purposes or any other similar or related purposes, if a written agreement to provide such support was in effect on

January 1, 1987, and if such facility is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes if construction of such facility is funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state funds; (E) supporting a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such facility was substantially completed and in operation prior to December 31, 1993; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for purposes (C) and (D) may be so expended in any otherwise lawful manner. In addition to the amounts required to be expended above, a county or municipality levying a tax pursuant to this paragraph (4) shall further expend (in each fiscal year during which the tax is collected under this paragraph (4)) an amount equal to at least 1 percent of the total taxes collected at the rate of 6 percent for the purpose of supporting a museum of aviation and aviation hall of fame or an amount equal to at least 16 2/3 percent of the total taxes collected at the rate of 6 percent for the purpose of construction or expansion of either: (A) a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (B) a facility owned or operated by a local authority or local government for convention and trade show purposes or any other similar or related purposes, if such support is provided to a governmental entity with which the county or municipality levying the tax had in effect on January 1, 1987, a contractual agreement concerning governmental support of a convention and trade show facility; (C) a facility owned or operated for convention and trade show purposes, visitor welcome center purposes, or any other similar or related purposes by a convention and visitors bureau authority created by local Act of the General Assembly for a municipality; (D) a facility owned or operated for convention and trade show purposes or any other similar or related purposes by a coliseum and exhibit hall authority created by local Act of the General Assembly for a county and one or more municipalities therein; (E) a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such facility was substantially completed and in operation prior to December 31, 1993; (F) a system of bicycle or pedestrian trails or walkways or both

connecting a historic district within the levying county or municipality and surrounding areas (and with respect to this purpose (F) construction and expansion shall include acquisition and development), if not later than December 1, 1993, the county or municipality has adopted ordinances, resolutions, or contracts which: (i) designate such historic district; (ii) obligate the county or municipality to provide funds to promote tourism to a historic district owners and business association which qualifies as a private sector nonprofit organization under subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal Revenue Code; (iii) provide a 'comprehensive plan' as provided for in Chapters 70 and 71 of Title 36; (iv) provide a transportation plan as a component of such comprehensive plan; and (v) provide a recreation plan which is designed to identify recreation needs through the year 2000 and which includes provisions for such system of trails or walkways or both; provided that the authority to expend funds for such system of trails or walkways or both shall expire when all capital costs of the initial acquisition, construction, and development of such system as identified in the relevant plan have been paid and in no event later than July 1, 2002. Amounts so expended to meet such 16 2/3 percent expenditure requirement shall not be subject to the foregoing provisions of this paragraph requiring expenditure through a contract or contracts with certain entities; or (G) a system of bicycle or pedestrian greenways, trails, walkways, or any combination thereof connecting a downtown historic or business district within the levying county or municipality and surrounding areas (and with respect to this purpose (G) construction and expansion shall include acquisition and development), if not later than December 1, 2000, the county or municipality has adopted ordinances, resolutions, or contracts which: (i) designate such historic or downtown business district; (ii) obligate the county or municipality to provide funds to promote tourism to a downtown business district owners and business association or chamber of commerce which qualify as private sector nonprofit organizations under subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal Revenue Code; (iii) provide a 'comprehensive plan' as provided for in Chapters 70 and 71 of Title 36; (iv) provide a transportation plan as a component of such comprehensive plan; and (v) provide a recreation plan as a component of such comprehensive plan which includes provisions for such system of trails or walkways or both; provided that the authority to expend funds for such system of trails or walkways or both shall expire when all capital costs of the initial acquisition, construction, and development of such system as identified in the relevant plan have been paid and in no event later than July 1, ~~2005~~ 2025. Amounts so expended to meet such 16 2/3 percent expenditure requirement shall not be subject to the foregoing provisions of this paragraph requiring expenditure through a contract or contracts with certain entities.

#### SECTION 4.

Said Code section is further amended by inserting following paragraph (5.2) of subsection (b) a new paragraph to read as follows:

. (5.3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, a

county (within the territorial limits of the special district located within the county) and municipalities within such a county in which a convention and visitor's bureau authority has been created by local Act of the General Assembly and which was in existence on July 1, 2005, may levy a tax under this Code section at a rate of 5 percent.

(B) The provisions of paragraph (2) of subsection (a) of this Code section relating to expenditures shall apply to this paragraph; provided, however, that a county or municipality levying a tax pursuant to this paragraph shall be authorized, but not required, to expend funds through a convention and visitor's bureau authority created by local Act of the General Assembly.

#### SECTION 5.

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

#### SECTION 6.

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

Senators Schaefer of the 50th, Cagle of the 49th and Seabaugh of the 28th offered the following amendment:

Amend the Senate Economic Development Committee substitute to HB 374 (LC 21 8396S) by inserting between "way;" and "to" on line 8 of page 1 the following:

. to provide for requirements and limitations with respect thereto; to provide for related matters;

By inserting between lines 10 and 11 of page 5 the following:

#### . SECTION 4A.

Said article is further amended by striking paragraph (6) of subsection (a) of Code Section 48-13-51, relating to the levy and collection of certain excise taxes, and inserting in its place a new paragraph (6) to read as follows:

'(6) At no time shall a county or municipality levy a tax under more than one paragraph of this subsection. Following the termination of a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection, any county or municipality which has levied a tax pursuant to paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection shall be authorized to levy a tax in the manner and at the rate authorized by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection.'

#### SECTION 4B.

Said article is further amended by striking paragraphs (9) and (10) of subsection (a) of Code Section 48-13-51, relating to the levy and collection of certain excise taxes, and inserting in their places new paragraphs (9) and (10) to read as follows:

- '(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection shall prior to the imposition of the tax (if the tax is imposed on or after July 1, 1990) and prior to each fiscal year thereafter in which the tax is imposed adopt a budget plan specifying how the expenditure requirements of this Code section will be met. Prior to the adoption of such budget plan, the county or municipality shall obtain from the authorized entity with which it proposes to contract to meet the expenditure requirements of this Code section a budget for expenditures to be made by such organization; and such budget shall be made a part of the county or municipal budget plan.
- (B) The determination as to whether a county or municipality has complied with the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection shall be made for each fiscal year beginning on or after July 1, 1987, as of the end of each fiscal year, shall be prominently reflected in the audit required under Code Section 36-81-7, and shall be determined by: (i) calculating the amount of funds expended or contractually committed for expenditure as provided in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection, whichever is applicable, during the fiscal year; and (ii) expressing such amount as a percentage of tax receipts under this Code section during such fiscal year. A county or municipality contractually expending funds to meet the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection shall require the contracting party to provide audit verification that the contracting party makes use of such funds in conformity with the requirements of this subsection.'
- (10) Nothing in this article shall be construed to limit the power of a county or municipality to expend more than the required amounts, or all, of the total taxes collected under this Code section for the purposes described in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection.'

On the adoption of the amendment, the yeas were 35, nays 0, and the Schaefer et al. amendment was adopted.

On the adoption of the substitute, the yeas were 33, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 374, having received the requisite constitutional majority, was passed by substitute.

HB 431. By Representatives Talton of the 145th, O`Neal of the 146th, Burkhalter of the 50th, Keen of the 179th, Bryant of the 160th and others:

A BILL to be entitled an Act to amend Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, the "Disposition of Unclaimed Property Act," so as to provide for an alternative method of disposition with respect to certain dividends or capital credits which are presumed abandoned; to provide for definitions; to provide for procedures; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

THURSDAY, MARCH 24, 2005

2329

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400  
February 22, 2005

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

Honorable Larry O'Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 431 (LC 22 5776ER)

Dear Chairman O'Neal:

This bill would amend the Disposition of Unclaimed Property Act so as to allow Electric Membership Corporations to dispose of dividends or capital credits which are presumed abandoned. Currently, these dividends or capital credits are remitted to the Commissioner of Revenue.

The Georgia State University Fiscal Research Center estimates that the impact of this proposed legislation is to reduce revenue to the state under the Disposition of Unclaimed Property Act by \$900,000 to \$1,900,000 per year.

The Georgia Electric Membership Corporation (GEMC) is the trade group representing the 42 electric membership cooperatives in the state of Georgia. In 2002, GEMC surveyed its members regarding levels of capital credits over the five-year period 1997 – 2001. It found annual abandoned capital credits ranged from a low of \$900,000 to a high of \$1,900,000 summed across its members.

The revenue estimate assumes that these historical levels will continue into the future.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	N Tate
Y Carter	Y Kemp	Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
E Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 2.

HB 431, having received the requisite constitutional majority, was passed.

Senator Johnson of the 1st asked unanimous consent that the following bill be placed on the Table:

HB 538. By Representatives O`Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption

regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

The consent was granted, and HB 538 was placed on the Table.

Senator Meyer von Bremen of the 12th asked unanimous consent that Senator Hooks of the 14th be excused. The consent was granted, and Senator Hooks was excused.

Senator Hudgens of the 47th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

Senator Seay of the 34th asked unanimous consent that Senator Jones of the 10th be excused. The consent was granted, and Senator Jones was excused.

HB 553. By Representatives Hembree of the 67th, Ehrhart of the 36th, Fleming of the 117th, Keen of the 179th, Casas of the 103rd and others:

A BILL to be entitled an Act to amend Part 2 of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the University System of Georgia, so as to provide that a student in an education degree program shall not be required to join a professional association as a condition of enrollment; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Harp of the 29th.

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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Thompson,C
Y Douglas	Y Moody	Y Thompson,S

N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 37, nays 10.

HB 553, having received the requisite constitutional majority, was passed.

The following communication was received by the Secretary:

Senator Horacena Tate  
District 38  
110 State Capitol  
Atlanta, GA 30334  
Operations

**Committees:**  
Appropriations  
Health and Human Services  
Retirement  
State and Local Governmental

The State Senate  
Atlanta, Georgia 30334

MEMORANDUM

TO: Mr. Frank Eldridge  
Secretary of the Senate

FROM: Senator Horacena Tate  
38th District

SUBJECT: CORRECT OFFICIAL VOTE

DATE: March 24, 2005

Please correct my vote for the official record to reflect a "NO" vote on HB 553. I inadvertently pressed the wrong button.

Thank you in advance for your consideration.

/s/ Horacena Tate

HB 556. By Representative Burkhalter of the 50th:

A BILL to be entitled an Act to amend Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," so as to repeal certain obsolete statutes relating to taxation and revenue; to repeal provisions relating to standards for bound tax digests, separate assessment and appeal of property for school property tax purposes, adjustment of Georgia taxable net income because of certain federal tax treatment of certain capital gains, and required questions about intangible taxes on income tax returns; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	E Walker
Y Grant	Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 1.

HB 556, having received the requisite constitutional majority, was passed.

HB 557. By Representative Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 8 of Title 36 of the Official Code of Georgia Annotated, relating to county police, so as to repeal Code Section 36-8-6, relating to duties of county police with respect to inspection of roads and bridges; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Kemp of the 46th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 557, having received the requisite constitutional majority, was passed.

HB 558. By Representative Burkhalter of the 50th:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts involving

alcoholic beverages, so as to repeal Code Section 3-3-28, relating to reuse, counterfeiting, or forging of tax stamps; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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:

Adelman	Hill,Jack	Y Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 0.

HB 558, having received the requisite constitutional majority, was passed.

Senator Hudgens of the 47th asked unanimous consent that Senator Unterman of the 45th be excused. The consent was granted, and Senator Unterman was excused.

Senator Bulloch of the 11th asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

HB 577. By Representatives Loudermilk of the 14th, Keen of the 179th, Brooks of the 63rd, Franklin of the 43rd, Scott of the 2nd and others:

A BILL to be entitled an Act to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle drivers' licenses, so as to provide for destruction of certain fingerprint records; to provide for certain disclosures; to prohibit the requirement of fingerprinting and similar identification of applicants for drivers' licenses and identification cards; to prohibit the requirement of fingerprinting and similar identification of applicants for identification cards with disabilities; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

Senator Rogers of the 21st offered the following amendment #1:

Amend HB 577 by adding the following after "records," on line 23 on page 1:

. Notwithstanding the provisions of this paragraph, fingerprint images electronically stored on existing drivers' licenses will be destroyed upon application for a renewal of the driver's license.

On the adoption of the amendment, the yeas were 33, nays 0, and the Rogers amendment #1 was adopted.

Senator Rogers of the 21st offered the following amendment #2:

Amend HB 577 by deleting "2007" and inserting "2006" on line 4 on page 4.

On the adoption of the amendment, the yeas were 34, nays 0, and the Rogers amendment #2 was adopted.

Senators Rogers of the 21st, Johnson of the 1st, Stephens of the 27th, Hudgens of the 47th, Seabaugh of the 28th and others offered the following amendment #3:

Amend HB 577 by inserting "to prescribe the type of documentation sufficient to obtain a temporary driver's license or permit or special identification card;" after "cards;" on line 4 on page 1.

By renumbering Sections 2, 3, 4, 5, and 6 as Sections 3, 4, 5, 6, and 7, respectively.

By adding a new Section 2 to read as follows:

## SECTION 2.

Said chapter is further amended by inserting immediately following Code Section 40-5-21 a new Code section to read as follows:

'40-5-21.1.

(a) Notwithstanding any other provision of this title, an applicant who presents in person valid documentary evidence of:

- (1) Admission to the United States in a valid, unexpired nonimmigrant status;
- (2) A pending or approved application for asylum in the United States;
- (3) Admission into the United States in refugee status;
- (4) An approved application for temporary protected status in the United States;
- (5) Approved deferred action status; or
- (6) Other federal documentation verified by the United States Department of Homeland Security to be valid documentary evidence of lawful presence in the United States under federal immigration law

may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit, or special identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit, or special identification card has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security.

(b) A drivers' license or identification card issued by any state or territory which, on or after July 1, 2006, authorized such driver's license or identification card to be issued to persons not lawfully present in the United States may not be accepted as evidence of legal presence in the United States.'

Senators Zamarripa of the 36th and Rogers of the 21st offered the following amendment #3a:

Amend Amendment # 3 to HB 577 by deleting on line 23 beginning at the "or" through "Security" on line 31.

On the adoption of the amendment, the yeas were 30, nays 0, and the Zamarripa, Rogers amendment #3a to amendment #3 was adopted.

On the adoption of the amendment, the yeas were 31, nays 0, and the Rogers et al. amendment #3 was adopted as amended.

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:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	N Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
N Douglas	Y Moody	N Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	E Unterman
N Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 40, nays 10.

HB 577, having received the requisite constitutional majority, was passed as amended.

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

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 4. By Senators Seabaugh of the 28th, Williams of the 19th, Stephens of the 27th, Hamrick of the 30th, Hill of the 32nd and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated, relating to the allocation of funds for public roads, so as to change the provisions regarding the balancing of

federal and state funds; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Staton of the 18th asked unanimous consent that Senator Douglas of the 17th be excused. The consent was granted, and Senator Douglas was excused.

The Calendar was resumed.

HB 622. By Representative Burkhalter of the 50th:

A BILL to be entitled an Act to amend Article 3 of Chapter 46 of the Official Code of Georgia Annotated, relating to telegraph service, so as to repeal provisions relating to the duty of telegraph companies to deliver dispatches or messages to persons residing within a certain proximity; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hill of the 32nd.

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	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
E Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	E Tolleson
Y Goggans	Y Pearson	E Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 622, having received the requisite constitutional majority, was passed.

Senator Reed of the 35th asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

Senator Thompson of the 33rd asked unanimous consent that Senator Meyer von Bremen of the 12th be excused. The consent was granted, and Senator Meyer von Bremen was excused.

HB 221. By Representatives Burmeister of the 119th, Watson of the 91st, Mosby of the 90th, Morgan of the 39th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, so as to change certain provisions relating to the calculation of child support; to provide guidelines for determining amount of child support to be paid; to provide for factors for apportioning child support obligations; to provide a schedule of basic child support obligation amounts; to change the form of the final judgment in divorce actions to conform such changes in the determination and computation of child support; to remove a certain limitation on petitions to modify alimony and child support; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Harp of the 29th.

Senator Seay of the 34th offered the following amendment #1:

By striking lines 24 through 36 of page 26, page 27 in its entirety, and lines 1 through 11 of page 28.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	E Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	E Me V Bremen	Y Thomas,R

N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	Thompson,S
Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	E Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 16, nays 28, and the Seay amendment #1 was lost.

Senators Henson of the 41st and Tate of the 38th offered the following amendment #2 to HB 221:

By striking the date 'March 1, 2006' line 33 of page 35 and inserting in lieu thereof the date "July 1, 2006."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	E Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	E Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 26, and the Henson, Tate amendment #2 was lost.

Senators Shafer of the 48th, Williams of the 19th, Schaefer of the 50th and Adelman of the 42nd offered the following amendment #3:

Amend HB 221 by inserting after "require," on line 37 on page 28 "Where a custodial parent prevails in an upward modification of child support based upon the noncustodial parent's failure to be available and willing to exercise visitation as scheduled under the prior order, reasonable and necessary attorney's fees and expenses of litigation shall be awarded to the custodial parent."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	E Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	Y Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	Y Rogers	N Whitehead
Y Harbison	Y Schaefer	N Wiles
N Harp	N Seabaugh	E Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 24, nays 22, and the Shafer et al. amendment #3 was adopted.

Senator Thompson of the 5th offered the following amendment #4 to HB 221:

By striking the number '100' on line 33 page 26 and inserting in lieu thereof the number "121."

By striking the number '100' on line 6 page 27 and inserting in lieu thereof the number "121."

By striking the number '100' on line 15 page 27 and inserting in lieu thereof the number "121."

By striking the number '100' on line 4 page 28 and inserting in lieu thereof the number "121."

By striking the number '100' on line 8 page 28 and inserting in lieu thereof the number "121."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	E Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	Y Schaefer	N Wiles
N Harp	N Seabaugh	E Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 21, nays 25, and the Thompson of the 5th amendment #4 was lost.

Senator Thomas of the 2nd offered the following amendment #5 to HB 221:

By striking the number '15' on line 20 page 28 and inserting in lieu thereof the number "25."

By striking the number '15' on line 25 page 28 and inserting in lieu thereof the number "25."

By striking the phrase "If there is a" from line 29 and striking lines 30 through 34 page 28.

By striking the number '15' on line 4 page 29 and inserting in lieu thereof the number "25."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	E Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	Seabaugh	E Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 18, nays 27, and the Thomas of the 2nd amendment #5 was lost.

Senator Harp of the 29th moved that the Senate reconsider its action in adopting the Shafer et al. amendment #3.

On the motion to reconsider, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	E Hooks	N Staton

Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
N Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
N Chapman	N Miles	N Thompson,C
Y Douglas	Y Moody	N Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
N Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
N Harbison	N Schaefer	Y Wiles
Y Harp	Y Seabaugh	N Williams
Y Heath	N Seay	E Zamarripa
N Henson	N Shafer,D	

On the motion, the yeas were 26, nays 22, the motion prevailed; and the Shafer et al. amendment #3 was reconsidered.

On the adoption of the amendment after reconsideration, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	Y Moody	Y Thompson,S
Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	Y Schaefer	N Wiles
N Harp	N Seabaugh	Y Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 23, nays 25, and the Shafer et al. amendment #3 was lost.

Senator Miles of the 43rd offered the following amendment #6 to HB 221:

By inserting immediately following the word ‘award’ on line 5 of page 29:  
“and where there is a change in the needs of the child or where the visitation actually exercised differs from the visitation contemplated under the prior award.”

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	Y Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 27, and the Miles amendment #6 was lost.

Senators Adelman of the 42nd and Jones of the 10th offered the following substitute to HB 221:

**A BILL TO BE ENTITLED  
AN ACT**

To provide for legislative findings; to amend Titles 5, 7, 15, and 19 of the Official Code of Georgia Annotated, relating respectively to appeal and error, banking and finance, courts, and domestic relations, so as to change provisions relating to the calculation of

child support; to provide for direct appeal in certain domestic relations cases; to change the amount of interest on arrearage of child support; to provide guidelines for determining amount of child support to be paid; to provide for factors for apportioning child support obligations; to provide for definitions; to change the form of the final judgment in divorce actions to conform such changes in the determination and computation of child support; to change provisions relating to petitions to modify alimony and child support; to correct cross-references relating to petitions to modify child support orders; to create the Georgia Child Support Commission; to provide for legislative findings and intent; to provide for composition of the commission and the commission's powers and duties; to provide for compensation of the members of the commission; to provide for officers of the commission; to provide for a quorum for the transaction of business; to provide for reporting; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly finds and declares that it is important to assess periodically child support guidelines and determine whether existing guidelines continue to be viable and effective or whether they have failed or ceased to accomplish their original policy objectives. The General Assembly further finds that supporting Georgia's children is vitally important to the citizens of Georgia. Therefore, the General Assembly has determined that it is in the best interests of the state and its citizenry to undertake an evaluation of the child support guidelines on a continuing basis. The General Assembly declares that it is important that all of Georgia's children are provided with adequate financial support whether the children's parents are living together or not living together. The General Assembly finds that both parents have a continuing obligation with respect to providing financial and emotional stability for their child or children. It is the hope of the members of the General Assembly that all parents work together to advance the best interest of their children.

SECTION 2.

Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended by striking subsection (a) of Code Section 5-6-34, relating to judgments and rulings deemed directly appealable, and inserting in its place the following:

- . (a) Appeals may be taken to the Supreme Court and the Court of Appeals from the following judgments and rulings of the superior courts, the constitutional city courts, and such other courts or tribunals from which appeals are authorized by the Constitution and laws of this state:
- (1) All final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35;
  - (2) All judgments involving applications for discharge in bail trover and contempt cases;
  - (3) All judgments or orders directing that an accounting be had;

- (4) All judgments or orders granting or refusing applications for receivers or for interlocutory or final injunctions;
- (5) All judgments or orders granting or refusing applications for attachment against fraudulent debtors;
- (5.1) Any ruling on a motion which would be dispositive if granted with respect to a defense that the action is barred by Code Section 16-11-184;
- (6) All judgments or orders granting or refusing to grant mandamus or any other extraordinary remedy, except with respect to temporary restraining orders;
- (7) All judgments or orders refusing applications for dissolution of corporations created by the superior courts; and
- (8) All judgments or orders sustaining motions to dismiss a caveat to the probate of a will; and
- (9) All final judgments of child support.

### SECTION 3.

Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is amended by striking in its entirety Code Section 7-4-12.1, relating to interest on arrearage of child support, and inserting in lieu thereof the following:

. 7-4-12.1.

All awards of child support expressed in monetary amounts shall accrue interest at the rate of ~~42~~ 7 percent per annum commencing 30 days from the day such award or payment is due. This Code section shall apply to all awards, court orders, decrees, and judgments rendered pursuant to Title 19. It shall not be necessary for the party to whom the child support is due to reduce any such award to judgment in order to recover such interest. The court shall have discretion in applying or waiving past due interest.

### SECTION 4.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking subparagraph (c)(2)(A) of Code Section 15-11-28, relating to jurisdiction of juvenile court, and inserting in lieu thereof a new subparagraph (c)(2)(A) to read as follows:

- . (A) In any case where a child is alleged to be a deprived child as defined in paragraph (8) of Code Section 15-11-2, the juvenile court upon a finding of deprivation shall have jurisdiction to order temporary child support for such child to be paid by that person or those persons determined to be legally obligated to support such child. In determining such temporary child support, the juvenile court shall apply the child support guidelines provided in Code Section 19-6-15 or 19-6-15.1, as applicable. Where there is an existing order of a superior court or other court of competent jurisdiction setting child support for the child, the juvenile court may order the child support obligor in the existing order to make such payments instead to the caretaker of the child on a temporary basis but shall not otherwise modify the terms of the existing order. A copy of the juvenile court's order shall be filed in the clerk's office of the court that entered the existing order. The juvenile court shall

have jurisdiction to order temporary child support for the child to be paid by any other person determined to be legally obligated to support such child.

#### SECTION 5.

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended by striking subsection (a) of Code Section 19-5-12, relating to form of judgment and decree in divorce actions, and inserting in lieu thereof a new subsection (a) to read as follows:

- . (a) This Code section shall apply to all final judgments of divorce entered prior to March 1, 2006. A final judgment of divorce shall be prepared so as to conform to the pleadings and the evidence and may restore a maiden or prior name, if requested. It shall be prepared in form substantially as follows:

#### FINAL JUDGMENT AND DECREE

Upon consideration of this case, upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case upon legal principles.

It is considered, ordered, and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into.

Petitioner and Respondent in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or civil contract whatsoever and both shall have the right to remarry.

Decree and order entered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Judge, Superior Court

#### SECTION 6.

Said title is further amended by adding a new Code Section 19-5-12.1 to read as follows:

. 19-5-12.1.

- (a) This Code section shall apply to all final judgments of divorce entered on and after March 1, 2006. A final judgment of divorce shall be prepared so as to conform to the pleadings and the evidence and may restore a maiden or prior name, if requested. It shall be prepared in form substantially as follows:

#### FINAL JUDGMENT AND DECREE

Upon consideration of this case, upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case upon legal principles.

It is considered, ordered, and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into.

Petitioner and Respondent in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or civil contract whatsoever and both shall have the right to remarry.

Decree and order entered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  

---

Judge, Superior Court

(b) Where applicable, any one or more of the following clauses shall be included in the form of the judgment:

The court restores to (Petitioner/Respondent) his/her prior or maiden name, to wit:

The court awards custody of the children of the parties as follows:

The court fixes alimony as follows: \_\_\_\_\_.

(c) In any case which involves the determination of child support, the form of the judgment shall also include provisions indicating both parties' incomes, the number of children for which support is being provided, the presumptive award calculation, and, if the presumptive award is rebutted, the award amount and the basis for the rebuttal award.

#### SECTION 7.

Said title is further amended by striking subsection (a) of Code Section 19-6-15, relating to guidelines for calculating child support, and inserting in lieu thereof a new subsection (a) to read as follows:

. (a) This Code section shall apply to all temporary orders and final verdicts and decrees entered prior to March 1, 2006, and to any modifications of such final verdicts and decrees at any future time after the entry of such final verdicts and decrees. The provisions of this Code section shall not apply with respect to any divorce case in which there are no minor children, except to the limited extent expressly authorized in subsection (e) of this Code section; and in a divorce case in which there are no minor children the requirements of this Code section for findings of fact and inclusion of findings in the verdict or decree shall not apply. In the final verdict or decree, the trier of fact shall specify in what amount and from which party the minor children are entitled to permanent support. The final verdict or decree shall further specify as required by Code Section 19-5-12 in what manner, how often, to whom, and until when the support shall be paid. The final verdict or decree shall further include a written finding of the gross income of the father and the mother and the presence or absence of special circumstances in accordance with subsection (c) of this Code section. The trier of fact must also determine whether the accident and sickness insurance for the child or the children involved is reasonably available at reasonable costs through employment

related or other group health insurance policies to an obligor. For purposes of this Code section, accident and sickness coverage shall be deemed available if the obligor has access to any policy of insurance authorized under Title 33 through an employer or other group health insurance plan. If the accident and sickness insurance is deemed available at reasonable cost, the court shall order the obligor to obtain the coverage; provided, however, if the obligee has accident and sickness insurance for the child or children reasonably available at reasonable costs through employment related or other group health insurance policies, then the court may order that the child or children be covered under such insurance and the obligor contribute as part of the child support order such part of the cost of providing such insurance or such part of any medical expenses incurred on behalf of the child or children not covered by such insurance as the court may deem equitable or appropriate. If currently unavailable or unreasonable in cost, the court shall order the obligor to obtain coverage when it becomes available at a reasonable cost, unless such insurance is provided by the obligee as provided in this subsection. When support is awarded, the party who is required to pay the support shall not be liable to third persons for necessities furnished to the children embraced in the verdict or decree. In any contested case, the parties shall submit to the court their proposed findings regarding the gross income of the father and the mother and the presence or absence of special circumstances. In any case in which child support is determined by a jury, the court shall charge the provisions of this Code section and the jury shall be required to return a special interrogatory similar to the form of the order contained in Code Section 19-5-12 regarding the gross income of the father and the mother and the presence or absence of special circumstances. Furthermore, nothing contained within this Code section shall prevent the parties from entering into an enforceable agreement to the contrary which may be made the order of the court pursuant to the review by the court of child support amounts contained in this Code section; provided, however, any such agreement of the parties shall include a written statement regarding the gross income of the father and the mother and the presence or absence of special circumstances in accordance with subsection (c) of this Code section.

#### SECTION 8.

Said title is further amended by adding a new Code Section 19-6-15.1 to read as follows:

. 19-6-15.1.

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

- (1) 'Adjusted gross income' means the net determination of a parent's income, calculated by deducting from that parent's gross income any applicable self-employment taxes being paid by the parent and any preexisting child support order for current child support which is being paid by the parent.
- (2) 'Adjusted support obligation' means the basic child support obligation from the child support obligation table, adjusted for parenting time, health insurance, and work related child care expenses.
- (3) 'Basic child support obligation' means the amount of support displayed on the child support obligation table which corresponds to the combined adjusted gross

income of both parents and the number of children for whom support is being determined. This amount is rebuttably presumed to be the appropriate amount of basic child support to be provided by both parents in the case immediately under consideration, prior to consideration of any adjustments for parenting time or additional expenses.

(4) 'Caretaker' means the person or entity providing care and supervision of a child more than 50 percent of the time. The caretaker may be the child's custodial parent. The caretaker may be a parent of the child or a nonparent relative of the child who voluntarily or otherwise, pursuant to court order or other legal arrangement, is providing care and supervision of the child. A caretaker may also be a private or public agency providing custodial care and supervision for the child through voluntary placement by the child's parent, nonparent relative, or other designated caretaker or by court order or other legal arrangement.

(5) 'Child support obligation table' means the chart created by the Georgia Child Support Commission which displays the dollar amount of the basic child support obligation corresponding to various levels of combined adjusted gross income of the children's parents and the number of children for whom a child support order is being established or modified. The table shall be used to calculate the basic child support obligation according to the provisions of this Code section. Deviations from the table shall comply with the requirements of this Code section.

(6) 'Combined adjusted gross income' means the amount of adjusted gross income calculated by adding together the adjusted gross incomes of both parents. This amount is then used to determine the basic child support obligation for both parents for the number of children for whom support is being calculated in the case immediately under consideration.

(7) 'Credit worksheet' means the worksheet used for listing information regarding a parent's preexisting child support order and self-employment tax.

(8) 'Custodial parent' means the parent with whom the child or children resides more than 50 percent of the time. The term also means a nonparent caretaker who has been given physical custody of the child or children. If each parent spends exactly 50 percent of the time with the child or children, then the court shall designate the parent with the lesser child support obligation as the custodial parent and the other parent as the noncustodial parent. If a custodial parent has not been designated, the caretaker with whom the child resides more than 50 percent of the time shall be the custodial parent.

(9) 'Day' or 'days' means that a child spends more than 12 hours of a calendar day with or under the control of a parent and that parent expends a reasonable amount of resources on the child during such time period, such as the cost of a meal or other costs directly related to the care and supervision of the child. Partial days of parenting time that are not consistent with this definition shall not be considered a 'day' under the child support guidelines. A 'day' under the control of a parent includes a day the child is not in the parent's home, but is under the parent's control, for example, with the parent's permission at camp or with friends.

- (10) 'Final child support order' means the presumptive child support order adjusted by any deviations ordered by the court.
- (11) 'Health insurance' means accident, sickness, health, medical, or dental insurance.
- (12) 'Noncustodial parent' means the parent with whom the child resides less than 50 percent of the time.
- (13) 'Parenting time adjustment' means an adjustment to the noncustodial parent's portion of the basic child support obligation based upon the noncustodial parent's parenting time with the child.
- (14) 'Percentage of income' for each parent is obtained by dividing each parent's adjusted gross income by the combined total of both parents' adjusted gross income. The percentage of income is used to determine each parent's pro rata share of the basic child support obligation and each parent's share of the amount of additional expense for health insurance and work related child care. The percentage of income is also used to designate the amount of uninsured medical expenses that each parent is financially responsible to pay, absent an order of a court setting a different amount.
- (15) 'Preexisting orders' means:
  - (A) An order in another case that requires a parent to make child support payments for another child or children, which child support the parent is actually paying, as evidenced by documentation including, but not limited to, payment history from a court clerk, Title IV-D agency, as defined in Code Section 19-6-31, the Department of Human Resources computer system, the department's Internet child support payment history, or canceled checks or other written proof of payments paid directly; and
  - (B) That the date of filing of the initial order for each such other case is earlier than the date of filing of the initial order in the case immediately before the court, regardless of the age of any child in any of the cases.
- (16) 'Presumptive child support order' means the amount of support to be paid for the child or children derived from the parent's proportional share of the basic child support obligation, adjusted for parenting time, plus the parent's proportional share of any additional expenses. This amount is rebuttably presumed to be the appropriate child support order.
- (17) 'Pro rata' means the proportion of one parent's adjusted gross income to both parents' combined adjusted gross income, or the proportion of one parent's support obligation to the whole support obligation. A parent's pro rata share of income is calculated by combining both parents' adjusted gross income and dividing each parent's separate adjusted gross income by the combined adjusted gross income. A parent's pro rata share of the basic support obligation is calculated by multiplying the basic child support obligation obtained from the child support obligation table by each parent's pro rata percentage of the combined adjusted gross income.
- (18) 'Split parenting' can only occur in a child support case if there are two or more children of the same parents, where one parent is the custodial parent for at least one child of the parents, and the other parent is custodial parent for at least one other child of the parents. In a split parenting case, each parent is the custodial parent of any

child spending more than 50 percent of the time with that parent and is the noncustodial parent of any child spending more than 50 percent of the time with the other parent. A split parenting situation will have two custodial parents and two noncustodial parents, but no child will have more than one custodial parent or noncustodial parent.

(19) 'Standard parenting' means a child support case in which all of the children supported under the order spend more than 50 percent of the time with the same custodial parent. There is only one custodial parent and one noncustodial parent in a standard parenting case.

(20) 'Theoretical support order' means a hypothetical order which allows the court to determine the amount of a child support obligation if an order existed. A theoretical support order is used to determine the amount of credit allowed as a deduction from a parent's gross income for a parent's qualified other child or children who are not under a preexisting child support order.

(21) 'Uninsured health care expenses' means the child's or children's uninsured medical expenses including, but not limited to, health insurance copayments, deductibles, and such other costs as are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, vision care, and any acute or chronic medical or health problem or mental health illness, including counseling and other medical or mental health expenses, that are not covered by insurance.

(22) 'Work related child care costs' means expenses for the care of the child or children for whom support is being determined which are due to employment of either parent. In an appropriate case, the court may consider the child care costs associated with a parent's job search or the training or education of a parent necessary to obtain a job or enhance earning potential, not to exceed a reasonable time as determined by the court, if the parent proves by a preponderance of the evidence that the job search, job training, or education will benefit the child or children being supported. The term shall be projected for the next consecutive 12 months and averaged to obtain a monthly amount.

(23) 'Worksheet' or 'child support worksheet' means the worksheet used to record information necessary to determine and calculate gross income and child support.

(b)(1) The child support guidelines contained in this Code section are a minimum basis for determining child support obligations and shall apply as a rebuttable presumption in all legal proceedings involving the child support obligation of a parent, including, but not limited to, orders entered in criminal and juvenile proceedings, orders entered pursuant to Article 3 of Chapter 11 of this title, the 'Uniform Interstate Family Support Act,' and voluntary support agreements and consent orders approved by the court. The child support guidelines do not apply to orders for prior maintenance for reimbursement of child care costs incurred prior to the date an action for child support is filed or to child support orders entered against stepparents or other persons or agencies secondarily liable for child support. The child support guidelines shall be used when the court enters a temporary or permanent child support order in a contested or noncontested hearing. The rebuttable

presumption award provided by these child support guidelines may be increased according to the best interest of the child for whom support is being considered, the circumstances of the parties, the grounds for deviation set forth in subsection (i) of this Code section, and to achieve the state policy of affording to children of unmarried parents, to the extent possible, the same economic standard of living enjoyed by children living in intact families consisting of parents with similar financial means.

(2) The provisions of this Code section shall not apply with respect to any divorce case in which there are no minor children, except to the limited extent authorized by subsection (d) of this Code section. In the final judgment or decree in a divorce case in which there are minor children, or in other cases which are governed by the provisions of this Code section, the court shall:

- (A) Specify in what amount and from which party the minor children are entitled to permanent support as determined by use of the worksheets;
- (B) Specify as required by Code Section 19-5-12 in what manner, how often, to whom, and until when the support shall be paid;
- (C) Include a written finding of the gross income of the father and the mother as determined by the factfinder;
- (D) Determine whether health insurance for the child or children involved is reasonably available at a reasonable cost to either parent. If the insurance policy is reasonably available at a reasonable cost to the parent, then the court may order that the child or children be covered under such insurance; and
- (E) Include written findings of fact as to whether one or more of the deviations allowed under this Code section are applicable; and if one or more such deviations are applicable, the written findings of fact shall further set forth:
  - (i) The reasons the court deviated from the presumptive amount of child support;
  - (ii) The amount of child support that would have been required under the child support guidelines if the presumptive amount had not been rebutted; and
  - (iii) A finding that states how application of the child support guidelines would be unjust or inappropriate in the case immediately under consideration considering the relative ability of each parent to provide support and how the best interests of the child or children who are subject to the support award determination are served by deviation from the presumptive guideline amount.

(3) When support is awarded, the party who is required to pay the support shall not be liable to third persons for necessities furnished to the child or children embraced in the judgment or decree. In any contested case, the parties shall submit to the court their worksheets and the presence or absence of other factors to be considered by the court pursuant to the provisions of this Code section. In any case in which the gross incomes of the father and the mother are determined by a jury, the court shall charge the provisions of this Code section applicable to the determination of gross income and the jury shall be required to return a special interrogatory. Based upon the jury's verdict as to gross income, the court shall determine the child support obligation in accordance with the provisions of this Code section.

(4) Nothing contained within this Code section shall prevent the parties from entering

into an enforceable agreement to the contrary which may be made the order of the court pursuant to the review by the court of the adequacy of the child support amounts negotiated by the parties, including the provision for medical expenses and health insurance; provided, however, that if the agreement negotiated by the parties does not comply with the provisions contained in this Code section and does not contain findings of fact as required to support a deviation, the court shall reject such agreement. To assist in this determination by the court, the parties shall provide all child support worksheets utilized by the parties to determine the child support amounts proposed in the agreement.

(c) In the event of a hearing or trial on the issue of child support, the guidelines enumerated in this Code section are intended by the General Assembly to be guidelines only and any court so applying these guidelines shall not abrogate its responsibility in making the final determination of child support based on the evidence presented to it at the time of the hearing or trial.

(d) The duty to provide support for a minor child shall continue until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs; provided, however, that, in any temporary or final order for child support with respect to any proceeding for divorce, separate maintenance, legitimacy, or paternity entered on or after March 1, 2006, the court, in the exercise of sound discretion, may direct either or both parents to provide financial assistance to a child who has not previously married or become emancipated, who is enrolled in and attending a secondary school, and who has attained the age of majority before completing his or her secondary school education, provided that such financial assistance shall not be required after a child attains 20 years of age. The provisions for support provided in this subsection may be enforced by either parent or the child for whose benefit the support is ordered.

(e) Gross income.

(1)(A) Gross income of each parent shall be determined in the process of setting the presumptive child support order and shall include all income from any source, before deductions for taxes and other deductions such as preexisting child support orders and credits for other qualified children, whether earned or unearned, and includes, but is not limited to, the following:

- (i) Salaries;
- (ii) Commissions, fees, and tips;
- (iii) Income from self-employment;
- (iv) Bonuses;
- (v) Overtime payments;
- (vi) Severance pay;
- (vii) Recurring income from pensions or retirement plans including, but not limited to, Veterans' Administration, Railroad Retirement Board, Keoughs, and individual retirement accounts;
- (viii) Interest income;
- (ix) Dividend income;
- (x) Trust income;

- (xi) Income from annuities;
- (xii) Capital gains;
- (xiii) Disability or retirement benefits that are received from the Social Security Administration pursuant to Title XI of the federal Social Security Act;
- (xiv) Workers' compensation benefits, whether temporary or permanent;
- (xv) Unemployment insurance benefits;
- (xvi) Judgments recovered for personal injuries and awards from other civil actions;
- (xvii) Gifts that consist of cash or other liquid instruments, or which can be converted to cash;
- (xviii) Prizes;
- (xix) Lottery winnings;
- (xx) Alimony or maintenance received from persons other than parties to the proceeding before the court; and
- (xi) Assets which are used for the support of the family.

(B) Excluded from gross income are the following:

- (i) Child support payments received by either parent for the benefit of a child or children of another relationship; and
- (ii) Benefits received from means-tested public assistance programs such as, but not limited to:
  - (I) PeachCare for Kids Program, Temporary Assistance for Needy Families, or similar programs in other states or territories under Title IV-A of the federal Social Security Act;
  - (II) Food stamps or the value of food assistance provided by way of electronic benefits transfer procedures by the Department of Human Resources;
  - (III) Supplemental security income received under Title XVI of the federal Social Security Act;
  - (IV) Benefits received under Section 402(d) of the federal Social Security Act for disabled adult children of deceased disabled workers; and
  - (V) Low Income Heating and Energy Assistance Program payments.

(2)(A) When establishing an initial order of child support, if a parent fails to produce reliable evidence of income, such as tax returns for prior years, check stubs, or other information for determining current ability to support or ability to support in prior years, and the court has no other reliable evidence of the parent's income or income potential, gross income for the current year shall be determined by imputing gross income based on a 40 hour workweek at minimum wage.

(B) When cases with established orders are reviewed for modification and a parent fails to produce reliable evidence of income, such as tax returns for prior years, check stubs, or other information for determining current ability to support or ability to support in prior years, and the court has no other reliable evidence of that parent's income or income potential, the court may enter an order to increase the child support obligation of the parent failing or refusing to produce evidence of income by an increment of at least 10 percent per year of that parent's pro rata share of the

basic child support obligation for each year since the support order was entered or last modified.

(C) In either circumstance in subparagraph (A) or (B) of this paragraph, either parent may later provide within 90 days, upon motion to the court, the reliable evidence necessary to determine the appropriate amount of support based upon reliable evidence. The court may increase or reduce the amount of current support from the date of filing of either parent's initial filing or motion to modify child support, but arrearages or retroactive amounts entered in an order based upon imputed income shall not be forgiven. When a parent, whose income has been imputed under subparagraph (A) or (B) of this paragraph, provides reliable evidence to support a modification of the amount of income imputed for that parent, the parent is not required to demonstrate the existence of a significant variance otherwise required for modification of an order pursuant to subsection (l) of this Code section.

(3)(A) Income from self-employment includes income from, but not limited to, business operations, work as an independent contractor or consultant, sales of goods or services, and rental properties, less ordinary and reasonable expenses necessary to produce such income. Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership, limited liability company, or closely held corporation is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operations. Ordinary and reasonable expenses of self-employment or business operations necessary to produce income do not include:

- (i) Excessive promotional, travel, vehicle, or personal living expenses, depreciation on equipment, or costs of operation of home offices; or
- (ii) Amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the court to be inappropriate for determining gross income.

In general, income and expenses from self-employment or operation of a business should be carefully reviewed by the factfinder and the court to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. Generally, this amount will differ from a determination of business income for tax purposes.

(B)(i) An additional deduction of 6.2 percent of FICA and 1.45 percent of medicare, or in any amount subsequently set by federal law as FICA and medicare tax, shall be deducted from a parent's gross income earned from self-employment, up to the amounts allowed under federal law.

(ii) Any self-employment tax paid shall be deducted from gross income as part of the calculation of a parent's adjusted gross income.

(4)(A) Fringe benefits for inclusion as income or 'in kind' remuneration received by a parent in the course of employment, or operation of a trade or business, shall be counted as income if they significantly reduce personal living expenses.

- (B) Such fringe benefits might include, but are not limited to, use of a company car, housing, or room and board.
- (C) Basic allowance for housing, basic allowance for subsistence, and variable housing allowances for members of the armed services are considered income for the purposes of determining child support.
- (D) Fringe benefits do not include employee benefits that are typically added to the salary, wage, or other compensation that a parent may receive as a standard added benefit, including, but not limited to, employer paid portions of health insurance premiums or employer contributions to a retirement or pension plan.
- (5)(A) Benefits received under Title XI of the federal Social Security Act by a child on the obligor's account shall be counted as child support payments and shall be applied against the child support obligation ordered to be paid by the obligor for the child.
- (B) If after calculating the obligor's gross income as defined in this subsection, including the countable Social Security benefits in division (1)(A)(xiii) of this subsection, and after calculating the amount of the child support obligation using the child support worksheet, the amount of the child support obligation is greater than the Social Security benefits paid on behalf of the child on the obligor's account, the obligor shall be required to pay the amount exceeding the Social Security benefit as part of the child support obligation in the case.
- (C)(i) If after calculating the obligor's gross income as defined in this subsection, including the countable Social Security benefits in division (1)(A)(xiii) of this subsection, and after calculating the amount of the child support obligation using the child support worksheet, the amount of the child support obligation is equal to or less than the Social Security benefits paid to the caretaker on behalf of the child on the obligor's account, the child support obligation of that parent is met and no further child support obligation shall be paid.
- (ii) Any benefit amounts under Title XI of the federal Social Security Act as determined by the Social Security Administration sent to the caretaker by the Social Security Administration for the child's benefit which are greater than the child support obligation ordered by the court shall be retained by the caretaker for the child's benefit and shall not be used as a reason for decreasing the child support order or reducing arrearages.
- (D) The court shall make a written finding of fact in the child support order regarding the use of the Social Security benefits in the calculation of the child support obligation.
- (6) Variable income such as commissions, bonuses, overtime pay, and dividends shall be averaged by the factfinder over a reasonable period of time consistent with the circumstances of the case and added to a parent's fixed salary or wages to determine gross income. When income is received on an irregular, nonrecurring or one-time basis, the court may, but is not required to, average or prorate the income over a reasonable specified period of time or require the parent to pay as a one-time support amount a percentage of his or her nonrecurring income, taking into

consideration the percentage of recurring income of that parent.

(7)(A) A determination of whether a parent is willfully or voluntarily unemployed or underemployed shall ascertain the reasons for the parent's occupational choices and assess the reasonableness of these choices in light of the parent's obligation to support his or her child or children and to determine whether such choices benefit the child or children. A determination of willful and voluntary unemployment or underemployment is not limited to occupational choices motivated only by an intent to avoid or reduce the payment of child support. A determination of willful and voluntary unemployment or underemployment can be based on any intentional choice or act that affects a parent's income.

(B) Factors for the court to consider when determining willful and voluntary unemployment or underemployment include, but are not limited to:

(i) The parent's past and present employment;

(ii) The parent's education and training;

(iii) Whether unemployment or underemployment for the purpose of pursuing additional training or education is reasonable in light of the parent's obligation to support his or her child or children and, to this end, whether the training or education may ultimately benefit the child or children in the case immediately under consideration by increasing the parent's level of support for that child or those children in the future;

(iv) A parent's ownership of valuable assets and resources, such as an expensive home or automobile, that appear inappropriate or unreasonable for the income claimed by the parent; and

(v) The parent's role as caretaker of a handicapped or seriously ill child of that parent, or any other handicapped or seriously ill relative for whom that parent has assumed the role of caretaker, which eliminates or substantially reduces the parent's ability to work outside the home, and the need of that parent to continue in that role in the future.

(C) When considering the income potential of a parent whose work experience is limited due to the caretaker role of that parent, the court shall consider the following factors:

(i) Whether the parent acted in the role of full-time caretaker immediately prior to separation by the married parties or prior to the divorce or annulment of the marriage or dissolution of another relationship in which the parent was a full-time caretaker;

(ii) The length of time the parent staying at home has remained out of the workforce for this purpose;

(iii) The parent's education, training, and ability to work; and

(iv) Whether the parent is caring for a child or children who are four years of age or younger.

(D) If the court determines that a parent is willfully and voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, as evidenced by educational level or previous work experience. In

the absence of any other reliable evidence, income may be imputed to the parent pursuant to a determination that gross income for the current year is based on a 40 hour workweek at minimum wage.

(E) A determination of willful and voluntary unemployment or underemployment shall not be made when an individual is activated from the National Guard or other armed forces unit or enlists or is drafted for full-time service in the armed forces of the United States.

(8)(A) An adjustment to the parent's gross income shall be made on the child support worksheet for current preexisting orders actually being paid under an order of support for a period of not less than 12 consecutive months immediately prior to the date of the hearing before the court to set, modify, or enforce child support.

(B) In calculating the adjustment for preexisting orders, the court shall include only those preexisting orders where the date of entry of the initial support order precedes the date of entry of the initial order in the case immediately under consideration.

(C) The priority for preexisting orders is determined by the date of the initial order in each case. Subsequent modifications of the initial support order shall not affect the priority position established by the date of the initial order.

(D) Adjustments are allowed for current preexisting support only to the extent that the payments are actually being paid as evidenced by documentation including, but not limited to, payment history from a court clerk, a Title IV-D agency, as defined in Code Section 19-6-31, the Department of Human Resources computer system, the department's Internet child support payment history, or canceled checks or other written proof of payments paid directly. The maximum credit allowed for a preexisting order is an average of the amount of current support actually paid under the preexisting order over the past 12 months prior to the hearing date.

(E) All preexisting orders shall be entered on the credit worksheet for the purpose of calculating the total amount of the credit to be included on the child support worksheet, but the preexisting orders shall not be used on the credit worksheet as a deduction against gross income for the purpose of calculating a theoretical child support order.

(F) Payments being made by a parent on any arrearages shall not be considered payments on preexisting or subsequent orders and shall not be used as a basis for reducing gross income.

(9)(A) In addition to the adjustments to gross income for self-employment tax provided in subparagraph (B) of paragraph (3) of this subsection and for preexisting orders provided in paragraph (8) of this subsection, credits for either parent's other child or children qualified under this paragraph may be considered by the court for the purpose of reducing the parent's gross income or as a reason for deviation. Credits may be considered for a qualified child:

- (i) For whom the parent is legally responsible and in whose home that child resides;
- (ii) The parent is actually supporting;
- (iii) Who is not subject to a preexisting order for child support; and

(iv) Who is not before the court to set, modify, or enforce support in the case immediately under consideration.

Stepchildren and other minors in the home that the parent has no legal obligation to support shall not be considered in the calculation of this credit. To consider a parent's qualified other child or children for credit, a parent must present documentary evidence of the parent-child relationship to the court.

(B) Credits against income pursuant to this paragraph may be considered in such circumstances in which the failure to consider such child or children would cause substantial hardship to the parent. Use of this credit is appropriate when a child support order is entered. Credits may also be appropriate when a child support order is modified to rebut a claim for increased child support brought by the custodial parent. If the court, in its discretion, decides to apply this credit, a parent's current financial responsibility for his or her natural or adopted child or children who currently reside with the parent, other than a child or children for whom child support is being determined in the pending action, can be no greater than an amount (i) equal to the basic child support obligation for that child or those children based on the parent's income if the other parent of such child or children does not live with the parent and child or children or (ii) one-half of the basic child support obligation for such child or children based on the combined incomes of both of the parents of such child or children if the other parent of such child or children lives with the parent and the child or children.

(C) Credits against income for another qualified child or other qualified children shall be calculated and recorded on the credit worksheet and then entered on the child support worksheet for the purpose of reducing the parent's gross income on the child support worksheet. However, except for self-employment taxes paid, no other amounts shall be subtracted from the parent's gross income on the credit worksheet when calculating a theoretical support order under this paragraph.

(10) Actual payments of alimony should not be considered as a deduction from gross income but may be considered as a factor to vary from the final presumptive child support order. If the court considers the actual payment of alimony, the court shall make a written finding of such consideration as a basis for deviation from the final presumptive child support order.

(11) In multiple family situations, the adjustments to a parent's gross income shall be calculated in the following order:

(A) Preexisting orders according to the date of the initial order; and

(B) After applying the deductions on the child support worksheet for preexisting orders, if any, in subparagraph (E) of paragraph (8) of this subsection, any credit for a parent's qualified other child or children may be considered using the procedure set forth in subparagraph (A) of this paragraph.

(f) The basic child support obligation is determined based upon the parent's gross income and by using the corresponding child support obligation table as established and maintained by the Georgia Child Support Commission. If the combined monthly adjusted gross income falls between the amounts shown in the table, then the child

support obligation shall be based on the income bracket mostly closely matched to the combined monthly adjusted gross income. The number of children column on the table corresponds to children for whom parents share joint legal responsibility and for whom support is being sought.

(g)(1) The child support obligation table does not include the cost of the child's work related child care costs or the cost of health insurance premiums or uninsured health expenses. The additional expenses for the child's health insurance premium and work related child care shall be included in the calculations to determine child support.

(2)(A) Work related child care expenses necessary for the parent's employment, education, or vocational training that are determined by the court to be appropriate, and that are appropriate to the parents' financial abilities and to the lifestyle of the child or children if the parents and child or children were living together, shall be averaged for a monthly amount and entered on the child support worksheet in the column of the parent initially paying the expense. Work related child care expenses of a nonparent caretaker shall be considered when determining the amount of this expense.

(B) If a child care subsidy is being provided pursuant to a means-tested public assistance program, only the amount of the child care expense actually paid by either parent shall be included in the calculation.

(C) If either parent is the provider of child care services to the child or children for whom support is being determined, the value of those services shall not be added to the basic child support obligation when calculating the support award.

(D) If child care is provided by a family member, other unpaid person, or provided by a parent's employer without charge to the parent, then the value of these services shall not be added to the basic child support obligation.

(3)(A) The amount that is, or will be, paid by a parent for health insurance for the child or children for whom support is being determined shall be added to the basic child support obligation and prorated between the parents based upon their respective incomes. Payments made by a parent's employer for health insurance and not deducted from the parent's wages are not included. When a child or children for whom support is being determined are covered by a family policy, only the health insurance premium actually attributable to that child or those children is added. If this amount is not available or cannot be verified, the total cost of the premium shall be divided by the total number of persons covered by the policy and then multiplied by the number of covered children for whom support is being determined.

(B) The amount of the cost for the child's or children's health insurance premium and work related child care expenses shall be determined and added to the basic child support obligation as 'additional expenses' whether paid directly by the parent or through a payroll deduction.

(C) The total amount of the cost for the child's or children's health insurance premium and work related child care shall be divided between the parents pro rata to determine the total presumptive child support order and shall be included in the

worksheet and written order of the court together with the amount of the basic child support obligation.

(4)(A) If health insurance that provides for the health care needs of the child or children can be obtained by a parent at reasonable cost, then an amount to cover the cost of the premium shall be added to the basic child support obligation. A health insurance premium paid by a nonparent caretaker shall be included when determining the amount of this expense. In determining the amount to be added to the order for this cost, only the amount of the insurance cost attributable to the child or children who are the subject of the support order shall be included.

(B) If coverage is applicable to other persons and the amount of the health insurance premium attributable to the child or children who are the subject of the current action for support is not verifiable, the total cost to the parent paying the premium shall be prorated by the number of persons covered so that only the cost attributable to the child or children who are the subject of the order under consideration is included. This amount shall be determined by dividing the total amount of the insurance premium by the number of persons covered by the insurance policy and taking the resulting amount and multiplying it by the number of children covered by the insurance policy. This monthly cost shall be entered on the child support worksheet in the column of the parent paying the premium.

(C) Eligibility for or enrollment of the child or children in Medicaid shall not satisfy the requirement that the child support order provide for the child's or children's health care needs.

(h)(1) The court shall determine each parent's pro rata share of the additional expenses by multiplying the percentage of income of each parent by the combined total additional expenses.

(2)(A) In standard parenting situations, the adjusted support obligation is the parent's share of the basic child support obligation plus the parent's share of any additional expenses for the child's or children's health insurance premium and work related child care.

(B) In split parenting situations, the adjusted support obligation is each parent's basic child support obligation for the child or children in the other parent's care plus each parent's share of any additional expenses for the child or children's health insurance premium and work related child care.

(C) If a parenting time adjustment has been calculated in either a standard or split parenting situation and that parent's share of the basic child support obligation is adjusted as specified in paragraph (5) of this subsection, then each parent's adjusted support obligation is calculated pursuant to this paragraph.

(3)(A) If a parent pays directly or through payroll deduction the child's or children's health insurance premium, or pays through payroll deduction work related child care costs, the total amount of the expenses paid in this manner shall first be entered on the child support worksheet to be used in calculating total additional expenses and each parent's adjusted support obligation.

(B) Once the adjusted support obligation has been calculated, the expenses paid by

the parent as indicated in subparagraph (A) of this paragraph shall be deducted from the adjusted support obligation of that parent to credit the parent for the payment of these expenses. The amount of the deduction for the health insurance premium or payroll deduction for the work related child care expense shall be included in the child support order to identify the amount and nature of the child support obligation. These expenses shall not be included in the noncustodial parent's income deduction order. The order shall require that these expenses continue to be paid in the same manner as they were being paid prior to the instant action.

(C) To the extent that work related child care expenses are not included in subsection (g) of this Code section, the expense shall be accounted for in the noncustodial parent's income deduction order as part of the child support order. The custodial parent shall pay this expense in full out of his or her income and the child support award.

(4)(A) The child's or children's uninsured health expenses, including, but not limited to, deductibles, copayments, and dental, orthodontic, counseling, psychiatric, vision, hearing, and other medical needs not covered by insurance, shall be the financial responsibility of both parents. The order of the court shall include provisions for payment of the uninsured medical expenses. The parents shall divide these expenses pro rata, unless otherwise specifically ordered by the court.

(B) If a parent fails to pay his or her pro rata share of the child's or children's, uninsured medical expenses, as specified in the child support order, within a reasonable time after receipt of evidence documenting the uninsured portion of the expense, the other parent, the nonparent caretaker, or the state or its Title IV-D agency, as defined in Code Section 19-6-31, may enforce payment of the expense by any means permitted by law.

(5) No adjustment to gross income shall be made in the calculation of a child support obligation which seriously impairs the ability of the custodial parent in the case immediately under consideration to maintain minimally adequate housing, food, and clothing for the child or children being supported by the order and to provide other basic necessities, as determined by the court.

(i)(1) The amount of child support established by this Code section and the child support obligation table are rebuttable, and the court may deviate from the presumptive child support order in compliance with this subsection. In deviating from the child support guidelines, primary consideration shall be given to the best interest of the child or children for whom support under the child support guidelines are being determined.

(2) When ordering a deviation from the presumptive amount of child support established by the child support guidelines, the court's order shall contain written findings of fact stating:

(A) The reasons for the change or deviation from the presumptive child support order;

(B) The amount of child support that would have been required under the child support guidelines if the presumptive child support order had not been rebutted; and

- (C) How, in its determination,
  - (i) Application of the child support guidelines would be unjust or inappropriate in the case immediately under consideration; and
  - (ii) The best interests of the child for whom support is being determined will be served by deviation from the presumptive child support order.

No deviation in the amount of the child support obligation shall be made which seriously impairs the ability of the custodial parent in the case immediately under consideration to maintain minimally adequate housing, food, and clothing for the child or children being supported by the order and to provide other basic necessities, as determined by the court.

- (3)(A) For purposes of this paragraph, parents are considered to be high-income parents if their combined adjusted gross income exceeds \$20,000.00 per month.
- (B) For high-income parents, the court shall set the child support obligation at the highest amount allowed by the child support obligation table but may consider upward deviation to attain an appropriate award of child support for high-income parents which is considered in the best interest of the child or children.
- (4) Deviation from the child support guidelines may be appropriate for reasons in addition to those established under subsection (g) of this Code section when the court finds it is in the best interest of the child, in accordance with the requirements of subsection (e) of this Code section and the following procedures:
  - (A) In making its determination regarding a request for deviation pursuant to this subsection, the court shall consider all available income of the parents and shall make a written finding that an amount of child support other than the amount calculated under the child support guidelines is reasonably necessary to provide for the needs of the child or children for whom support is being determined in the case immediately under consideration. If the circumstances which supported the deviation cease to exist, the child support order may be modified to eliminate the deviation;
  - (B) In cases where the child or children are in the legal custody of the Department of Human Resources, the child protection or foster care agency of another state or territory, or any other child caring entity, public or private, the court may consider a deviation from the presumptive child support order if the deviation will assist in accomplishing a permanency plan or foster care plan for the child or children that has a goal of returning the child or children to the parent or parents and the parent's or parents' need to establish an adequate household or to otherwise adequately prepare herself or himself or themselves for the return of the child or children clearly justifies a deviation for this purpose;
  - (C) If parenting time related travel expenses are substantial due to the distance between the parents, the court may order the allocation of such costs by deviation from the basic child support obligation, taking into consideration the circumstances of the respective parties as well as which parent moved and the reason that the move was made; and
- (D)(i) The child support obligation table includes average child rearing

expenditures for families given the parents' monthly combined income and number of children. Extraordinary expenses are in excess of these average amounts and are highly variable among families. For these reasons, extraordinary expenses, other than the health insurance premium and work related child care, shall be considered on a case by case basis in the calculation of support and added to the basic support award as a deviation so that the actual amount of the expense is considered in the calculation of the final child support order for only those families actually incurring the expense.

(ii)(I) Extraordinary educational expenses may be added to the basic child support as a deviation. Extraordinary educational expenses include, but are not limited to, tuition, room and board, lab fees, books, fees, and other reasonable and necessary expenses associated with special needs education or private elementary and secondary schooling that are appropriate to the parent's financial abilities and to the lifestyle of the child or children if the parents and child or children were living together.

(II) In determining the amount of deviation for extraordinary educational expenses, scholarships, grants, stipends, and other cost reducing programs received by or on behalf of the child or children shall be considered.

(III) If a deviation is allowed for extraordinary educational expenses, a monthly average of these expenses shall be based on evidence of prior or anticipated expenses and entered on the child support worksheet in the deviation section.

(iii)(I) Special expenses incurred for child rearing, including but not limited to expense variations related to the food, clothing, and hygiene costs of children at different age levels, which can be quantified may be added to the child support obligation as a deviation from the presumptive child support order. Such expenses include, but are not limited to, summer camp, music or art lessons, travel, school sponsored extra curricular activities, such as band, clubs, and athletics, and other activities intended to enhance the athletic, social, or cultural development of a child but are not otherwise required to be used in calculating the child support order as are health insurance premiums and work related child care costs.

(II) A portion of the basic child support obligation is intended to cover average amounts of special expenses incurred in the rearing of a child. When special expenses exceed 7 percent of the monthly basic child support obligation, the court shall consider additional amounts of support as a deviation to cover the full amount of these special expenses.

(iv) In instances of extreme economic hardship, such as in cases involving extraordinary medical needs not covered by insurance or other extraordinary special needs for the child or children of a parent's current family, deviation from the child support guidelines may be considered. In such cases, the court shall consider the resources available for meeting such needs, including those available from agencies and other adults.

(5)(A) For purposes of this paragraph, a parent is considered to be a low-income

person if his or her annual gross income is at or below the federal poverty level for a single person.

(B) The court may consider the low income of the custodial parent or the noncustodial parent as a basis for deviation from the guideline amounts.

(C) The court shall consider all nonexempt sources of income available to each party and all expenses actually paid by each party.

(D) The party seeking a low-income deviation shall present to the court documentation of all his or her income and expenses or provide sworn statements of all his or her income and expenses in support of the requested deviation.

(E) The court shall make a written finding in its order that the deviation from the child support guidelines based upon the low income and reasonable expenses of a party are clearly justified and shall make the necessary written findings pursuant to this paragraph.

(F) The court may deviate from the lowest amount of child support provided for in the basic child support guideline table and shall make the necessary written findings if it chooses to deviate.

(j)(1) The child support guidelines presume that when parents live separately, the child or children will typically reside primarily with the custodial parent and stay overnight with the noncustodial parent a minimum of every other weekend from Friday to Sunday, two weeks in the summer, and two weeks during holidays throughout the year, for a total of 80 days per year. The child support guidelines also recognize that some families may have different parenting situations and thus allow for an adjustment in the noncustodial parent's child support obligation, as appropriate, in compliance with the criteria specified in this subsection. The calculations made for each parenting situation shall be based on specific factual information regarding the amount of time each parent has with the child or children.

(2)(A) If the noncustodial parent spends 100 or more days per calendar year with a child or children, an assumption is made that the noncustodial parent is making greater expenditures on the child or children due to the duplication of some child rearing expenditures between the two households, for example, housing or food, and a reduction to the noncustodial parent's child support obligation may be made to account for these expenses.

(B) The noncustodial parent's child support obligation may be reduced for the days of additional parenting time based upon the following schedule:

<u>Number of Days</u>	<u>Percent Reduction in Support</u>
<u>100-136 days</u>	<u>10 percent</u>
<u>137-151 days</u>	<u>20 percent</u>
<u>152-166 days</u>	<u>30 percent</u>
<u>167-181 days</u>	<u>40 percent</u>

<u>182 or more days</u>	<u>50 percent</u>
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(C) The presumption that more parenting time by the noncustodial parent shall result in a reduction to the noncustodial parent's support obligation may be rebutted by evidence.

(D) If there is more than one child in the case with whom the noncustodial parent spends 100 days or more per year, and the noncustodial parent is spending different amounts of time with each child, then the time the noncustodial parent spends with each child shall be averaged to determine the parenting time adjustment.

(3)(A) If the noncustodial parent spends 60 or fewer days per calendar year with a child or children, an assumption is made that the custodial parent is making greater expenditures on the child or children for items such as food and baby-sitting associated with the increased parenting time by the custodial parent, and an increase in the noncustodial parent's child support obligation may be made.

(B) The noncustodial parent's child support obligation may be increased for the reduction in days of the noncustodial parent's parenting time based upon the following schedule:

<u>Number of Days</u>	<u>Percent Increase in Support</u>
<u>60-39 days</u>	<u>10 percent</u>
<u>38-24 days</u>	<u>20 percent</u>
<u>23-9 days</u>	<u>30 percent</u>
<u>8-0 days</u>	<u>35 percent</u>

(C) The presumption that less parenting time by the noncustodial parent shall result in an increase to the noncustodial parent's support obligation may be rebutted by evidence.

(D) If there is more than one child in the case with whom the noncustodial parent spends 60 or fewer days per year, and the noncustodial parent is spending different amounts of time with each child, then the time the noncustodial parent spends with each child is averaged to determine the parenting time adjustment.

(4) If there are additional children for whom support is being calculated with whom the noncustodial parent spends more than 60 days but less than 100 days per calendar year, the days with these children are not included in the calculation for the parenting time adjustment.

(5) If a child support obligation is being calculated for multiple children, and the noncustodial parent spends 100 days or more per year with at least one child and 60 or fewer days with at least one child, then the percentage increase is offset against the percentage decrease and the resulting percentage is applied to the child support obligation.

(k) In the event a parent suffers an involuntary termination of employment, has an extended involuntary loss of average weekly hours, is involved in an organized strike,

incurs a loss of health, or similar involuntary adversity resulting in a loss of income of 25 percent or more, then the portion of child support attributable to lost income shall not accrue from the date of the filing of the petition for modification, provided that service is made on the other parent.

(l)(1) The adoption of these child support guidelines constitutes a significant material change in the establishment and calculation of child support orders. In any proceeding to modify an existing order, an increase or decrease of 15 percent or more between the amount of the existing order and the amount of child support resulting from the application of these child support guidelines shall be presumed to constitute a substantial change of circumstances as may warrant a modification based upon the court's considerations of the parent's financial circumstances and the needs of the children. This differential shall be calculated by applying 15 percent to the existing award. If there is a material change in the father's income, the mother's income, the needs of the child or children, or the needs of either parent, either parent shall have the right to petition for modification of the child support award regardless of the length of time since the establishment or most recent modification of the child support award. If there is a difference of 30 percent or more between a new award and a prior award, the court may, at its discretion, phase in the new child support award over a period of up to one year with the phasing in being largely evenly distributed with at least an initial immediate adjustment of not less than 25 percent of the difference and at least one intermediate adjustment prior to the final adjustment at the end of the phase-in period.

(2) In proceedings for the modification of a child support award pursuant to the provisions of this Code section, the court may award attorneys' fees, costs, and expenses of litigation to the prevailing party as the interests of justice may require.

(3) No petition to modify child support may be filed by either parent within a period of two years from the date of the final order on a previous petition by the same parent except where the child support obligation table created by the Georgia Child Support Commission creates a difference of 15 percent or more between a new award and a prior award.

(m) For split custody situations, a worksheet shall be prepared separately for the child or children for whom the father is custodial parent and for the child or children for whom the mother is the custodial parent; and that worksheet shall be entered into the record. For each of these two custodial situations, the court shall enter which parent is the obligor, the presumptive award, and the actual award, if different from the presumptive award; how and when the net cash support owed shall be paid; and any other child support responsibilities for each of the parents.

(n) The child support obligation table shall be proposed by the Georgia Child Support Commission and set as determined by joint resolution of the General Assembly.

(o) This Code section shall apply to all temporary orders and final verdicts and decrees entered on and after March 1, 2006, and to any modifications of such final verdicts and decrees at any future time after the entry of such final verdicts and decrees.

## SECTION 9.

Said title is further amended by striking Code Section 19-6-19, relating to revision of judgment for permanent alimony or child support generally, and inserting in lieu thereof the following:

. 19-6-19.

- (a) The judgment of a court providing permanent alimony for the support of a spouse rendered on or after July 1, 1977, shall be subject to revision upon petition filed by either former spouse showing a change in the income and financial status of either former spouse. ~~The judgment of a court providing permanent alimony for the support of a child or children rendered on or after July 1, 1977, shall be subject to revision upon petition filed by either former spouse showing a change in the income and financial status of either former spouse or in the needs of the child or children. In either case a~~ A petition shall be filed and returnable under the same rules of procedure applicable to divorce proceedings. No petition may be filed by either former spouse under this subsection within a period of two years from the date of the final order on a previous petition by the same former spouse. After hearing both parties and the evidence, the jury, or the judge where a jury is not demanded by either party, may modify and revise the previous judgment, in accordance with the changed income and financial status of either former spouse in the case of permanent alimony for the support of a former spouse, or in accordance with the changed income and financial status of either former spouse ~~or in the needs of the child or children in the case of permanent alimony for the support of a child or children;~~ if such a change in the income and financial status is satisfactorily proved so as to warrant the modification and revision. In the hearing upon a petition filed as provided in this subsection, testimony may be given and evidence introduced relative to the income and financial status of either former spouse.
- (b) Subsequent to a final judgment of divorce awarding periodic payment of alimony for the support of a spouse, the voluntary cohabitation of such former spouse with a third party in a meretricious relationship shall also be grounds to modify provisions made for periodic payments of permanent alimony for the support of the former spouse. As used in this subsection, the word 'cohabitation' means dwelling together continuously and openly in a meretricious relationship with another person, regardless of the sex of the other person. In the event the petitioner does not prevail in the petition for modification on the ground set forth in this subsection, the petitioner shall be liable for reasonable attorney's fees incurred by the respondent for the defense of the action.
- (c) When an action for revision of a judgment for permanent alimony under this Code section is pending, the court in its discretion may allow, upon motion, the temporary modification of such a judgment, pending the final trial on the petition. In considering an application for temporary modification under this subsection, the court shall consider evidence of any changed circumstances of the parties and the reasonable probability of the petitioner obtaining revision upon final trial. The order granting temporary modification shall be subject to revision by the court at any time before final trial.
- (d) In proceedings for the modification of alimony for the support of a spouse ~~or child~~ pursuant to the provisions of this Code section, the court may award attorneys' fees,

costs, and expenses of litigation to the prevailing party as the interests of justice may require.

#### SECTION 10.

Said title is further amended by striking Code Section 19-6-20, relating to revision of judgment for permanent alimony or child support generally, merits not an issue, and inserting in lieu thereof the following:

. 19-6-20.

In the trial on a petition authorized in subsection (a) of Code Section 19-6-19, the merits of whether a party, ~~a child or children, or both, are~~ is entitled to alimony ~~and support~~ are not an issue. The only issue is whether there has been such a substantial change in the income and financial status of either former spouse ~~or in the needs of the child or children, in cases of permanent alimony for the support of a child or children, or in the income and financial status of either former spouse~~, in cases of permanent alimony for the support of a former spouse, as to warrant either a downward or upward revision or modification of the permanent alimony judgment.

#### SECTION 11.

Said title is further amended by striking Code Section 19-6-21, relating to revision of judgment for permanent alimony or child support not available in case of lump sum award, and inserting in lieu thereof the following:

. 19-6-21.

A petition authorized in subsection (a) of Code Section 19-6-19 can be filed only where a party has been ordered by the final judgment in an alimony or divorce and alimony action to pay permanent alimony in weekly, monthly, annual, or similar periodic payments and not where the former spouse of such party, ~~the child or children, or both,~~ ~~have has~~ been given an award from the corpus of the party's estate in lieu of such periodic payment.

#### SECTION 12.

Said title is further amended by striking Code Section 19-6-22, relating to revision of judgment for permanent alimony or child support, expenses for defense of litigation, and inserting in lieu thereof the following:

. 19-6-22.

Where a petition authorized by subsection (a) of Code Section 19-6-19 is filed by a party obligated to pay alimony, the court may require the party to pay the reasonable expenses of litigation as may be incurred by the party's former spouse, ~~either~~ on behalf of the former spouse, ~~or the child or children, or both,~~ in defense thereof.

#### SECTION 13.

Said title is further amended by striking Code Section 19-6-24, relating to applicability of Code Section 19-6-18 or Code Sections 19-6-19 through 19-6-22 to judgments prior to March 9, 1955, and inserting in lieu thereof the following:

. 19-6-24.

Code Section 19-6-18 or Code Sections 19-6-19 through 19-6-22, as applicable, shall

apply to all judgments for permanent alimony for the support of a wife, ~~a child or children, or both~~, rendered prior to March 9, 1955, where all the following conditions are met:

- (1) Both parties to the case in which the judgment for permanent alimony was rendered consent in writing to the revision, amendment, alteration, settlement, satisfaction, or release thereof;
- (2) There are no minor children involved or, if there were minor children at the time the original judgment was rendered, the children are all of age at the time the application is filed;
- (3) The judge of the court wherein the original judgment for permanent alimony was rendered approves the revision, amendment, alteration, settlement, satisfaction, or release; and
- (4) The consent of the parties, together with the court's approval, is filed with the clerk of the court wherein the original judgment for permanent alimony was rendered.

#### SECTION 14.

Said title is further amended by striking subsection (b) of Code Section 19-6-34, relating to inclusion of life insurance in order of support, and inserting in lieu thereof a new subsection (b) to read as follows:

- . (b) The amount of the premium for such life insurance shall be counted as a part of the support ordered pursuant to the provisions of Code Section 19-6-15 or 19-6-15.1, as applicable, provided that the court shall review the amount of the premium for reasonableness in the circumstances of the child, the parent ordered to pay support, and the other parent.

#### SECTION 15.

Said title is further amended by designating the existing matter in Chapter 6 as Article 1 and adding a new Article 2 to the end of the chapter to read as follows:

#### ARTICLE 2

##### 19-6-50.

There is created the Georgia Child Support Commission for the purposes of studying and collecting information and data relating to awards of child support and to create and revise the child support obligation table. The commission shall be responsible for conducting a comprehensive review of the child support guidelines, economic conditions, and all matters relevant to maintaining effective and efficient child support guidelines and modifying child support orders that will serve the best interest of Georgia's children and take into account the changing dynamics of family life. Further, the commission shall determine whether adjustments are needed to the child support obligation table taking into consideration the guidelines set forth in Code Section 19-6-53. Nothing contained in the commission's report shall be considered to authorize or require a change in the child support obligation table without action by the General Assembly.

## 19-6-51.

(a) The Georgia Child Support Commission shall be composed of 15 members. The Governor shall appoint all of the members as follows:

- (1) Three members who shall be judges in a superior court;
- (2) One member who shall be a Justice of the Supreme Court of Georgia or a Judge of the Georgia Court of Appeals or the Justice's or Judge's designee;
- (3) Two members of the House of Representatives and two members of the Senate; and
- (4) Seven other members.

Each member of the commission shall be appointed to serve for a term of four years or until his or her successor is duly appointed except the members of the General Assembly, who shall serve until completion of their current terms of office. The initial members of the commission appointed pursuant to paragraph (1) of this subsection shall serve for terms of three years. The initial member of the commission appointed pursuant to paragraph (2) of this subsection shall serve for a term of four years. The initial members of the commission appointed pursuant to paragraph (4) of this subsection shall serve for terms of two years. The initial members of the commission shall be appointed within 30 days of the effective date of this Act and shall serve until their terms expire. The succeeding members of the commission shall begin their terms of office on July 1 of the year in which appointed. A member may be appointed to succeed himself or herself on the commission. If a member of the commission is an elected official, he or she shall be removed from the commission if he or she no longer serves as an elected official.

(b) The Governor shall designate the chairperson of the commission. The commission may elect other officers as deemed necessary. The chairperson of the commission may designate and appoint committees from among the membership of the commission as well as appoint other persons to perform such functions as he or she may determine to be necessary as relevant to and consistent with this article. The chairperson shall only vote to break a tie.

(c) The commission shall be attached for administrative purposes only to the Department of Human Resources. The Department of Human Resources shall provide staff support for the commission. The Department of Human Resources shall use any funds specifically appropriated to it to support the work of the commission.

## 19-6-52.

(a) The Georgia Child Support Commission shall hold meetings at the call of the chairperson or as called by the Governor. Meetings shall be open to the public.

(b) A quorum for transacting business shall be a majority of the members of the commission.

(c) Any legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or transportation allowance authorized for state employees. Members of the

commission who are state officials, other than legislative members, or state employees shall receive no compensation for their services on the commission, but they shall be reimbursed for expenses incurred by them in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or state employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective departments. All other funds necessary to carry out the provisions of this article shall come from funds appropriated to the House of Representatives and the Senate.

19-6-53.

- (a) The Georgia Child Support Commission shall have the following duties:
  - (1) To study and evaluate the effectiveness and efficiency of Georgia's child support guidelines;
  - (2) To evaluate and consider the experiences and results in other states which utilize child support guidelines;
  - (3)(A) To create and recommend to the General Assembly a child support obligation table consistent with Code Section 19-6-15.1. Prior to January 1, 2006, the commission shall produce the child support obligation table and provide an explanation of the underlying data and assumptions to the General Assembly by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.
    - (B)(i) The child support obligation table shall include deductions from a parent's gross income for the employee's share of the contributions for the first 6.2 percent in Federal Insurance Contributions Act (FICA) and 1.45 percent in medicare taxes.
    - (ii) FICA tax withholding for high-income persons may vary during the year. Six and two-tenths percent is withheld on the first \$90,000.00 of gross earnings. After the maximum \$5,580.00 is withheld, no additional FICA taxes shall be withheld.
    - (iii) Self-employed persons are required by law to pay the full FICA tax of 12.4 percent up to the \$90,000.00 gross earnings limit and the full medicare tax rate of 2.9 percent on all earned income.
    - (iv) The percentages and dollar amounts established or referenced in this subparagraph with respect to the payment of self-employment taxes shall be adjusted by the commission, as necessary, as relevant changes occur in the federal tax laws.
  - (C) After reviewing the commission's report, the General Assembly shall consider and approve by joint resolution the initial child support obligation table before the table shall become effective and shall authorize by joint resolution all subsequent child support obligation tables;
- (4) To determine periodically, and at least every two years, if the child support obligation table results in appropriate presumptive awards;
- (5) To identify and recommend whether and when the child support obligation table

- or child support guidelines should be modified;
- (6) To develop and publish the child support obligation table and worksheets associated with the use of such table;
  - (7) To develop or cause to be developed software and a calculator associated with the use of the child support obligation table and child support guidelines;
  - (8) To develop training manuals and information to educate judges, attorneys, and litigants on the use of the child support obligation table and child support guidelines;
  - (9) To collaborate with the Institute for Continuing Judicial Education, the Institute of Continuing Legal Education, and other agencies for the purpose of training persons who will be utilizing the child support table and child support guidelines; and
  - (10) To make recommendations for proposed legislation.
- (b) The commission shall have the following powers:
- (1) To evaluate the child support guidelines in Georgia and any other program or matter relative to child support in Georgia;
  - (2) To request and receive data from and review the records of appropriate agencies to the greatest extent allowed by state and federal law;
  - (3) To accept public or private grants, devises, and bequests;
  - (4) To enter into all contracts or agreements necessary or incidental to the performance of its duties;
  - (5) To establish rules and procedures for conducting the business of the commission; and
  - (6) To conduct studies, hold public meetings, collect data, or take any other action the commission deems necessary to fulfill its responsibilities.
- (c) The commission shall be authorized to retain the services of auditors, attorneys, financial consultants, child care experts, economists, and other individuals or firms as determined appropriate by the commission.

#### SECTION 16.

Said title is further amended by striking in its entirety Code Section 19-7-2, relating to parents' obligations to child, and inserting in lieu thereof the following:

. 19-7-2.

It is the joint and several duty of each parent to provide for the maintenance, protection, and education of his or her child until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs, except as otherwise authorized and ordered pursuant to subsection (e) of Code Section 19-6-15 or subsection (d) of Code Section 19-6-15.1 and except to the extent that the duty of the parents is otherwise or further defined by court order.

#### SECTION 17.

Said title is further amended by striking subsection (a) of Code Section 19-7-46.2, relating to temporary order of support, and inserting in lieu thereof a new subsection (a) to read as follows:

- . (a) Upon motion by a party to a paternity action, a temporary order shall be issued in

accordance with the guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable, if there is clear and convincing evidence of paternity. Such temporary order will be valid pending an administrative or judicial determination of parentage.

#### SECTION 18.

Said title is further amended by striking Code Section 19-11-12, regarding determination of ability to support, and inserting in lieu thereof a new Code Section 19-11-12 to read as follows:

. 19-11-12.

(a) The IV-D agency shall determine the ability of the noncustodial parent to support his or her child or children in accordance with the guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable.

(b)(1) The IV-D agency shall periodically give notice to the obligor and obligee who are subject to a IV-D court order for child support, as defined in paragraph (1) of Code Section 19-11-3, of the right of each to request a review of the order by the IV-D agency for possible recommendation for adjustment of such order. Such notification should be provided within 36 months after the establishment of the order or the most recent review; however, failure to provide the notice within 36 months shall not affect the right of either party to request a review nor the right of the IV-D agency to conduct a review and to recommend an adjustment to the order. The notice can be included in the initial order or review recommendation.

(2) The establishment of a child support order or the entry of an order to modify a child support order or a determination of no change to a child support order under this Code section shall commence a 36 month cycle, the purpose of which is to provide the parties the right to a review of the order at least every 36 months or in such shorter cycle as the IV-D agency may determine. The failure of either party to request a review at least once every 36 months shall not affect the right of either party to request a review nor the right of the IV-D agency to conduct a review and to recommend an adjustment to the order at any time beyond the 36 month cycle.

(c)(1) The IV-D agency shall review IV-D court orders for child support, as defined in paragraph (1) of Code Section 19-11-3, for possible modification under this chapter. The review shall be performed upon the written request of either the obligor or obligee, or, if there is an assignment under subsection (a) of Code Section 19-11-6, upon the request of the IV-D agency or of the obligor or obligee. Exceptions to this procedure are cases where the IV-D agency determines that such a review would not be in the best interest of the child or children involved.

(2) If the request for the review occurs less than 36 months since the last issuance or last review of the order, the IV-D agency shall review, and if the requesting party demonstrates a substantial change in circumstances, seek to modify the order in accordance with the guidelines as provided by paragraph (2) of subsection (d) of this Code section.

(3) If the request for the review occurs at least 36 months after the last issuance or last review, the requesting party shall not be required to demonstrate a substantial

change in circumstances, the need for additional support, or that the needs of the child have decreased. The sole basis for a recommendation for a change in the award of support under this paragraph shall be a significant inconsistency between the existing child support order and the amount of child support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable.

(d)(1) The IV-D agency shall notify the obligor and obligee at least 30 days before the commencement of a review of a child support order.

(2) The IV-D agency shall review and, if there is a significant inconsistency between the amount of the existing child support order and the amount of child support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable, the agency shall make a recommendation for an increase or decrease in the amount of an existing order for support. The IV-D agency shall not be deemed to be representing either the obligee or obligor in a proceeding under this Code section.

(3) Upon completion of a review, the IV-D agency shall send notice by first-class mail to the obligor and obligee at their last known addresses of a proposed adjustment or a determination that there should be no change in the child support award amount. Each party shall have 30 days from the date of the notice to object in writing to the IV-D agency's proposed adjustment or determination of no change.

(4)(A) In the case of an administrative order, the agency shall request the administrative law judge to increase or decrease the amount in the existing order in accordance with the agency recommendation. If either the obligor or the obligee files with the agency within 30 days written objections to the agency's proposed adjustment to the child support order or determination of no change to the child support order, the matter shall be scheduled for an administrative hearing within the Office of State Administrative Hearings. The administrative order adjusting the child support award amount which results from a hearing or the failure to object to the agency's proposed adjustment or determination of no change shall, upon filing with the local clerk of the court, have the full effect of a modification of the original order or decree of support. As part of the order adjusting the child support award the administrative law judge shall issue an income and earnings deduction order which shall also be filed with the court pursuant to Code Sections 19-6-30 through 19-6-33.

(B) In the case of a judicial order, the agency shall file a petition asking the court to adopt the agency's recommendation for an increase or decrease in the amount in the existing order. Upon the filing of a written objection to the agency's proposed adjustment or determination of no change with the clerk of the superior court and with the agency, a de novo proceeding shall be scheduled with the court on the matter. If neither party files an objection within the 30 day notice period, the court shall issue an order adopting the recommendation of the IV-D agency. As part of the order adjusting the child support award, the court shall issue an income and earnings deduction order pursuant to Code Sections 19-6-30 through 19-6-33.

(e) When the trier of fact, the administrative law judge for administrative orders, or a judge of the superior court for court orders, as the case may be, determines that there is

a significant inconsistency between the existing child support order and the amount of child support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable, the trier of fact may use this inconsistency as the basis to increase or decrease the amount of support ordered. The trier of fact may also address the repayment of any arrears accumulated under the existing order.

(f) An obligor shall not be relieved of his or her duty to provide support when such obligor has brought about his or her own unstable financial condition by voluntarily incurring subsequent obligations.

(g) The department shall be authorized to promulgate rules and regulations to implement the provisions of this Code section.

#### SECTION 19.

Said title is further amended by striking subsection (a) of Code Section 19-11-15, relating to voluntary support agreement, and inserting in lieu thereof a new subsection (a) to read as follows:

. (a) When the department has completed its investigation, has determined the ability of the absent parent to support his or her child or children in accordance with guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable, and believes that the absent parent is able to furnish a certain amount of support, the department may, as an exception to Code Section 9-12-18, request the absent parent to enter into a proposed consent order and income deduction order to provide the support amount and accident and sickness insurance coverage consistent with Code Section 19-11-26 prior to the filing of an action with the superior court. The orders may not be set aside on the grounds that the parties consented thereto prior to the filing of the action. An income deduction order shall issue consistent with Code Sections 19-6-30 through 19-6-34. If the department is unable to secure a proposed consent order from the parent, the department may file an action in superior court or may initiate an administrative action pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

#### SECTION 20.

Section 15 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, and the remaining sections of this Act shall become effective on March 1, 2006.

#### SECTION 21.

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

On the adoption of the substitute, the President ordered a roll call, and the vote was as follows:

Y Adelman  
N Balfour  
Y Brown

N Hill,Jack  
N Hill,Judson  
E Hooks

N Smith  
E Starr  
N Staton

N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	E Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	N Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the substitute, the yeas were 18, nays 31, and the Adelman, Jones substitute was lost.

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:

N Adelman	Y Hill,Jack	Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
N Cagle	N Jones	N Tate
Y Carter	Y Kemp	N Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	Y Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
N Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles

Y Harp  
Y Heath  
N Henson

Y Seabaugh  
N Seay  
N Shafer,D

Y Williams  
E Zamarripa

On the passage of the bill, the yeas were 28, nays 19.

HB 221, having failed to receive the requisite constitutional majority, was lost.

Senator Harp of the 29th gave notice that at the proper time he would move that the Senate reconsider its action on HB 221.

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

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Staton of the 18th asked unanimous consent that Senator Williams of the 19th be excused. The consent was granted, and Senator Williams was excused.

The Calendar was resumed.

HB 240. By Representatives Day of the 163rd, Neal of the 1st and Horne of the 71st:

A BILL to be entitled an Act to amend Code Section 45-9-104 of the Official Code of Georgia Annotated, relating to submission of applications for claims for disability of a law enforcement officer or firefighter, so as to provide that claims for temporary disability shall be submitted within 60 days of the

incident resulting in the disability; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hudgens of the 47th.

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	Hill,Jack	Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 1.

HB 240, having received the requisite constitutional majority, was passed.

Senator Weber of the 40th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

HB 406. By Representatives Willard of the 49th and Oliver of the 83rd:

A BILL to be entitled an Act to amend Article 10 of Chapter 12 of Title 53 of the O.C.G.A., relating to allocation of principal and income, so as to change

provisions relating to the duty of the trustee as to receipts and expenditures; to provide for general principles relating to the allocation of principal and income; to provide for the discretionary power of a trustee to adjust the trust receipts between principal and income; to provide for requirements and prohibitions in adjustments; to provide for the criteria and procedure for conversion to a unitrust; to provide for judicially approved conversion; to provide for requirements and prohibitions in conversions; to provide for remedies; to correct a cross-reference; to amend Article 9 of Chapter 12 of Title 53 of the O.C.G.A., relating to trustees' duties and liabilities; to amend Code Section 15-9-127 of the O.C.G.A.; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 1.

HB 406, having received the requisite constitutional majority, was passed.

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

Mr. President:

The House insists on its position in disagreeing to the Senate amendments, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 291. By Representatives Rogers of the 26th, Knox of the 24th, Meadows of the 5th and Dodson of the 75th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to remove the requirement that managed care plans obtain certain acknowledgments; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Rogers of the 26th, Knox of the 24th and Meadows of the 5th.

The Calendar was resumed.

HB 180. By Representatives Manning of the 32nd, Benton of the 31st, Byrd of the 20th, Talton of the 145th and Benfield of the 85th:

A BILL to be entitled an Act to amend Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Human Resources, so as to permit the department to obtain criminal history information from adult

persons who reside in a home where a child in the custody of the department has been or may be placed or who provide care to a child who is the subject of a child protective services referral, complaint, or investigation; to permit the department to obtain criminal history information based on a name only for a child to be placed under exigent circumstances; to permit the department to obtain criminal history information based on a name only from the Georgia Crime Information Center; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Thomas of the 54th.

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	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 180, having received the requisite constitutional majority, was passed.

Senator Kemp of the 46th asked unanimous consent that Senator Moody of the 56th be excused. The consent was granted, and Senator Moody was excused.

Senator Mullis of the 53rd asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

HB 292. By Representatives Rogers of the 26th, Mills of the 25th, Reece of the 27th, Hembree of the 67th, Benton of the 31st and others:

A BILL to be entitled an Act to amend Code Section 27-3-15 of the Official Code of Georgia Annotated, relating to season and bag limits, promulgation of rules and regulations by the board, possession of more than bag limit, and reporting number of deer killed, so as to change certain provisions relating to closed seasons for deer; to change certain provisions relating to open seasons, bag limits, and antler restrictions for deer; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Tolleson of the 20th.

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	E Hill,Jack	E Smith
Balfour	Y Hill,Judson	E Starr
Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Weber
E Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 39, nays 2.

HB 292, having received the requisite constitutional majority, was passed.

HB 309. By Representatives Forster of the 3rd, Rynders of the 152nd, Cooper of the 41st, Hembree of the 67th, Burmeister of the 119th and others:

A BILL to be entitled an Act to amend Title 31 of the Official Code of Georgia Annotated, relating to health, Code Section 44-5-150 of the Official Code of Georgia Annotated, relating to the duties of the Advisory Board on Anatomical Gift Procurement, and Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to correct the names of committees of the General Assembly; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Goggans of the 7th.

The Senate Health and Human Services Committee offered the following substitute to HB 309:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, Code Section 44-5-150 of the Official Code of Georgia Annotated, relating to the duties of the Advisory Board on Anatomical Gift Procurement, and Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to correct the names of committees of the General Assembly; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking subsections (b) and (d) of Code Section 31-6-21.1, relating to procedures for rule making by Department of Community Health, and inserting in lieu thereof new subsections (b) and (d) to read as follows:

. (b) The department shall transmit three copies of the notice provided for in paragraph (1) of subsection (a) of Code Section 50-13-4 to the legislative counsel. The copies shall be transmitted at least 30 days prior to that department's intended action. Within five days after receipt of the copies, if possible, the legislative counsel shall furnish the presiding officer of each house with a copy of the notice and mail a copy of the notice to each member of the Health and Human Services Committee of the Senate and each member of the Health and ~~Ecology~~ Human Services Committee of the House of Representatives. Each such rule and any part thereof shall be subject to the making of an objection by either such committee. Any rule or part thereof to which no objection

is made by both such committees may become adopted by the department at the end of such 30 day period. The department may not adopt any such rule or part thereof which has been changed since having been submitted to those committees unless:

- (1) That change is to correct only typographical errors;
- (2) That change is approved in writing by both committees and that approval expressly exempts that change from being subject to the public notice and hearing requirements of subsection (a) of Code Section 50-13-4;
- (3) That change is approved in writing by both committees and is again subject to the public notice and hearing requirements of subsection (a) of Code Section 50-13-4; or
- (4) That change is again subject to the public notice and hearing requirements of subsection (a) of Code Section 50-13-4 and the change is submitted and again subject to committee objection as provided in this subsection.

Nothing in this subsection shall prohibit the department from adopting any rule or part thereof without adopting all of the rules submitted to the committees if the rule or part so adopted has not been changed since having been submitted to the committees and objection thereto was not made by both committees.

(d) Any rule or part thereof which is objected to by only one committee under subsection (b) of this Code section and which is adopted by the department may be considered by the branch of the General Assembly whose committee objected to its adoption by the introduction of a resolution for the purpose of overriding the rule at any time within the first 30 days of the next regular session of the General Assembly. It shall be the duty of the department in adopting a proposed rule over such objection so to notify the chairmen of the Health and Human Services Committee of the Senate and the Health and ~~Ecology~~ Human Services Committee of the House within ten days after the adoption of the rule. In the event the resolution is adopted by such branch of the General Assembly, it shall be immediately transmitted to the other branch of the General Assembly. It shall be the duty of the presiding officer of the other branch of the General Assembly to have such branch, within five days after the receipt of the resolution, consider the resolution for the purpose of overriding the rule. In the event the resolution is adopted by two-thirds of the votes of each branch of the General Assembly, the rule shall be void on the day after the adoption of the resolution by the second branch of the General Assembly. In the event the resolution is ratified by a majority but by less than two-thirds of the votes of either branch, the resolution shall be submitted to the Governor for his approval or veto. In the event of his veto, the rule shall remain in effect. In the event of his approval, the rule shall be void on the day after the date of his approval.

## SECTION 2.

Said title is further amended by striking Code Section 31-6-46, relating to annual reports by department, and inserting in lieu thereof a new Code Section 31-6-46 to read as follows:

. 31-6-46.

The department shall prepare and submit an annual report to the Health and Human

Services Committee of the Senate and the Health and ~~Eeology~~ Human Services Committee of the House of Representatives about its operations and decisions for the preceding 12 month period, not later than 30 days prior to each convening of the General Assembly in regular session. Either committee may request any additional reports or information, including decisions, from the department at any time, including a period in which the General Assembly is not in regular session.

### SECTION 3.

Said title is further amended by striking Code Section 31-43-4, relating to members of the Commission on Men's Health, and inserting in lieu thereof a new Code Section 31-43-4 to read as follows:

. 31-43-4.

The commission shall consist of 11 members: seven members appointed by the Governor; two members of the Senate appointed by the ~~President of the~~ Senate Committee on Assignments, one of whom shall be the chairperson of the Senate Health and Human Services Committee or his or her designee; and two members of the House of Representatives appointed by the Speaker of the House, one of whom shall be the chairperson of the House Committee on Health and ~~Eeology~~ Human Services or his or her designee. The Governor may also appoint an honorary chairperson to serve as a member of the commission.

### SECTION 4.

Code Section 44-5-150 of the Official Code of Georgia Annotated, relating to the duties of the Advisory Board on Anatomical Gift Procurement, is amended by striking paragraph (7) and inserting in lieu thereof a new paragraph (7) to read as follows:

. (7) Report biennially to the Governor, the Health and ~~Eeology~~ Human Services Committee of the House of Representatives, and the Health and Human Services Committee of the Senate regarding the progress and actions of the advisory board.

### SECTION 5.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by striking Code Section 49-4-149.1, relating to submission by department of plan for family supplementation of Medicaid payments upon federal removal of restrictions, and inserting in lieu thereof a new Code Section 49-4-149.1 to read as follows:

. 49-4-149.1.

If the federal government removes restrictions upon family supplementation of Medicaid payments or approves a waiver allowing this supplementation, the Department of Community Health shall submit to the Health and Human Services Committee of the Senate and the Health and ~~Eeology~~ Human Services Committee of the House of Representatives a plan for this supplementation, which submission shall be made within 30 days after the earlier of the date the restrictions are removed or the date the waiver is approved.

#### SECTION 6.

Said title is further amended by striking Code Section 49-5-224, relating to commissioner of human resources to submit annual report, and inserting in lieu thereof a new Code Section 49-5-224 to read as follows:

. 49-5-224.

The commissioner of human resources shall submit an annual report to the House and Senate Appropriations Committees, the House and Senate Education Committees, the House Health and ~~Eeology~~ Human Services Committee, the Senate Committee on ~~Youth, Aging, Health~~ and Human ~~Eeology~~ Services, the Governor, and the Children and Youth Coordinating Council. The report shall contain a copy of the updated State Plan for the Coordinated System of Care. The report shall also contain the following information on severely and emotionally disturbed children and adolescents receiving services directly or indirectly through the Department of Human Resources, the Department of Education, or any other state agency:

- (1) The number and ages of children in out-of-state residential facilities;
- (2) The number and ages of children in in-state residential facilities;
- (3) The number and ages of children in nonresidential treatment;
- (4) Annual public funds expended for out-of-state placements, the sources of such funds, and the average cost per child of such out-of-state placement;
- (5) Annual public funds expended for in-state residential placements, the sources of such funds, and their average cost per child of such in-state residential placement;
- (6) Annual public funds expended for nonresidential treatment, the sources of such funds, and the average cost per child of such nonresidential treatment;
- (7) The average length of stay in out-of-state and in-state placements; and
- (8) The number and ages of children placed in out-of-home treatment compared to the total number of children in each county of the state.

#### SECTION 7.

Said title is further amended by striking Code Section 49-5-227, relating to Children and Youth Coordinating Council to comment on plan for Coordinated System of Care and provide recommendations, and inserting in lieu thereof a new Code Section 49-5-227 to read as follows:

. 49-5-227.

The Children and Youth Coordinating Council shall:

- (1) Annually review and comment on the State Plan for the Coordinated System of Care, and submit its comments to the House and Senate Appropriations Committees, the House and Senate Education Committees, the House Health and ~~Eeology~~ Human Services Committee, the Senate Committee on ~~Youth, Aging, Health~~ and Human ~~Eeology~~ Services, the Governor, the Department of Human Resources, and the Department of Education; and
- (2) Annually identify and recommend fiscal, policy, and program initiatives and revisions in the state coordinated system of care to the House and Senate Appropriations Committees, the House and Senate Education Committees, the House

Health and Eeology Human Services Committee, the Senate Committee on Youth, Aging, Health and Human Eeology Services, the Governor, the Department of Human Resources, and the Department of Education.

#### SECTION 8.

Said title is further amended by striking subsection (g) of Code Section 49-6-62, relating to establishment of community care unit, and inserting in lieu thereof a new subsection (g) to read as follows:

. (g) The department shall submit on January 1 of each year, beginning in 1984, a progress report on the implementation of the plan required by subsection (e) of this Code section to the Speaker of the House of Representatives, the President of the Senate Committee on Assignments, the chairman of the House Health and Eeology Human Services Committee, and the chairman of the Senate Youth, Aging, Health and Human Eeology Services Committee.

#### SECTION 9.

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

#### SECTION 10.

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

On the adoption of the substitute, the yeas were 31, nays 1, 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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	N Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	N Reed	Y Weber

E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	N Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 39, nays 4.

HB 309, having received the requisite constitutional majority, was passed by substitute.

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

Mr. President:

The House has agreed to the Senate amendment, as amended by the House, to the following Bill of the House:

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senator Thomas of the 2nd asked unanimous consent that Senator Chapman of the 3rd be excused. The consent was granted, and Senator Chapman was excused.

The Calendar was resumed.

SR 297. By Senators Mullis of the 53rd, Wiles of the 37th, Hudgens of the 47th and Meyer von Bremen of the 12th:

A RESOLUTION urging the United States Congress to establish a domestic energy policy that will ensure an adequate supply of energy and the appropriate infrastructure; and for other purposes.

The Senate Regulated Industries and Utilities Committee offered the following substitute to SR 297:

**A RESOLUTION**

Urging the United States Congress to establish a domestic energy policy that will ensure an adequate supply of energy and the appropriate infrastructure; and for other purposes.

WHEREAS, the price of natural gas in the United States, already the highest in the industrial world, has again spiked and shows continued volatility; and

WHEREAS, the current price of natural gas is equivalent to paying \$16.00 for a gallon of milk, \$12.70 for a pound of ground beef, or \$9.21 for a gallon of gasoline; and

WHEREAS, abnormally high natural gas prices have been a \$111 billion unanticipated burden on the economy of the United States over the past 30 months; and

WHEREAS, the United States is over reliant on natural gas in our national energy supply, creating a tremendous imbalance between natural gas supply and demand; and

WHEREAS, Georgia's manufacturers, farmers, small businesses, local governments, retailers, and residential consumers are struggling from skyrocketing natural gas prices. Further, thousands of jobs in these industries are threatened since many of these businesses use natural gas as a raw material as well as an energy supply; and

WHEREAS, the natural gas imbalance is not a free market problem. The high price of natural gas is created by governmental policies that increase demand for natural gas while impeding the development of a greater supply by discouraging more exploration and production. Since natural gas is domestically produced and very hard to import, the United States cannot correct the imbalance by the importation of natural gas; and

WHEREAS, the Georgia Senate supports a sound, rational, and domestic energy policy.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that this body urges the United States Congress to enact legislation in the 109th Congress establishing a domestic energy policy that will ensure an adequate supply of natural gas and the appropriate infrastructure. Such energy policy should develop a concerted national effort to promote greater energy efficiency, and open promising new areas for environmentally responsible natural gas production.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to President George W. Bush, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Georgia congressional delegation.

On the adoption of the substitute, the yeas were 30, nays 3, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
E Chapman	Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 39, nays 4.

SR 297, having received the requisite constitutional majority, was adopted by substitute.

Senator Kemp of the 46th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

Senator Goggans of the 7th asked unanimous consent that Senator Miles of the 43rd be excused. The consent was granted, and Senator Miles was excused.

HB 5. By Representatives Borders of the 175th, Williams of the 4th, Fludd of the 66th, Brown of the 69th, Black of the 174th 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 an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

January 11, 2005

The Honorable Ron Borders  
State Representative  
LOB, Room 607  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 5 (LC 18 3816)

Dear Representative Borders:

This bill would continue the “sales tax holiday”, first implemented in 2003, by making the period of exemption go from 12:01 A.M. on July 28, 2005 to 12:00 Midnight on July 31, 2005. As was the case in the previous two years, within those four days three categories of otherwise taxable purchases would be exempted. Sales of clothes and footwear priced at no more than \$100 per article would not be taxed. Up to \$1,500 of sales transactions involving personal computers, peripheral devices, computer-related accessories, and non-recreational software would go tax-free. Finally, sales of school supplies and books on approved lists for pre-kindergarten through twelfth grade priced at no more than \$20 per unit would be exempted.

The Georgia State University Fiscal Research Center estimated the total revenue impact for the State from the proposed 2005 “sales tax holiday” to be \$10.38 million. For local jurisdictions, the Center estimates the revenue impact to be \$6.5 million. The Center provided the following information regarding the estimate:

The revenue impact of the 2005 exemption was estimated by adjusting the estimated revenue impact of the 2004 exemption. For 2004, the revenue impact for the State was estimated to be \$7.1 million from the clothing exemption, \$1.5 million from the computer

exemption, and \$1.3 million for the school supply exclusion, for a total of \$9.9 million. The revenue impact for local governments was estimated to be \$6.0 million.

To estimate the revenue impact for 2005 of the clothing and computer exemptions, it was assumed that expenditures on these items increase with an increase in per capita income and with an increase in the population. National consumption patterns (Consumer Expenditure Survey) imply that expenditures on clothing increase at a slower rate than per capita income. It was assumed that expenditures on clothing increase at 80 percent of the increase in income per capita. For computers, it was assumed that expenditures increase 20 percent faster than income per capita increases. Given a forecasted increase in total income of 6 percent and assuming that population increases at the same rate as last year, namely 1.8 percent, it follows that clothing expenditures will increase 4.9 percent and that computer expenditures will increase 6.5 percent. This implies a revenue impact of \$7.45 million for the clothing exemption and \$1.60 million for the computer exemption.

To estimate the revenue impact for 2005 of the school supply exemption it was assumed that expenditures on school supplies increase at the same rate as the increase in the number of children. This was measured by the increase in the number of public school students in K-12, essentially assuming that pre-K and private school students increase at the same rate as public school K-12 students. Between 2003 and 2004, the number of public school children in K-12 increased by 2.0 percent. This implies a revenue impact of \$1.33 million for the school supply exemption.

The total estimated revenue impact for the State from the proposed 2005 "sales tax holiday" is thus \$10.38 million. For local jurisdictions, the revenue impact is estimated to be \$6.5 million.

Experience with sales tax holidays in other states suggests that over time consumers are more likely to plan for them by putting off planned expenditures until the sales tax holiday and, as a result, the revenue impact increases over time. Since the sales tax holiday in Georgia is still relatively new, the size of this effect is likely to be small so no adjustment to the revenue impact is made for this behavioral response.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
E Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

On the passage of the bill, the yeas were 42, nays 0.

HB 5, having received the requisite constitutional majority, was passed.

Senator Whitehead of the 24th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

HB 50. By Representative Teilhet of the 40th:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, so as to authorize the exchange of national criminal history background checks on providers of care to children, the elderly, and persons with disabilities, including, but not limited to, volunteers with youth sports organizations and other youth activities; to define terms; to provide for conformity with federal law; to provide for rules and regulations; to provide for

fees; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Stoner of the 6th.

Senators Stoner of the 6th and Rogers of the 21st offered the following amendment:

Amend HB 50 by striking lines 1 and 2 of page 2 and inserting in lieu thereof the following:

. (5) 'NCPA' means the 'National Child Protection Act of 1993,' 42 U.S.C. Sections 3759, 5101 note, 5119, 5119(a) to 5119(c).

By striking line 19 of page 2 and inserting in lieu thereof the following:

. (9) 'VCA' means the 'Volunteers for Children Act,' 42 U.S.C. Sections 5101 note, 5119(a) and 5119(b).

On the adoption of the amendment, the yeas were 36, nays 0, and the Stoner, Rogers amendment 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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
E Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 0.

HB 50, having received the requisite constitutional majority, was passed as amended.

Senator Kemp of the 46th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

Senator Jones of the 10th asked unanimous consent that Senator Stoner of the 6th be excused. The consent was granted, and Senator Stoner was excused.

HB 530. By Representative Smith of the 129th:

A BILL to be entitled an Act to amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation's power to contract, so as to revise the criteria for design-build contracts entered into by the department; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Whitehead, Sr. of the 24th.

The Senate Transportation Committee offered the following substitute to HB 530:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation's power to contract, so as to revise the criteria for design-build contracts entered into by the department; 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 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation's power to contract, is amended by striking subsections (b), (d), and (f) of Code Section 32-2-81, relating to criteria for design-build contracts, and inserting in their respective places the following:

- . (b) The department may use the design-build procedure for buildings, bridges and approaches, rail corridors, and limited or controlled access projects or projects that may be constructed within existing rights of way where the scope of work can be clearly defined or when a significant savings in project delivery time can be attained ~~and when the estimated bid cost does not exceed \$10 million.~~
- . (d) The department shall adopt by rule procedures for administering design-build

contracts. Such procedures shall include, but not be limited to:

- (1) Prequalification requirements;
- (2) Public advertisement procedures;
- (3) Scope of service requirements;
- (4) Letters of interest requirements;
- (5) Request for proposals. Requests for proposal shall include the applicable percentage to be applied to each evaluation criterion and the relative weight to be assigned to each;
- (6) Criteria for evaluating technical information and project costs;
- (7) Criteria for selection and award process, provided that the rules shall specify that the criteria for selection shall consist of the following minimum two components:
  - (A) A statement of qualifications from which the department will determine a list of qualified firms for the project; and
  - (B) From the list of qualified firms as provided in subparagraph (A) of this paragraph, a price proposal from each firm from which the department shall select the lowest,~~most responsive~~ qualified bidder; provided, however, that a proposal will only be considered nonresponsive if it does not contain all the information and level of detail requested in the request for proposal. A proposal shall not be deemed to be nonresponsive solely on the basis of minor irregularities in the proposal that do not directly affect the ability to fairly evaluate the merits of the proposal. Notwithstanding the requirements of Code Section 36-91-21, under no circumstances shall the department use a 'best and final offer' standard in awarding a contract; and The department may provide for a stipulated fee to be awarded to the short list of qualified proposers who provide a responsive, successful proposal. In consideration for paying the stipulated fee, the department may use any ideas or information contained in the proposals in connection with the contract awarded for the project, or in connection with a subsequent procurement, without obligation to pay any additional compensation to the unsuccessful proposers;
- (8) Identification of those projects that the department believes are candidates for design-build contracting, with the understanding that in general this type of contract should have minimal right of way or utility issues which are unresolved; provided, however, the failure of the department to identify such projects does not prevent the department from using design-build contracting in extraordinary circumstances including emergency work, unscheduled projects, or where loss of funding might occur; and
- (8)(9) Criteria for resolution of contract issues. The department may adopt a method for resolving issues and disputes through negotiations at the project level by the program manager up to and including a dispute review board procedure with final review by the commissioner or his or her designee. Regardless of the status or disposition of the issue or dispute, the design-builder and the department shall continue to perform their contractual responsibilities. The department shall have the authority to suspend or provide for the suspension of Section 108 of the department's standard specifications pending final resolution of such contract issues and disputes.

This paragraph does not prevent an aggrieved party from seeking judicial review.

(f) In contracting for design-build projects, the department shall be limited to contracting for no more than \$100 million per fiscal year 15 percent of the total amount of construction projects awarded in the previous fiscal year.

## SECTION 2.

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

On the adoption of the substitute, the yeas were 30, nays 1, 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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	N Thomas,R
E Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 38, nays 4.

HB 530, having received the requisite constitutional majority, was passed by substitute.

The following bill was taken up to consider House action thereto:

- HB 291. By Representatives Rogers of the 26th, Knox of the 24th, Meadows of the 5th and Dodson of the 75th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to remove the requirement that managed care plans obtain certain acknowledgments; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hudgens of the 47th asked unanimous consent that the Senate adhere to its amendments to HB 291 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Hudgens of the 47th, Rogers of the 21st and Balfour of the 9th.

Senator Wiles of the 37th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

The Calendar was resumed.

- HB 521. By Representatives Crawford of the 127th, Talton of the 145th and Barnard of the 166th:

A BILL to be entitled an Act to amend Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions applicable to sheriffs, so as to require candidates for sheriff to be certified peace officers in good standing at the time of qualifying for election to the

office; to provide that the office of sheriff shall be deemed vacant if the sheriff's certification as a peace officer is revoked; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Kemp of the 46th.

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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	E Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
E Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 39, nays 0.

HB 521, having received the requisite constitutional majority, was passed.

HB 418. By Representatives Maxwell of the 17th, Knox of the 24th, Meadows of the 5th, Murphy of the 120th, Dodson of the 75th and others:

A BILL to be entitled an Act to amend Code Section 33-24-44 of the Official Code of Georgia Annotated, relating to cancellation of policies generally, so as to provide for electronic notice of cancellation of policies to lienholders; to

provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
E Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 0.

HB 418, having received the requisite constitutional majority, was passed.

HB 496. By Representatives Smith of the 70th, McCall of the 30th, Manning of the 32nd, Jones of the 46th, Reese of the 98th and others:

A BILL to be entitled an Act to amend Code Section 12-5-375 of the Official Code of Georgia Annotated, relating to inventory and classification of dams, investigations, technical assistance to local government, artificial barriers, and requirements, so as to provide that the director of the Environmental Protection Division of the Department of Natural Resources shall provide the clerk of the superior court of each county with information relating to dams; to provide that

the clerk shall maintain such information; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Chance of the 16th.

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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
E Chapman	E Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 0.

HB 496, having received the requisite constitutional majority, was passed.

HB 183. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 45-7-54 of the Official Code of Georgia Annotated, relating to government employees' payroll deductions for certain not for profit organizations, so as to provide for

deductions for certain additional types of organizations and by certain additional types of employees; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hudgens of the 47th.

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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Y Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 183, having received the requisite constitutional majority, was passed.

HB 407. By Representative Golick of the 34th:

A BILL to be entitled an Act to amend Title 33 of the O.C.G.A., relating to insurance, so as to authorize the Commissioner to place administrators on probation and to provide penalties against administrators for certain violations; to provide for certain additional regulations of nonresident representatives who represent life insurers in certain military installations; to provide certain definitions; to provide for certain disclosures by counselors; to provide for

certain exceptions; to provide for certain licensing for third party administrators; to provide certain procedures and standards for approval or rejection of such licenses; to provide for probationary licenses; to provide for certain bonds and insurance for administrators; to require administrators to be subject to certain examinations; to revise the provisions of law concerning the Georgia Insurers Insolvency Pool; to provide for certain definitions; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Shafer of the 48th.

The Senate Insurance and Labor Committee offered the following substitute to HB 407:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to authorize the Commissioner to place administrators on probation and to provide penalties against administrators for certain violations; to provide for certain additional regulations of nonresident representatives who represent life insurers in certain military installations; to provide certain definitions; to provide for certain disclosures by counselors; to provide for certain exceptions; to provide for certain licensing for third party administrators; to provide certain procedures and standards for approval or rejection of such licenses; to provide for probationary licenses; to provide for certain bonds and insurance for administrators; to require administrators to be subject to certain examinations; to revise the provisions of law concerning the Georgia Insurers Insolvency Pool; to provide for certain definitions; to provide for the selection of members of the Insurers Solvency Board; to revise the provisions of law regarding meetings, reports, and recommendations of the board; to authorize the pool to intervene in certain legal actions; to provide for the adoption of a plan for ensuring that all insurers are pool members; to provide for the contents of such plan; to provide for certain causes of action by the pool; to provide for venue; to remove assessments as a rate factor; to provide for recoupment of assessments; to provide for disposition of surplus funds; to provide for certain powers of the pool in the case of liquidations; to provide for certain presumptions when insureds do not provide certain information; to provide for the handling of covered claims; to provide for certain rights of recovery by the pool; to make certain reports and recommendations to aid in the detection and prevention of insolvencies; to provide for certain immunity; to provide for applicability; 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 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by striking subsection (g) of Code Section 33-2-24, relating to enforcement of title and rules, regulations, and orders, and inserting in lieu thereof a new subsection (g) to read as follows:

. (g) In addition to all other penalties provided for under this title, the Commissioner shall have the authority to place any insurer, agent, broker, counselor, solicitor, administrator, or adjuster on probation for a period of time not to exceed one year for each and every act in violation of this title or of the rules and regulations or orders of the Commissioner and may subject such insurer, agent, broker, counselor, solicitor, administrator, or adjuster to a monetary penalty of up to \$1,000.00 for each and every act in violation of this title or of the rules, regulations, or orders of the Commissioner, unless the insurer, agent, broker, counselor, solicitor, administrator, or adjuster knew or reasonably should have known he was in violation of this title or of the rules and regulations or orders of the Commissioner, in which case the monetary penalty provided for in this subsection may be increased to an amount up to \$5,000.00 for each and every act in violation.

#### SECTION 2.

Said title is further amended by striking Code Section 33-23-17, relating to registration of nonresident representatives to represent life insurers in military installations in foreign countries, and inserting in lieu thereof a new Code Section 33-23-17 to read as follows:

. 33-23-17.

An individual who is not a resident of this state may be registered to represent an authorized life insurer domiciled in this state, provided such individual only represents the insurer exclusively at a United States military installation located in a foreign country. The Commissioner may, upon request of the insurer on application forms prescribed by the department and upon payment of an annual registration fee of \$25.00, issue a certificate of registration to the individual. An official of the insurer shall certify to the Commissioner that the applicant has the necessary training to hold himself or herself out as a foreign life or accident and sickness insurance representative; and the official of the insurer shall further certify on behalf of his or her insurer that it is willing to be bound by the acts of such applicant within the scope of his or her employment and that such applicant has not had his or her privileges to solicit on or enter any United States military installation revoked, suspended, or restricted in any manner. Such certificate shall expire as of December 31 succeeding the date of its issuance unless it is terminated at an earlier time in accordance with this chapter and Chapter 2 of this title.

#### SECTION 3.

Said title is further amended by striking paragraphs (1), (14), (20), and (21) of Code Section 33-23-21, relating to grounds for refusal, suspension, or revocation of license, and inserting in lieu thereof new paragraphs (1), (14), (20), (21), (22), and (23) to read as follows:

. (1) Has violated any provision of this title, or of any other law or regulation of this

state relating to insurance, or the law or regulation of any jurisdiction, including those of a military installation, relating to the transaction of insurance;

- (14) Has failed to comply to provide documentation or records, or refused to appear:
  - (A) In compliance with Code Section 33-2-12 or 33-2-13; or has refused to appear or to produce records in
  - (B) In response to a written demand by the Commissioner sent by registered or certified mail or statutory overnight delivery to the last known address of the licensee as shown in the records of the Commissioner; or
  - (C) In support of an application for license or renewal of license upon request by the department or as otherwise required by the application or renewal;
- (20) Is not in compliance with an order for child support as defined by Code Section 19-6-28.1 or 19-11-9.3; for violations of this paragraph only, any hearing and appeal procedures conducted pursuant to such Code sections shall be the only such procedures required to suspend, deny, or revoke any license under this title; or
- (21) Is a borrower in default who is not in satisfactory repayment status as defined by Code Section 20-3-295; for violations of this paragraph only, any hearing and appeal procedures conducted pursuant to Code Section 20-3-295 shall be the only such procedures required to suspend, deny, or revoke any license under this title;
- (22) In relation to the licensee's ability to transact the business of insurance, has had a license, permit, authorization, registration, or privilege refused, revoked, suspended, limited, or restricted by any federal, state, county, municipality, territory, military, or other legal authority authorized to issue licenses, permits, authorizations, registrations, or privileges to conduct business within its respective jurisdiction; otherwise has failed to comply with the legal requirements related to the license, permit, authorization, registration, or privilege; or has had other disciplinary action taken against him or her by any such lawful authority; or
- (23) Has failed to report to the department within 60 days of the action taken, any refusal, revocation, suspension, limitation, or restriction of any license, permit, authorization, registration, or privilege of any lawful authority referenced in subsections (18) or (22) of this Code section.

#### SECTION 4.

Said title is further amended by adding a new Code Section 33-23-46 to read as follows:

. 33-23-46.

- (a) For purposes of this Code section, the term:
  - (1) 'Affiliate' means a person that controls, is controlled by, or is under common control with the producer.
  - (2) 'Compensation from an insurer or other third party' means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration, whether or not payable pursuant to a written agreement, but shall not mean de minimis gifts of less than \$45.00 in value.
  - (3) 'Compensation from the customer' shall not include:

- (A) Any fee or similar expense provided in subparagraph (C) of paragraph (6) of Code Section 33-6-5;
  - (B) Any amount or fee paid by or to the producer that does not exceed an amount established by the Commissioner; or
  - (C) A premium or fee billed by the producer solely on behalf of an insurer.
- (4) 'Documented acknowledgment' means the customer's written consent obtained prior to the customer's initial purchase of insurance. In the case of a purchase over the telephone or by electronic means for which written consent cannot reasonably be obtained, consent documented by the producer shall be acceptable.
- (b)(1) Where any insurance producer licensed as counselor, as defined by this chapter, or any affiliate of such producer receives any compensation from or charges any other fee to the customer, neither that producer nor the affiliate shall accept or receive any compensation from an insurer or other third party for placement of insurance for that customer unless the producer has, prior to the customer's purchase of insurance:
- (A) Obtained the customer's documented acknowledgment that such compensation will be received by the producer or affiliate; and
  - (B) Disclosed the amount of compensation from the insurer or other third party for that placement. If the amount of compensation is not known at the time of disclosure, the producer shall disclose in readable language the method for calculating such compensation and, if possible, a reasonable estimate of the amount.
- (2) Notwithstanding paragraph (1) of this subsection, an insurance producer who is not licensed as a counselor, as defined in this chapter, may not accept or receive any compensation from the customer for placement of insurance.
- (c) A person shall not be considered a 'customer' for purposes of this Code section if the person is merely:
- (1) A participant or beneficiary of an employee benefit plan; or
  - (2) Covered by a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the insurance producer or affiliate.
- (d) This Code section shall not apply to:
- (1) A person licensed as an insurance producer who acts only as an intermediary between an insurer and the producer, such as a managing general agent, a sales manager, or wholesale broker;
  - (2) A reinsurance intermediary;
  - (3) The renewal or any other continuation of the policy; or
  - (4) A producer whose sole compensation for the placement is derived from commissions, salaries, and other remuneration from the insurer.
- (e) The Commissioner may promulgate rules and regulations as necessary to implement the provisions of this chapter.

#### SECTION 5.

Said title is further amended by striking Code Section 33-23-100, relating to definition of administrator, and inserting in lieu thereof a new Code Section 33-23-100 to read as

follows:

. 33-23-100.

(a) As used in this article, the term: 'administrator'

(1) 'Administrator' means any person who business entity that, directly or indirectly, collects charges, fees, or premiums from; or who adjusts or settles claims on, including investigating or examining claims or receiving, disbursing, handling, or otherwise being responsible for claim funds; and provides underwriting or precertification and preauthorization of hospitalizations or medical treatments for residents of this state for or on behalf of any insurer, including business entities that act on behalf of multiple employer self-insurance health plans, and self-insured municipalities or other political subdivisions, in connection with life or accident and sickness insurance coverage or annuities; self insured plans providing health, dental, or short term disability benefits; and Licensure is also required for administrators who act on behalf of self-insured plans providing workers' compensation benefits pursuant to Chapter 9 of Title 34 ~~other than any of the following entities. For purposes of this article, each activity undertaken by the administrator on behalf of an insurer or the client of the administrator is considered a transaction and is subject to the provisions of this title.~~

(2) 'Business entity' means a corporation, association, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity.

(b) Notwithstanding the provisions of subsection (a) of this Code section, the following are exempt from licensure as long as such entities are acting directly through their officers and employees:

- (1) An employer on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of such employer;
- (2) A union on behalf of its members;
- (3) An insurance company licensed in this state or its affiliate unless the affiliate administrator is placing business with a nonaffiliate insurer not licensed in this state;
- (4) An insurer which is not authorized to transact insurance in this state if such insurer is administering a policy lawfully issued by it in and pursuant to the laws of a state in which it is authorized to transact insurance;
- (5) A life or accident and sickness insurance agent or broker licensed in this state whose activities are limited exclusively to the sale of insurance;
- (6) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;
- (7) A trust established in conformity with 29 U.S.C. Section 186 and its trustees, agents, and employees acting thereunder;
- (8) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code and its trustees and employees acting thereunder or a custodian and its agents and employees acting pursuant to a custodian account which meets the requirements of Section 401(f) of the Internal Revenue Code;
- (9) A bank, credit union, or other financial institution which is subject to supervision

- or examination by federal or state banking authorities;
- (10) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims; ~~or~~
- (11) A person who adjusts or settles claims in the normal course of his or her practice or employment as an attorney and who does not collect charges or premiums in connection with life or accident and sickness insurance coverage or annuities;
- (12) A business entity that acts solely as an administrator of one or more bona fide employee benefit plans established by an employer or an employee organization, or both, for whom the insurance laws of this state are preempted pursuant to the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq.; or
- (13) An association that administers workers' compensation claims solely on behalf of its members.
- (c) A business entity claiming an exemption shall submit an exemption notice on a form provided by the Commissioner. This form must be signed by an officer of the company and submitted to the department by December 31 of the year prior to the year for which an exemption is to be claimed. Such exemption notice shall be updated in writing within 30 days if the basis for such exemption changes.
- (d) Obtaining a license as an administrator does not exempt the applicant from other licensing requirements under this title.

#### SECTION 6.

Said title is further amended by striking Code Section 33-23-101, relating to licensing of administrators, and inserting in lieu thereof a new Code Section 33-23-101 to read as follows:

. 33-23-101.

- (a) No ~~person~~ business entity shall act as or hold ~~himself~~ itself out to be an administrator in this state, other than an adjuster licensed in this state for the kinds of business for which ~~he~~ it is acting as an administrator, unless such ~~person~~ business entity holds a license as an administrator issued by the Commissioner. The license shall be ~~renewable for such term~~ renewed on an annual basis and in such manner as the Commissioner may prescribe by rule or regulation. Failure to hold such license shall subject the administrator to the fines and other appropriate penalties as provided in Chapter 2 of this title.
- (b) An application for an administrator's license or an application for renewal of such license shall be accompanied by a filing fee to be prescribed by rule or regulation of the Commissioner.
- (c) A license may be refused or a license duly issued may be suspended or revoked or the renewal of such license refused by the Commissioner if, ~~after notice and hearing as provided in subsection (d) of this Code section, he~~ the Commissioner finds that the applicant for or holder of the license:
- (1) Has violated any provision of this title or of any other law of this state relating to

- insurance as defined in this chapter or relating to another type of insurance;
- (2) Has intentionally misrepresented or concealed any material fact in the application for the license;
- (3) Has obtained or attempted to obtain the license by misrepresentation, concealment, or other fraud;
- (4) Has misappropriated, converted to his or her own use, or illegally withheld money belonging to an insurer or an insured or beneficiary;
- (5) Has committed fraudulent or dishonest practices;
- (6) Has materially misrepresented the terms and conditions of insurance policies or contracts;
- (7) Has failed to comply with or has violated any proper order, rule, or regulation issued by the Commissioner;
- (8) Is not in good faith carrying on business as an administrator; ~~or~~
- (9) Has failed to obtain for initial licensure or retain for annual renewal an adequate net worth as prescribed by order, rule, or regulation of the Commissioner; or
- (10) Has shown lack of trustworthiness or lack of competence to act as an administrator.
- (d) ~~Before any administrator's license shall be suspended or revoked or the renewal of the license refused as prescribed under this Code section, the Commissioner shall give notice of his intention to do so, by registered or certified mail or statutory overnight delivery to the applicant for or holder of the license; and the Commissioner shall set a date not less than 20 days from the date of mailing the notice when the applicant or licensee may appear to be heard and produce evidence. In the conduct of the hearing, the Commissioner or any deputy commissioner specially designated by him for that purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records, or papers relevant to the inquiry upon his own initiative or upon request of the applicant or licensee. Upon the conclusion of the hearing, findings shall be reduced to writing and, upon approval by the Commissioner, shall be filed in his office and notice of the findings sent by registered or certified mail or statutory overnight delivery to the applicant or licensee. If the Commissioner moves to suspend, revoke, or nonrenew a license for an administrator, the Commissioner shall provide notice of that action to the administrator and the administrator may invoke the right to an administrative hearing in accordance with Chapter 2 of this title.~~
- (e) No licensee whose license has been revoked as prescribed under this Code section shall be entitled to file another application for a license within ~~two~~ five years from the effective date of the revocation or, if judicial review of such revocation is sought, within ~~two~~ five years from the date of final court order or decree affirming the revocation. The application when filed may be refused by the Commissioner unless the applicant shows good cause why the revocation of ~~his~~ its license shall not be deemed a bar to the issuance of a new license.
- (f) ~~Any applicant whose application for an administrator's license has been rejected for any reason enumerated in paragraphs (1) through (9) of subsection (a) of this Code~~

~~section, upon request therefor in writing within ten days after notice of such rejection, shall be entitled to a hearing as provided for by this Code section; and the procedure set forth by this Code section shall apply to the same.~~

(g)(f) Appeal from any order or decision of the Commissioner made pursuant to this article shall be taken as provided in Chapter 2 of this title.

(g)(1) The Commissioner shall have the authority to issue a probationary license to any applicant under this chapter.

(2) A probationary license may be issued for a period of not less than three months and not longer than 12 months and shall be subject to immediate revocation for cause at any time without a hearing.

(3) The Commissioner, at his or her discretion, shall prescribe the terms of probation, may extend the probationary period, or refuse to grant a license at the end of any probationary period.

(h) The Commissioner may impose, by rule or regulation, additional reasonable qualifications necessary to obtain a license as an administrator.

(i) An administrator's license may not be sold or transferred to a nonaffiliated or otherwise unrelated party. An administrator may not contract or subcontract any of its negotiated services to any unlicensed business entity unless a special authorization is approved by the Commissioner prior to entering into a contracted or subcontracted arrangement.

(j) The Commissioner may, at his or her discretion, assess a penalty or a fine against any business entity acting as an administrator without a license for each transaction in violation of this chapter.

(k) A licensed administrator is not permitted to market or administer any insurance product not approved in Georgia or that is issued by a nonadmitted insurer or unauthorized multiple employer self-insured health plan.

## SECTION 7.

Said title is further amended by striking Code Section 33-23-102, relating to fidelity bond and surety of applicant, and inserting in lieu thereof a new Code Section 33-23-102 to read as follows:

. 33-23-102.

(a) Every applicant for an administrator's license shall file with the application and shall thereafter maintain in force ~~while so licensed a fidelity~~ bond in favor of the Commissioner executed by a corporate surety insurer authorized to transact insurance in this state. The terms and type of the bond, including, but not limited to, total aggregate liability on the bond shall be established by the rule or regulation of the Commissioner.

(b) The bond shall remain in force until the surety is released from liability by the Commissioner or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to cancellation, the surety may cancel the bond upon 30 days' advance notice, in writing, filed with the Commissioner.

(c) Every applicant for an administrator's license shall obtain and shall thereafter

maintain in force errors and omissions coverage or other appropriate liability insurance, written by an insurer authorized to transact insurance in this state, in an amount of at least \$100,000.00.

(d) The coverage required in subsection (c) of this Code section shall remain in force for a term of at least one year and shall contain language that includes that the insurer may cancel the insurance upon 60 days' advance notice filed with the Commissioner. Other terms and conditions relating to the errors and omissions policy may be imposed on the applicant as the Commissioner deems appropriate by rule or regulation.

(e) In the event a licensed administrator fails to renew, surrenders, or otherwise terminates its license, it must retain both the bond and the errors and omissions coverage for a period of not less than one year after the licensee has failed to renew, surrendered, or the license has been terminated.

#### SECTION 8.

Said title is further amended by striking Code Section 33-23-103, relating to examination of administrators by Commissioner, and inserting in lieu thereof a new Code Section 33-23-103 to read as follows:

. 33-23-103.

Administrators shall be subject to examination market conduct and financial examinations by the Commissioner in the same manner as insurance agents and adjusters in accordance with Chapter 2 of this title. Any cost involved with the examinations shall be borne by the administrator.

#### SECTION 9.

Said title is further amended by striking Code Section 33-36-2, relating to creation of Georgia Insurers Insolvency Pool, and inserting in lieu thereof a new Code Section 33-36-2 to read as follows:

. 33-36-2.

~~The purpose of this chapter is to provide a remedy for covered claims under property and casualty insurance policies when the insurer has become insolvent and is unable to perform its contractual obligations. To this end There~~ is created a Georgia Insurers Insolvency Pool which shall consist of three accounts: (1) workers' compensation account; (2) automobile account; and (3) all other covered insurance account. The pool shall be responsible for the investigation, adjustment, compromise, settlement, and payment of covered claims; for the investigation, handling, and denial of noncovered claims; and for the management and investment of funds administered by the pool. The members of the pool shall be responsible for the payment of assessments levied pursuant to subsection (b) of Code Section 33-36-7; for adherence to the rules of the plan approved pursuant to Code Section 33-36-6; and for other obligations imposed by this chapter. The pool shall come under the immediate supervision of the Commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

## SECTION 10.

Said title is further amended by striking Code Section 33-36-3, relating to definitions, and inserting in lieu thereof a new Code Section 33-36-3 to read as follows:

. 33-36-3.

As used in this chapter, the term:

- (1) 'Affiliate' or 'affiliates' means any enterprise related directly or indirectly to the insurance activities of the insurer a person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.
- (2) 'Affiliate of the insolvent insurer' means a person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next proceeding the date the insurer becomes an insolvent insurer.
- (3) 'Control' means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact and any person disputing his or her status as an affiliate of an insurer authorized to do business in Georgia or an insolvent insurer may file a disclaimer in accordance with subsection (j) of Code Section 33-13-4.

- (2)(4)(A) 'Covered claims claim' means a an unpaid claim which:

- (i) Arises out of a property or casualty insurance policy issued by an insurer which becomes an insolvent insurer which was authorized to do an insurance business in this state either at the time the policy was issued or when the insured event occurred; and
- (ii) Is within any of the classes of claims under subparagraph (B) of this paragraph.

(B) A claim shall not be paid unless it arises out of an insurable event under a property or casualty insurance policy and it is:

- (i) An unearned premium claim of a policyholder who at the time of the insolvency was a resident of this state;
- (ii) An unearned premium claim of a policyholder under a policy affording coverage for property permanently situated in this state;
- (iii) The claim of a policyholder or insured who at the time of the insured event was a resident of this state;
- (iv) The claim of a person having an insurable interest in or related to property which was permanently situated in this state; or
- (v) A claim under a liability or workers' compensation insurance policy when either the insured or third-party claimant was a resident of this state at the time of

the insured event.

(C) A covered claim shall not include any claim in an amount of less than ~~\$25.00 \$50.00~~; provided, however, that any claim of ~~\$25.00 \$50.00~~ or more shall be paid in full.

(D) A covered claim shall not include that portion of any first-party claim which is in excess of the applicable limits provided in the policy or ~~\$100,000.00 \$300,000.00~~, whichever is less.

(E) A covered claim shall not include that portion of any third-party claim, other than a workers' compensation claim, which is in excess of the applicable limits provided in the policy or ~~\$100,000.00 \$300,000.00~~, whichever is less.

(F) A covered claim shall not include any obligation to insurers, reinsurers, insurance pools, underwriting associations, ~~or any person which has a net worth greater than \$3 million at the time of the insured event~~ health maintenance organizations, hospital plan corporations, or professional health service corporations as subrogation recoveries, reinsurance recoveries, contribution, indemnification, or otherwise. No such claim for any amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, hospital plan corporation, or professional health service corporation may be asserted against a person insured under a policy issued by an insolvent insurer other than to the extent such claim exceeds the pool obligation limitations set forth in this Code section.

(G) A covered claim shall not include any first party claim by an insured whose net worth exceeds \$10 million on December 31 of the year next preceding the date the insurer becomes an insolvent insurer; provided, however, that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis; or any third party claim relating to a policy of an insured whose net worth exceeds \$25 million on December 31 of the year next preceding the date the insurer becomes an insolvent insurer; provided, however, that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis; and further provided that this exclusion shall not apply to third party claims against the insured where the insured has applied for or consented to the appointment of a receiver, trustee, or liquidator for all or a substantial part of its assets, filed a voluntary petition in bankruptcy, filed a petition or an answer seeking a reorganization or arrangement with creditors or to take advantage of any insolvency law or, if an order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the insured bankrupt or insolvent or approving a petition seeking reorganization of the insured or of all or substantial part of its assets.

(H) A covered claim shall not include any first party claims by an insured which is an affiliate of the insolvent insurer.

(G)(I) A covered claim shall not include any claim or judgment for punitive damages and attorney's fees associated therewith against any insolvent insurer, its insured, or the insurers insolvency pool.

(H)(J) A covered claim shall not include any workers' compensation benefits payable under subsection (e) or (f) of Code Section 34-9-221 or paragraph (2), (3), or (4) of subsection (b) of Code Section 34-9-108 after the effective date of the court order of rehabilitation or liquidation.

(H)(K) A covered claim shall include a claim for unearned premium only if such claim derives from the payment of a stated premium and shall not include those which derive from an unstated premium such as calculated from audit, dividend, deposit, or retrospect plans. ~~A covered claim shall not include a claim for unearned premium resulting from a policy which was not in force on the date of the final order of liquidation. Further, a covered claim shall not include:~~

(i) That portion of a claim for unearned premium which is in excess of \$10,000.00; or

(ii) A claim for unearned premium resulting from a policy which was not in force on the date of the final order of liquidation.

(L) A covered claim shall not include any fee or other amount relating to goods or services sought by or on behalf of any attorney or other provider of goods or services retained by the insolvent insurer or an insured prior to the date it was determined to be insolvent.

(M) A covered claim shall not include any fee or other amount sought by or on behalf of an attorney or other provider of goods or services retained by any insured or claimant in connection with the assertion or prosecution of any claim, covered or otherwise, against the pool. However, in such a case, the pool shall not offset amounts from any recovery paid to a claimant in such an action which the claimant has agreed are to be paid to the attorney in a contingency fee arrangement.

(N) A covered claim shall not include any claims for interest.

(3)(5) Insolvent insurer' means an insurer which was licensed to issue property or casualty insurance policies in this state at any time subsequent to July 1, 1970, and against whom a final order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction in the insurer's state of domicile or of this state and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.

(4)(6) 'Insolvency pool' or 'pool' means the Georgia Insurers Insolvency Pool established pursuant to Code Section 33-36-2.

(7) 'Insured' means any named insured, any additional insured, any vendor, lessor, or any other party identified as an insured under the policy as long as insurable interests remain relevant.

(5)(8) 'Insurer' or 'company' means any corporation or organization that has held or currently holds a license to engage in the writing of property or casualty insurance policies in this state since July 1, 1970, including the exchanging of reciprocal or interinsurance contracts among individuals, partnerships, and corporations, except farmer assessment mutual insurers, county assessment mutual insurers, and municipal assessment mutual insurers.

(6)(9) 'Net direct written premiums' means direct gross premiums written on property

or casualty insurance policies, less return premiums on the policies and dividends paid or credited to policyholders on such direct business. Premiums written by any authorized insurer on policies issued to self-insurers, whether or not designated as reinsurance contracts, shall be deemed net direct written premiums.

- (10) 'Person' means any individual or legal entity, including governmental entities.
- (7)(11) 'Property and casualty insurance policies' or 'policy' means any contract, including endorsements to such contract and without regard to the nature or form of the contract or endorsement, which provides coverages as enumerated in Code Sections 33-7-3 and 33-7-6, except:
- (A) Life insurance and annuities (being that class of insurance referred to in Code Section 33-7-4);
  - (B) Accident, health, and disability insurance except where written as part of an automobile insurance contract (being that class of insurance referred to in Code Section 33-7-2);
  - (C) Title insurance (being that class of insurance referred to in Code Section 33-7-8);
  - (D) Credit life insurance (being that class of insurance referred to in paragraph (2) of Code Section 33-31-1);
  - (E) Credit insurance, vendors' single interest insurance, or collateral protection insurance, or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction (being that class of insurance referred to in Code Section 33-7-3.1);
  - (F) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;
  - (G) Fidelity or surety bonds or any other bonding obligations;
  - (H) Insurance of warranties or service contracts including insurance that provides for the repair, replacement, or service of goods or property, or indemnification for repair, replacement, or service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits;
  - (I) Ocean marine insurance; or
  - (J) Any transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk; or
  - (K) Any insurance provided by or guaranteed by government.

#### SECTION 11.

Said title is further amended by striking Code Section 33-36-4, relating to the Insurers Solvency Board, and inserting in lieu thereof a new Code Section 33-36-4 to read as follows:

. 33-36-4.

- (a) There shall be a board of trustees of the Georgia Insurers Insolvency Pool which shall be known as the Insurers Solvency Board and which shall consist of seven members. At all times, the board shall contain at least one member from a domestic insurer. The members of the board shall not be considered employees of the department. ~~The remaining members of the board shall be appointed as follows:~~
- (1) ~~The Commissioner shall compile a list of the three stock insurers most likely to incur the largest assessment, per insurer, for each of the accounts prescribed in Code Section 33-36-7; and he shall also compile a list of the three nonstock insurers most likely to incur the largest assessment, per insurer, for each of the accounts prescribed in Code Section 33-36-7.~~ The Commissioner shall solicit from these 18 insurers the names of 18 individuals as nominees for members to the board. Persons who are nominated for the board shall reside in this state. The Commissioner shall certify the nominations in writing, separately for stock and nonstock insurers and separately for each account;
- (2) ~~From the nominations so certified for each account, the Commissioner shall appoint one stock member and one nonstock member to the board of directors until six directors are appointed. Then the Commissioner shall appoint the chairman of the board, who shall also be its chief executive officer; and~~
- (3) ~~In approving selections or in appointing members to the board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented. The members of the board shall be selected by the Commissioner. Each board member so selected shall represent a company licensed to do business in Georgia. Any member may be removed from office by the Commissioner when, in his or her judgment, the public interest may so require. Each member appointed shall serve for a term of three years and until his or her successor has been appointed and qualified and, in case of a vacancy for any reason in the office of any such member, the Commissioner shall appoint a member to fill the unexpired term of such vacant office.~~
- (b) ~~Any member may be removed from office by the Commissioner when, in his judgment, the public interest may so require. In approving selections to the board, the Commissioner shall consider among other things whether all member insurers are fairly represented.~~
- (c) ~~Each member appointed shall serve for a term of three years and until his successor has been appointed and qualified and, in case of a vacancy for any reason in the office of any such member, the Commissioner shall appoint a member to fill the unexpired term of the vacant office from the nominations provided for in paragraph (1) of subsection (a) of this Code section.~~
- (d) ~~The actual expenses of the members of the board incurred in attending meetings shall be paid out of the assets of the insolvency pool, but members of the board shall not otherwise be compensated by the association pool for their services. The board shall hold its regular meetings at such time and places as shall be fixed by the board. The board shall meet at any time on call of the Commissioner or the chairman of the board. The chairman of the board shall call a meeting, upon not less than two days' notice, upon the written request of any two members of the board. The board may by~~

~~resolution provide for a shorter notice of a meeting by telegraph, telephone, or otherwise. The board shall keep a record of all its proceedings and shall appoint a secretary and such other officers as it deems necessary, who need not be members of the board.~~ For the purpose of considering questions before it, the board shall have access to all the books, records, reports, and papers in the department, including all confidential communications; and the members of the board shall treat such communications as confidential.

- (e) ~~The board shall have power, by affirmative vote of four of its members, to recommend that the Commissioner examine, without previous advance notice, the assets, conditions, and affairs of any insurer when the board believes that the insurer's further transaction of business may be hazardous to its policyholders, to its creditors, or to the public. The expenses of such examination shall be borne by the insolvency pool. The examination may extend to general agencies, management entities, or affiliates of insurance companies with respect to matters affecting such companies. The report of examination shall be treated as confidential until a hearing shall have been held or waived pursuant to Code Section 33-2-14. A refusal by an insurance company, a general agent, a management entity, or an affiliate of an insurance company to submit its books, papers, accounts, records, or affairs to examination shall be reported to the Commissioner and shall constitute grounds for suspension, rehabilitation, liquidation, or conservation of the insurer within the purview of the applicable laws of this state for the license revocation of the agent, as the case may be.~~
- (f) ~~The board may also so examine the affairs of an insurer after formal adjudication of insolvency to assist in the conservation of assets; and, if it does so, the board shall furnish its report to the Commissioner and the insolvency pool.~~
- (g) ~~The board shall have power by an affirmative vote of four of its members to make recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of companies or persons engaged in the business of writing property or casualty insurance policies in this state.~~
- (h) ~~Reports and recommendations under this Code section shall not be considered public documents. There shall be no liability on the part of, and no cause of action shall arise against, member insurers, the pool or their agents or employees, the Governor, or the Commissioner or his authorized representatives for any statements made by them in any reports or recommendations made under this Code section.~~

#### SECTION 12.

Said title is further amended by striking Code Section 33-36-6, relating to plan to govern members, rules, assignment of claims or judgments against insolvent insurers, and claimants of assets of insolvent insurers, and inserting in lieu thereof a new Code Section 33-36-6 to read as follows:

##### . 33-36-6.

- (a) The Georgia Insurers Insolvency Pool is a nonprofit legal entity with the right to bring and defend actions and such right to bring and defend actions includes the power and right to intervene as a party before any court in this state that has jurisdiction over

an insolvent insurer as defined in this chapter. The pool shall adopt, and the Commissioner shall approve, a reasonable plan which is not inconsistent with this chapter and which is fair to insurers and equitable to their policyholders, pursuant to which all admitted insurers shall become members of the pool. All members of the pool shall adhere to the rules of the plan. The plan may be amended by an affirmative vote of a majority of the Insurers Solvency Board.

(b) If, for any reason, the pool fails to adopt a suitable plan within six months following July 1, 1970, or if at any time after July 1, 1970, the pool fails to adopt necessary amendments to the plan, the Commissioner shall adopt and promulgate, after a hearing, such reasonable rules as are necessary to effectuate this chapter. The rules shall continue in force until modified by the Commissioner or superseded by a plan of operation adopted by the pool and approved by the Commissioner.

(c) The plan as provided for in subsection (a) of this Code section shall:

- (1) Establish the procedures whereby all the powers and duties of the pool under this chapter will be performed;
- (2) Establish procedures for handling assets of the pool;
- (3) Mandate that procedures be established for the disposition of liquidating dividends or other moneys received from the estate of the insolvent insurer;
- (4) Mandate that procedures be established to designate the amount and method of reimbursing members of the board of trustees under Code Section 33-36-4;
- (5) Establish procedures by which claims may be filed with the pool and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the pool or its agent and a list of claims shall be periodically submitted to the pool or insolvency fund or its equivalent in another state by the receiver or liquidator;
- (6) Establish regular places and times for meetings of the board of trustees;
- (7) Mandate that procedures be established for records to be kept of all financial transactions of the pool, its agents, and the board of trustees;
- (8) Establish the procedures whereby selections for the board of trustees will be submitted to the Commissioner; and
- (9) Contain additional provisions necessary or proper for the execution of the powers and duties of the pool.

(d) In accordance with the plan, the pool may designate insurers to act on behalf of the pool to carry out the purposes of this chapter, but a member may decline such designation. The Commissioner may disapprove such designation. The plan may provide a procedure under which pending claims or judgments against the insolvent insurer or its insureds are assigned to the member companies designated to act for the pool. The assignee-insurer is authorized to appear and defend a claim in a court of competent jurisdiction or otherwise and to investigate, adjust, compromise, and settle a covered claim or to investigate, handle, and deny a noncovered claim, and to do so on behalf of and in the name of the pool. If an assignee-insurer pays the covered claim, it shall be reimbursed by the pool or be entitled to set off said payment against future assessments. The unreimbursed claim of such an insurer against the pool shall be an

admitted asset of the insurer. Insureds entitled to protection of this chapter shall cooperate with the pool and the assignee-insurer.

(d)(e) The pool as a legal entity and any of its individual members shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer and except as otherwise provided in this chapter. The pool shall be subrogated to the rights of any insured or claimant, to the extent of a covered claim, to participate in the distribution of assets of the insolvent insurer to the extent that the pool has made payment. Any claimant or insured entitled to the benefits of this chapter shall be deemed to have assigned to the pool, to the extent of any payment received, his or her rights against the estate of the insolvent insurer. The pool shall receive the benefit of any reinsurance contracts or treaties entered into by the insolvent insurer which cover any of the liabilities insured by the insolvent insurer with respect to covered claims. After determination of insolvency of any insurer, the pool shall be a party in interest in all proceedings involving policies insured or assumed by the pool with the same rights to receive notice and defend, appeal, and review as the insolvent insurer would have had if solvent. All moneys recovered under this Code section or any other Code section shall be added to the assessments collected under Code Section 33-36-7.

(f) Except for actions by member insurers aggrieved by final actions or decisions of the pool pursuant to Code Section 33-36-18, all actions relating to or arising out of this chapter against the pool must be brought in the courts in this state. Such courts shall have exclusive jurisdiction over all actions relating to or arising out of this chapter against the pool.

(g) Exclusive venue in any action by or against the pool is in the Superior Court of DeKalb County. The pool may, at the option of the pool, waive such venue as to specific actions.

#### SECTION 13.

Said title is further amended by striking subsection (b) of Code Section 33-36-7, relating to levy of assessments against insurers, and inserting in lieu thereof a new subsection (b) to read as follows:

. (b) To the extent necessary to secure the funds for the respective accounts of the pool for the payment of covered claims and also to pay the reasonable costs to administer the pool, the Commissioner, upon certification of the pool, shall levy assessments in the proportion that each insurer's net direct written premiums in this state in the classes protected by the account bear to the total of the net direct written premiums received in this state by all such insurers for the preceding calendar year for the kinds of insurance included within such account. Assessments shall be remitted to and administered by the pool in the manner specified by the approved plan. Each insurer so assessed shall have at least 30 days' written notice as to the date the assessment is due and payable. Every assessment shall be made as a uniform percentage applicable to the net direct written premiums of each insurer in the kinds of insurance included within the account in which the assessment is made. The assessments levied against any insurer shall not

exceed in any one year more than 2 percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account during the calendar year next preceding the date of such assessments. If sufficient funds from the assessments, together with funds previously raised, are not available in any one year in the respective account to make all the payments or reimbursements then owing to insurers designated to act for the pool, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. ~~Assessments shall be included as an appropriate factor in the making of rates.~~

#### SECTION 14.

Said title is further amended by inserting a new Code Section 33-36-7.1 to read as follows:

. 33-36-7.1.

- (a) The plan adopted pursuant to Code Section 33-36-6 shall contain provisions whereby each member insurer is required to recoup over the year following the year of the assessment a sum calculated to recoup the assessments paid by the member insurer under this chapter by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission.
- (b) The amount of any surcharge shall be separately stated on either a billing or policy declaration sent to an insured. Member insurers who collect surcharges in excess of assessments paid pursuant to Code Section 33-36-7 for an insolvent insurer shall remit the excess to the pool as an additional assessment within 30 days after the pool has determined the amount of the excess recoupment and given notice to the member of that amount. The excess shall be applied to reduce future assessment charges in the appropriate category.
- (c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this Code section shall relieve the member insurer of its obligation to recoup the amount of surcharge otherwise collectible.

#### SECTION 15.

Said title is further amended by striking Code Section 33-36-9, relating to coverage afforded by insolvent insurers to become obligation of pool, and inserting in lieu thereof a new Code Section 33-36-9 to read as follows:

. 33-36-9.

In the event an insurer is ~~determined to be insolvent ordered to be liquidated~~, the coverage afforded by property and casualty insurance policies issued by such insurer shall, with respect to covered claims, become the obligation of the pool for a period of 30 days from the date of such determination or until policy expiration date if less than said 30 days or until the policy has been replaced by the insurer within said 30 days. The pool shall be deemed to be the insurer ~~for such period with respect and to the extent of the claims with only to the extent of its obligation on the covered claims and~~

to such extent, subject to the limitations provided in this chapter, shall have all the rights, duties, and obligations of the insolvent insurer; and the as if the insurer had not become insolvent, including, but not limited to, the right to pursue and retain salvage and subrogation recoverable on paid covered claim obligations. The pool shall not be deemed the insolvent insurer for any purpose relating to the issue of whether the pool is amenable to the personal jurisdiction of the courts of any state. The pool is authorized to investigate, adjust, compromise, and settle covered claims or to investigate, handle, and deny noncovered claims. The pool shall have the authority, upon approval of the Commissioner, to borrow funds necessary to effect the purposes of this chapter. The pool shall have the authority to establish procedures for requesting financial information from insureds on a confidential basis for purposes of applying Code sections concerning their net worth, subject to such information being shared with any other association similar to the pool and the liquidator for the insolvent company on the same confidential basis. If the insured refuses to provide the requested financial information and an auditor's certification of the same where requested and available, the pool may deem the net worth of the insured, in the instance of a first party claim, to be in excess of \$10 million at the relevant time or, in the event of a third party claim, to be in excess of \$25 million at the relevant time. In any lawsuit contesting the applicability of subparagraph (G) of paragraph (4) of Code Section 33-36-3 or subsection (d) of Code Section 33-36-14 where the insured has declined to provide financial information under the procedure provided pursuant to this Code section, the insured shall bear the burden of proof concerning its net worth at the relevant time. If the insured fails to prove that its net worth at the relevant time was less than the applicable amount, the court shall award the pool its full costs, expenses, and reasonable attorney's fees in contesting the claim.

#### SECTION 16.

Said title is further amended by striking Code Section 33-36-11, relating to procedure for proof and allowance of covered claims, and inserting in lieu thereof a new Code Section 33-36-11 to read as follows:

##### . 33-36-11.

(a) Except for (1) voluntary settlements or compromises between a claimant and an assignee insurer on behalf of the pool or (2) a final judgment, other than a default judgment, against the insured or insurer in a court of competent jurisdiction rendered prior to the determination of insolvency of the insurer, the proof and allowance of a covered claim shall be governed by Code Sections 33-37-54 and 33-37-55; provided, however, in no case shall a covered claim include any claim filed with the pool, ancillary receiver, or liquidator after the final date set by a court for the filing of claims against the liquidator or ancillary receiver of an insolvent insurer Notwithstanding any other provisions of this chapter, a covered claim shall not include a claim filed with the pool after the earlier of (i) 18 months after the date of the order of liquidation, or (ii) the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer and shall not include any claim filed with the pool or a liquidator for

protection afforded under the insured's policy for incurred-but-not-reported losses.

- (b) The pool may not be found in default. No default judgments may be entered against the pool, the insolvent insurer, or the insured of the insolvent insurer after the instigation of an insolvency proceeding prior to a finding of insolvency an order of liquidation, nor during the pendency of insolvency proceedings, nor during a 120 day stay following a finding of insolvency an order of liquidation.
- (c) In no instance may a finding of default or the entry of a default judgment against an insurer be applicable or enforceable against the pool or the insured of the insolvent insurer.

#### SECTION 17.

Said title is further amended by striking Code Section 33-36-13, relating to allowance of claims by receivers, liquidators, or statutory successors, and inserting in lieu thereof a new Code Section 33-36-13 to read as follows:

. 33-36-13.

With respect to insolvent insurers incorporated in this state, the receiver, liquidator, or statutory successor shall allow as a proper claim on the assets of the insolvent insurer amounts paid under this chapter by or on behalf of the pool or paid by an insolvency fund or its equivalent in another state on or with respect to covered claims, notwithstanding provisions to the contrary in any statute of this state relating to the rights and duties of such receiver, liquidator, or statutory successor. As a condition of an insurer doing business in this state, all property and casualty insurance policies issued or renewed shall be deemed to provide that the insurer appoints the pool as its agent with respect to investigation, adjustment, compromise, and settlement of covered claims and to reimburse the pool for any payment made under the terms of this chapter, and that such appointment and obligation shall be binding on any receiver, liquidator, or statutory successor appointed to liquidate or wind up its affairs.

#### SECTION 18.

Said title is further amended by striking Code Section 33-36-14, relating to exhaustion of rights by claimants against insolvent insurers prior to recovery, and inserting in lieu thereof a new Code Section 33-36-14 to read as follows:

. 33-36-14.

- (a) Any person, including any individual, partnership, association, or corporation, having a claim against a policy or an insured under a policy issued by an insolvent insurer, which claim is a covered claim and is also a claim within the coverage of any policy issued by a solvent insurer, shall be required to exhaust first his rights under such policy issued by the solvent insurer. The policy of the solvent insurer shall be treated as primary coverage and the policy of the insolvent insurer shall be treated as secondary coverage and his or her rights to recover such claim under this chapter shall be reduced by any amounts received from the solvent insurers.
- (b) Any amount paid a claimant in excess of the amount authorized by this chapter may be recovered by an action brought by or on behalf of the pool.
- (c) To the extent that the pool's obligation is reduced by the application of this Code

section, the liability of the person insured by the insolvent insurer's policy for the claim shall be reduced in the same amount.

(d) The pool shall have the right to recover from the following persons all amounts paid by the pool on behalf of such person, whether for indemnity or defense or otherwise:

(1) Any insured whose net worth on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer exceeds \$25 million; provided that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis; and

(2) Any person who is an affiliate of the insolvent insurer.

#### SECTION 19.

Said title is further amended by adding a new Code Section 33-36-14.1 to read as follows:

. 33-36-14.1.

(a) To aid in the detection and prevention of insurer insolvencies:

(1) The board of trustees may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer insolvencies;

(2) The board of trustees may, upon majority vote, make recommendations to the Commissioner on matters generally related to improving or enhancing regulation for solvency; and

(3) The board of trustees may, at the conclusion of any domestic insurer insolvency in which the pool was obligated to pay covered claims, prepare a report on the history and causes of such insolvency based on the information available to the pool and submit such report to the Commissioner.

(b) Reports and recommendations made pursuant to this Code section shall not be considered public documents.

#### SECTION 20.

Said title is further amended by striking Code Section 33-36-15, relating to examination of pool, and inserting in lieu thereof a new Code Section 33-36-15 to read as follows:

. 33-36-15.

The pool shall be deemed a company or insurer within the scope of Code Section 33-2-11 relating to examinations. Notwithstanding the provisions of Code Section 33-2-11 or this Code section, whether such examinations shall be conducted and the frequency of any such examinations shall be at the sole discretion of the Commissioner.

#### SECTION 21.

Said title is further amended by adding a new Code Section 33-36-16.1 to read as follows:

. 33-36-16.1.

There shall be no liability on the part of, and no cause of action of any nature shall arise against any member insurer, the pool or its agents or employees, the board of trustees,

or any person serving as a representative of any member of the board of trustees for any action taken or any failure to act by them in the performance of their powers and duties under this chapter.

#### SECTION 22.

The provisions of Sections 9 through 21 shall apply to insolvencies which occur on or after the effective date of this Act.

#### SECTION 23.

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

Senator Shafer of the 48th offered the following amendment #1:

Amend the committee substitute to HB 407 by striking the numerals "10,000" from line 21 of page 13 and inserting the numerals "20,000" in their place.

On the adoption of the amendment, the yeas were 32, nays 0, and the Shafer amendment #1 was adopted.

Senators Hudgens of the 47th and Shafer of the 48th offered the following amendment #2:

Amend the Senate Insurance and Labor Committee substitute to HB 407 by inserting after "violations;" on line 3 on page 1 "to permit insurers to provide food or refreshments under certain circumstances to current or prospective clients during sales presentations and seminars provided that no insurance or annuity applications or contracts are offered or accepted at such presentations or seminars;".

By inserting after line 11 on page 2 the following:

#### SECTION 2.

Said title is further amended by striking subparagraph (b)(8)(C) of Code Section 33-6-4, relating to unfair methods of competition and unfair or deceptive acts or practices, and inserting in lieu thereof a new subparagraph (b)(8)(C) to read as follows:

'(C) Nothing in subparagraphs (A) and (B) of this paragraph shall be construed as including within the definition of discrimination or rebates any of the following practices:

- (i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;
- (ii) In the case of life or accident and sickness insurance policies issued on the industrial debit or weekly premium plan, making allowance in an amount which

fairly represents the saving in collection expense to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer;

(iii) Making a readjustment of the rate of premium for a policy based on the loss or expense experienced at the end of the first or any subsequent policy year of insurance thereunder, which adjustment may be made retroactive only for the policy year;

(iv) Issuing life or accident and sickness insurance policies covering bona fide employees of the insurer at a rate less than the rate charged other persons in the same class;

(v) Issuing life or accident and sickness policies on a salary-saving, payroll deduction, preauthorized, postdated, automatic check, or draft plan at a reduced rate commensurate with the savings made by the use of such plan;

(vi) Paying commissions or other compensation to duly licensed agents or brokers or allowing or returning dividends, savings, or unabsorbed premium deposits to participating policyholders, members, or subscribers;

(vii) Paying by an insurance agent of part or all of the commissions on public insurance to a nonprofit association of insurance agents which is affiliated with a recognized state or national insurance agents' association, which commissions are to be used in whole or in part for one or more civic enterprises; or

(viii) Paying for food or refreshments by an insurer or an agent, broker, or employee of an insurer for current or prospective clients during sales presentations and seminars provided that no insurance or annuity applications or contracts are offered or accepted at such presentations or seminars.'

### SECTION 3.

Said title is further amended by adding a new subsection (e) to Code Section 33-9-36, relating to unauthorized premiums and unauthorized inducements, to read as follows:

'(e) Nothing in this Code section shall be construed as prohibiting the payment for food or refreshments by an insurer or an agent, broker, or employee of an insurer for current or prospective clients during sales presentations and seminars provided that no insurance or annuity applications or contracts are offered or accepted at such presentations or seminars.'

By redesignating Sections 2 through 23 as Sections 4 through 25, respectively.

By striking "Sections 9 through 21" on page 24 and inserting in lieu thereof "Sections 11 through 23".

On the adoption of the amendment, the yeas were 33, nays 0, and the Hudgens, Shafer amendment # 2 was adopted.

On the adoption of the substitute, the yeas were 33, nays 0, 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	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 407, having received the requisite constitutional majority, was passed by substitute.

Senator Brown of the 26th asked unanimous consent that Senator Thomas of the 2nd be excused. The consent was granted, and Senator Thomas was excused.

Senator Whitehead of the 24th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

HB 455. By Representatives Murphy of the 23rd, Rice of the 51st, Parham of the 141st, Powell of the 29th and Dollar of the 45th:

A BILL to be entitled an Act to amend provisions of the O.C.G.A., relating to new and used motor vehicle dealers; to amend Chapter 2 of Title 40 of the

O.C.G.A., relating to registration and licensing of motor vehicles, so as to provide for use of the vehicle identification number on temporary license plates; to provide that all temporary plates shall be required to have a holographic security image and a write resistant overlay; to require all sellers and distributors of holographic strips to register with the department; to provide for dealer's plates; to provide for the replacement of lost or stolen plates; to delete references to temporary sites for selling motor vehicles; to provide for civil, administrative, and criminal penalties; to amend Chapter 47 of Title 43 of the O.C.G.A., relating to used motor vehicle and used motor vehicle parts dealers; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Tolleson of the 20th.

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	E Hill,Jack	E Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 43, nays 0.

HB 455, having received the requisite constitutional majority, was passed.

HB 364. By Representatives Williams of the 4th, Royal of the 171st, Scott of the 2nd, Forster of the 3rd, Loudermilk of the 14th and others:

A BILL to be entitled an Act to amend Code Section 40-3-20 of the Official Code of Georgia Annotated, relating to applications for certificates of title for motor vehicles, so as to require proof of the payment of the sales and use tax as a precondition to titling certain motor vehicles; to provide for the collection of the tax; to provide for compensation for tag agents; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Mullis of the 53rd.

The Senate Public Safety and Homeland Security Committee offered the following substitute to HB 364:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 40-3-20 of the Official Code of Georgia Annotated, relating to applications for certificates of title for motor vehicles, so as to require proof of the payment of sales and use tax as a precondition to titling certain motor vehicles; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 40-3-20 of the Official Code of Georgia Annotated, relating to applications for certificates of title for motor vehicles, is amended by adding at the end thereof a new subsection (d) to read as follows:

. (d) No application for a certificate of title for a vehicle purchased outside the State of Georgia shall be accepted or processed unless the applicant shows, by a valid bill of sale or contract of purchase or by such other documentation satisfactory to the commissioner, that state and local sales and use tax has been paid or is not due. If state and local sales and use tax is owed on such vehicle but has not been paid, the local tag agent shall return the unprocessed application to the applicant informing him or her of the requirements of this Code section.

**SECTION 2.**

This Act shall become effective on January 1, 2006.

**SECTION 3.**

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

On the adoption of the substitute, the yeas were 40, nays 0, 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	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Y Harp	E Seabaugh	E Williams
Y Heath	Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 0.

HB 364, having received the requisite constitutional majority, was passed by substitute.

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

Mr. President:

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

- SB 6. By Senators Stoner of the 6th, Rogers of the 21st, Hill of the 32nd, Thompson of the 33rd, Hamrick of the 30th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, so as to authorize the exchange of national criminal history background checks on providers of care to children, the elderly, and persons with disabilities, including, but not limited to, volunteers with youth sports organizations and other youth activities; to define terms; to provide for conformity with federal law; to provide for rules and regulations; to provide for fees; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

- SB 93. By Senators Harp of the 29th, Tolleson of the 20th, Hamrick of the 30th, Heath of the 31st, Goggans of the 7th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles generally, so as to prohibit the use of plastic or other types of material covering license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

- SB 168. By Senators Rogers of the 21st, Johnson of the 1st, Stephens of the 27th, Seabaugh of the 28th, Pearson of the 51st and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for special license plates bearing the National Association for Stock Car Auto Racing (NASCAR) logo and promoting specific drivers or general motorsports; to support the Governor's Highway Safety Program; to provide for issuance, renewal, fees, licensing agreements, applications, transfers, and disposition of funds relative to such license plates; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

- SB 190. By Senators Tolleson of the 20th, Bulloch of the 11th, Johnson of the 1st and Pearson of the 51st:

A BILL to be entitled an Act to amend Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to the Environmental Protection Division, the Environmental Advisory Council, duties of the council, its

members, and the director of the division, procedure for aggrieved persons, and inspections, so as to provide that the filing of a petition in certain instances shall not result in a stay of a decision; to amend Code Section 50-13-19 of the Official Code of Georgia Annotated, relating to judicial review of contested cases, so as to provide that the filing of a petition in certain instances shall not result in a stay of a decision except under certain conditions; to repeal conflicting laws; and for other purposes.

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 284. By Senators Seabaugh of the 28th and Balfour of the 9th:

A BILL to be entitled an Act to amend Chapter 18 of Title 45, relating to employees' insurance and benefits plans, so as to create a trust fund to provide for retiree post-employment health care benefits; to provide for definitions; to provide for the powers and duties of the board and commissioner of community health; to provide for actuarial services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 291. By Senator Heath of the 31st:

A BILL to be entitled an Act to amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions relative to ad valorem taxation of property, so as to change certain provisions relating to returns of real property and tangible personal property located on airports; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

The Calendar was resumed.

HR 108. By Representatives Benfield of the 85th, Watson of the 91st, Talton of the 145th, Crawford of the 127th, Henson of the 87th and others:

A RESOLUTION compensating Mr. Clarence Harrison; and for other purposes.

Senate Sponsor: Senator Tate of the 38th.

The Senate Appropriations Committee offered the following substitute to HR 108:

A RESOLUTION

Compensating Mr. Clarence Harrison; and for other purposes.

WHEREAS, in the early morning hours of October 25, 1986, a woman was attacked as she walked to a bus stop in downtown Decatur, Georgia. The woman was grabbed from behind, struck on the head, and dragged to an unknown location where she was sexually assaulted. The woman was subsequently dragged to two other unknown locations and again sexually assaulted and her wrist watch was stolen; and

WHEREAS, physical evidence was collected from the victim, including the clothing that she was wearing and other evidence that was capable of showing DNA; and

WHEREAS, in June of 1987, Mr. Harrison was tried for rape, kidnapping, and robbery in DeKalb County, Georgia. Mr. Harrison maintained his innocence from his arrest on November 5, 1986, and throughout his trial, but the victim identified Mr. Harrison from a photographic line-up and a witness who lived in the neighborhood where the attack occurred identified Mr. Harrison as a man who had come to her door on the evening of the attack and circumstances suggested to her that he was the assailant; and

WHEREAS, Mr. Harrison was convicted and on June 26, 1987, he was sentenced to life in prison for rape and 20 years each for kidnapping and robbery to run consecutive to the life sentence; and

WHEREAS, in September 1998, Mr. Harrison sought DNA testing but the laboratory conducting the analysis was unable to produce results due to previous testing of the evidence; and

WHEREAS, despite being told that all of the evidence in his case had been destroyed, Mr. Harrison continued to try to prove his innocence. In 2004, with the consent of the DeKalb County District Attorney and Mr. Harrison's attorney, further DNA testing, which was not available in 1987, was performed, and the test concluded with 100 percent certainty that Mr. Harrison's DNA did not match the DNA from the semen obtained from

the victim's rape kit and therefore he was not the perpetrator of the crimes for which he had been tried and convicted; and

WHEREAS, based on this new evidence, the 1986 indictment against Mr. Harrison was nol prosed on August 31, 2004; and

WHEREAS, Mr. Harrison was immediately released from custody after serving 17 years, nine months, and 26 days in prison; and

WHEREAS, during his imprisonment, Mr. Harrison was divorced by his wife and virtually prevented from seeing his two children throughout his incarceration; he missed the birth of his first grandchild; his mother and one sister died; and he suffered from medical conditions including a worsened back problem that causes him now to have to walk with a cane, migraine headaches for three years for which he received no treatment, and due to a delayed diagnosis of kidney cancer, he had to have a kidney removed; and

WHEREAS, Mr. Harrison has suffered loss of liberty, personal injury, lost wages, injury to reputation, emotional distress, and other damages as a result of his nearly 18 years of incarceration and expenses in trying to prove his innocence; and

WHEREAS, the conviction, incarceration, and subsequent loss of liberty and other damages occurred through no fault or negligence on the part of Mr. Harrison, and it is only fitting and proper that he be compensated for his loss.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Department of Corrections is authorized and directed to pay the sum of \$1 million to Mr. Clarence Harrison as compensation as provided above. Said sum shall be paid from funds appropriated to or available to the Department of Corrections and shall be in full and complete satisfaction of all claims against the state arising out of said occurrence. Said sum shall be paid in the form of an annuity over a 20 year period of time with an initial lump sum payment of \$100,000.00.

On the adoption of the substitute, the yeas were 44, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman  
Y Balfour

Y Hill,Jack  
Y Hill,Judson

Y Smith  
E Starr

Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 48, nays 0.

HR 108, having received the requisite constitutional majority, was adopted by substitute.

The following communication was received by the Secretary:

Senator Kasim Reed  
 District 35  
 322 Legislative Office Building  
 Atlanta, GA 30334

**Committees:**  
 Judiciary  
 Higher Education  
 State and Local Governmental Operations  
 Retirement

The State Senate  
 Atlanta, Georgia 30334

To the Secretary of the Senate:

I write to request that the record show a yes vote in favor of HR 108. My voting button malfunctioned.

Sincerely,

/s/ Kasim Reed

HB 608. By Representatives Reece of the 27th and Cooper of the 41st:

A BILL to be entitled an Act to amend Code Section 43-34-27 of the Official Code of Georgia Annotated, relating to license requirements for persons engaged in the practice of medicine, so as to change certain provisions relating to licensure to practice medicine by a person who graduated from a medical or osteopathic college which is not approved by the Composite State Board of Medical Examiners; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Smith of the 52nd.

The Senate Health and Human Services Committee offered the following substitute to HB 608:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 43-34-27 of the Official Code of Georgia Annotated, relating to license requirements for persons engaged in the practice of medicine, so as to change certain provisions relating to licensure to practice medicine by a person who graduated from a medical or osteopathic college which is not approved by the Composite State Board of Medical Examiners; to amend Article 8 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to orthotics and prosthetics practice, as such article was enacted by an Act approved May 16, 2002 (Ga. L. 2002, p. 1273), which Act becomes effective July 1 of the fiscal year following the year in which a specific appropriation of funds is made for purposes of implementing such article, so as to change certain provisions relating to construction of the article; to change certain provisions relating to supervision of assistants and technicians; to provide for effective dates; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 43-34-27 of the Official Code of Georgia Annotated, relating to license requirements for persons engaged in the practice of medicine, is amended by striking paragraph (2) of subsection (a) and inserting in its place the following:

. (2) Graduates of board approved medical or osteopathic colleges and persons who are graduated on or before July 1, 1985, from medical or osteopathic colleges which are not approved by the board must complete one year of a board approved internship or residency training program to be eligible to stand any regular examination given by the board for a license to practice medicine in this state. Persons who are graduated after July 1, 1985, from medical or osteopathic colleges which are not approved by the board must complete three years of internship, residency, fellowship, or other postgraduate

medical training that is approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA), or the board to be eligible a board approved internship or residency training program to be eligible to stand any regular examination given by the board for a license to practice medicine in this state. Current certification of any applicant by a member board of the American Board of Medical Specialties may be considered by the board as evidence that such applicant's postgraduate medical training has satisfied the requirements of this paragraph. However, before any such person shall be eligible to receive a license to practice medicine in this state, he or she shall furnish the board with satisfactory evidence of attainments and qualifications under this Code section and the rules and regulations of the board. Nothing contained in this Code section shall be construed so as to require a person who has previously passed an examination given by the board for a license to practice medicine in this state to stand another examination.

## SECTION 2.

Article 8 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to orthotics and prosthetics practice, as such article was enacted by an Act approved May 16, 2002 (Ga. L. 2002, p. 1273), which Act becomes effective July 1 of the fiscal year following the year in which a specific appropriation of funds is made for purposes of implementing such article, is amended in Code Section 43-34-193, relating to construction of the article, by striking paragraphs (11) and (12) and inserting in their respective places the following:

- . (11) The measuring, molding, or fitting of knee braces by any person; ~~or~~
- (12) Employees or authorized representatives of an orthotic manufacturer from engaging in one or more of the following: evaluating, adjusting, measuring, designing, fabricating, assembling, fitting, servicing, training, repairing, replacing, or delivering an orthotic device under the order, direction, or prescription of a physician or health provider operating within his or her licensed scope of practice and meeting the criteria of the Part II Policy and Procedures for Orthotics and Prosthetics Services pursuant to Title XIX of the federal Social Security Act, as amended; or
- (13) A board certified pedorthist from manufacturing, fabricating, dispensing, or any combination thereof custom foot orthotics or foot or ankle gauntlets.

## SECTION 3.

Said article, as such article was enacted by an Act approved May 16, 2002 (Ga. L. 2002, p. 1273), which Act becomes effective July 1 of the fiscal year following the year in which a specific appropriation of funds is made for purposes of implementing such article, is further amended in Code Section 43-34-197, relating to supervision of assistants and technicians, by striking subsection (b) and inserting in its place the following:

- . (b) No person shall work as a technician unless the work is performed under the supervision direction of a person licensed under this article, which shall not require direct supervision.

#### SECTION 4.

- (a)(1) For purposes of promulgating rules and regulations, Sections 2 and 3 of this Act shall become effective on July 1 of the fiscal year in which this Act becomes effective as provided by paragraph (3) of this subsection.
- (2) For all other purposes, Sections 2 and 3 of this Act shall become effective July 1 of the fiscal year following the year in which this Act becomes effective as provided by paragraph (3) of this subsection.
- (3) Sections 2 and 3 of this Act shall become effective only upon the specific appropriation of funds for purposes of said sections of this Act, including without limitation those positions necessary for implementation, as expressed in an appropriations Act enacted by the General Assembly.
- (b) All sections of this Act other than Sections 2 and 3 shall become effective July 1, 2005.

#### SECTION 5.

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

Senators Staton of the 18th and Thomas of the 54th offered the following amendment #1:

Amend the Senate Health and Human Services Committee substitute to HB 608 by inserting after "Medical Examiners;" on line 5 on page 1 "to amend Code Section 43-34-47 of the Official Code of Georgia Annotated, relating to temporary postgraduate training permits, so as to provide for a temporary training permit for certain individuals who engaged in certain subspecialty training;".

By inserting after line 10 on page 2 the following:

#### SECTION 2.

Code Section 43-34-47 of the Official Code of Georgia Annotated, relating to temporary postgraduate training permits, is amended by striking subparagraph (b)(1)(A) and inserting in lieu thereof a new subparagraph (b)(1)(A) to read as follows:

- '(A) Evidence satisfactory to the board that the applicant has been accepted or appointed to participate at a training institution in this state in one of the following:
- (i) An internship or residency program accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; ~~or~~
  - (ii) A clinical fellowship program at an institution with a residency program accredited either by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association that is in a clinical field the same as or related to the clinical field of the fellowship program; or
  - (iii) Additional subspecialty training outside an accredited residency or fellowship, provided that such training is sponsored under the auspices of an institution's graduate medical education committee by an institution that has one

or more approved residency or fellowship programs.'

By redesignating Sections 2, 3, 4, and 5 as Sections 3, 4, 5, and 6, respectively.

By striking "Sections 2 and 3" on line 5 on page 3, on line 8 on page 3, on line 11 on page 3, and on line 15 on page 3 and inserting in lieu thereof "Sections 3 and 4".

Senator Staton of the 18th asked unanimous consent that his amendment #1 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Harp of the 29th offered the following amendment #2:

Amend the Senate Health and Human Services Committee substitute to HB 608 by inserting on line 11 of page 1, following the word and symbol "technicians;", the following:

. to amend Code Section 43-34-35 of the Official Code of Georgia Annotated, relating to the issuance of a license upon presentation of evidence of required qualifications, so as to amend the standards for the licensing of physician\$;

By adding immediately following line 4 of page 3 the following:

. Code Section 43-34-35 of the Official Code of Georgia Annotated, relating to the issuance of a license upon presentation of evidence of required qualifications, is amended by inserting at the end thereof the following:

'(d) Under no circumstances shall the board issue a license to practice medicine or renew a license to practice medicine to any physician who has had three or more disciplinary actions of any kind taken against such physician or has paid three or more malpractice judgments.'

#### SECTION 5.

By redesignating Section 5 as Section 6.

Senator Harp of the 29th asked unanimous consent that his amendment #2 be withdrawn. The consent was granted, and the amendment was withdrawn.

On the adoption of the substitute, the yeas were 45, nays 0, 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 Balfour

Y Hill,Jack  
Y Hill,Judson

Y Smith  
E Starr

Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

HB 608, having received the requisite constitutional majority, was passed by substitute.

HB 186. By Representatives Mitchell of the 88th, Mosley of the 178th, Floyd of the 99th, Meadows of the 5th and Henson of the 87th:

A BILL to be entitled an Act to amend Code Section 36-87-2 of the Official Code of Georgia Annotated, relating to the authority of counties and municipal corporations to participate in federal programs, so as to expand the purposes for which federal funds may be used by a county or municipal corporation; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Wiles of the 37th.

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 186:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 36-87-2 of the Official Code of Georgia Annotated, relating to the authority of counties and municipal corporations to participate in federal programs, so as to expand the purposes for which federal funds may be used by a county or municipal corporation; to repeal conflicting laws; and for other purposes.

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

Code Section 36-87-2 of the Official Code of Georgia Annotated, relating to the authority of counties and municipal corporations to participate in federal programs, is amended by striking subsection (a) and inserting in lieu thereof a new subsection (a) to read as follows:

. (a) Each county and municipal corporation of the State of Georgia is authorized to participate in federal programs which provide federal grants and federal loans for such purposes including but not limited to housing, transportation, and water and wastewater treatment and distribution purposes. Supplementary to any existing authority granted by law, counties and municipal corporations shall be authorized to exercise the following powers:

- (1) To expend revenues, but shall not impose any new form of taxation; and
- (2) To contract:
  - (A) With the United States, its departments and agencies;
  - (B) With the State of Georgia, its departments, agencies, and authorities;
  - (C) With regional development centers, political subdivisions of the state, and public authorities of such subdivisions; and
  - (D) With private nonprofit entities organized for the purpose of providing services to persons of low and moderate income when such entities are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 when the exercise of such powers is necessary to comply with the conditions established by federal law and federal regulations for eligibility for participation in such federal programs.

## SECTION 2.

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

On the adoption of the substitute, the yeas were 42, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate

Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 186, having received the requisite constitutional majority, was passed by substitute.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 282. By Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Davis of the 109th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 48 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 282 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 282 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Cagle of the 49th  
/s/ Senator Harp of the 29th  
/s/ Senator Wiles of the 37th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Roberts of the 154th  
/s/ Representative Golick of the 34th  
/s/ Representative O`Neal of the 146th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 282

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to amend Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, so as to authorize taxpayers to make certain contributions through the income tax payment and refund process; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes is amended by adding a new paragraph (14) in subsection (b) of Code Section 48-7-21, relating to taxation of corporations, to read as follows:

. (14) There shall be subtracted from taxable income the deduction provided and allowed by Section 179 of the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been included in the corporation's taxable income, as defined under the Internal Revenue Code of 1986.

SECTION 2.

Said article is further amended in Code Section 48-7-27, relating to computation of taxable net income, by adding a new paragraph at the end of subsection (a), to be designated paragraph (14), to read as follows:

. (14) The deduction provided and allowed by Section 179 of the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been included in itemized nonbusiness deductions.

### SECTION 3.

Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, is amended by adding at its end a new Code Section 48-7-62 to read as follows:

. 48-7-62.

(a) Each Georgia income tax return form for taxable years beginning on or after January 1, 2005, shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to the Georgia National Guard Foundation by either donating all or any part of any tax refund due, by authorizing a reduction in the refund check otherwise payable, or by contributing any amount over and above any amount of tax owed by adding that amount to the taxpayer's payment. The instructions accompanying the income tax return form shall contain a description of the purposes for which this fund was established and the intended use of moneys received from the contributions. Each taxpayer required to file a state income tax return who desires to contribute to the foundation may designate such contribution as provided in this Code section on the appropriate income tax return form.

(b) The Department of Revenue shall determine annually the total amount so contributed and shall transmit such amount to the Georgia National Guard Foundation. The Georgia National Guard Foundation is the nonprofit 501(c)(3) corporation whose purpose is to provide support to members of the Georgia Department of Defense.

### SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2005.

### SECTION 5.

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

Senator Cagle of the 49th moved that the Senate adopt the Conference Committee Report on HB 282.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R

E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 49, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 282.

Senator Kemp of the 46th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 487. By Representatives Roberts of the 154th, McCall of the 30th, Floyd of the 147th, Royal of the 171st, Ray of the 136th 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 change the exemption regarding electricity sales for irrigation of farm crops; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 487 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 487 be adopted.

Respectfully submitted,

FOR THE HOUSE  
OF REPRESENTATIVES:  
FOR THE SENATE:

/s/ Senator Bulloch of the 11th  
/s/ Senator Williams of the 19th  
/s/ Senator Hudgens of the 47th

/s/ Representative Roberts of the 154th  
/s/ Representative O'Neal of the 146th  
/s/ Representative Maddox of the 172nd

## COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 487

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 clarify the sales and use tax exemption for a qualified child-caring institution, child-placing agency, or maternity home; to change the exemption regarding electricity sales for irrigation of certain crops; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use tax, is amended by striking paragraph (41) of said Code section and inserting in its place a new paragraph (41) to read as follows:

- . (41)(A) Sales of tangible personal property and services to ~~or by~~ a child-caring institution as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home as defined in paragraph (14) of Code Section 49-5-3, as amended, when such institution, agency, or home is engaged primarily in providing child services and is a nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter from the commissioner; and  
(B) Sales by an institution, agency, or home as described in subparagraph (A) of this paragraph when:  
(i) The sale results from a specific charitable fund-raising activity;  
(ii) The number of days upon which the fund-raising activity occurs does not exceed 30 in any calendar year;  
(iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and  
(iv) The gross sales or net profits from the sales are used purely for charitable purposes in providing child services.

## SECTION 2.

Said Code section is further amended by striking paragraph (64) and inserting in its place a new paragraph (64) to read as follows:

- . (64) The sale of electricity ~~or other fuel~~ for the operation of an irrigation system which is used on a farm exclusively for the irrigation of ~~farm~~ crops;.

## SECTION 3.

This Act shall become effective on July 1, 2005.

## SECTION 4.

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

Senator Bulloch of the 11th moved that the Senate adopt the Conference Committee Report on HB 487.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 46, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 487.

Senator Golden of the 8th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson of the 33rd was excused.

The Calendar was resumed.

HR 269. By Representatives Graves of the 12th and Ralston of the 7th:

A RESOLUTION designating the intersection of State Highway 515 and State Highway 53 as "Disabled American Veterans Intersection"; and for other purposes.

Senate Sponsor: Senator Williams of the 19th.

The Senate Transportation Committee offered the following substitute to HR 269:

**A RESOLUTION**

Honoring the life of Charles Bradley Mullis and dedicating the Charles Bradley Mullis Memorial Bridge; dedicating the intersection of State Highway 515 and State Highway 53 as "Disabled American Veterans Intersection"; dedicating the Frank G. Harris Memorial Highway; honoring the memory of Reverend H. F. (Parson) Joyner and dedicating the North Bridge at East 2nd Avenue in Rome, Georgia, as the Parson H. F. Joyner Memorial Bridge; honoring the memory of Bradford Lee "Chip" Riddle, Jr., and dedicating the South Bridge at East 2nd Avenue in Rome, Georgia, as the Chip Riddle Memorial Bridge; dedicating a portion of US Highway 341 within the corporate limits of the City of McRae as Martin Luther King, Jr., Blvd.; dedicating a portion of US Highway 441 within the corporate limits of the City of McRae in honor of Mayor Johnny Bradfield; commanding Roger Caudell and dedicating the "Roger Caudell Highway"; remembering the life of George Edward Bentley and honoring his memory by dedicating that portion of the GA 120 Loop in Marietta, Georgia, from the end of the Martin Luther King, Jr., designation to that portion crossing Black Jack Mountain Stables as the George Bentley Memorial Highway; commanding James D. (Jim) McGee; dedicating the James D. (Jim) McGee Memorial Highway; and for other purposes.

**PART I**

WHEREAS, Charles Bradley Mullis was born December 18, 1963, in Homerville, Georgia, and was the beloved son of June and Jimmy Mullis; and

WHEREAS, after several short stays in other places, in 1966 his family moved back to his childhood hometown of Axson, Georgia; and

WHEREAS, Brad attended Pearson Elementary School, Atkinson County Junior High, and Atkinson County High School, and while in high school he played football, basketball, and track; and

WHEREAS, he was awarded the Academic Athlete award and the Coach's Award while in high school; and

WHEREAS, he furthered his education at the United States Air Force Academy Prep School, and Valdosta State, before graduating from Georgia Tech with a degree in management with accounting concentration; and

WHEREAS, Brad went on to become a certified public accountant; and

WHEREAS, in his professional career he started as a senior auditor at Ernst & Young and ended up as a controller for Thompson, Ventulett, Stainback and Associates; and

WHEREAS, he was a member of the DeKalb County Georgia Tech Club, the American Institute of Certified Public Accountants, the Georgia Society of Certified Public Accountants, and the Dunwoody United Methodist Church; and

WHEREAS, in his time off, Brad enjoyed fishing; he could spend hours enjoying the beauty of nature and would not be angry if he did not catch any fish because he enjoyed the experience; and

WHEREAS, he was a kind, loving man with many friends and he touched many lives, and his ability to get along with anyone while encouraging them to do their best were the benchmarks of his success.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the bridge on US 82/SR 520 between Axson, Georgia, and the Atkinson County line is dedicated as the Charles Bradley Mullis Memorial Bridge.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs designating said bridge.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the parents of Charles Bradley Mullis and the Department of Transportation.

## PART II

WHEREAS, all Americans enjoy the benefits of living in a free country; and

WHEREAS, this freedom does not come without a price; and

WHEREAS, many men and women in the history of our nation have risen to the call and performed their duty to defend this country and our freedoms in times of conflict; and

WHEREAS, many of these gallant men and women have paid a high personal price in the defense of liberty with the loss of their sight, hearing, and mobility and with other disabilities; and

WHEREAS, proper recognition of the service and sacrifice of these brave men and women is most appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body honor disabled American veterans, both living and deceased, and dedicate the intersection of State Highway 515 and State Highway 53 in Pickens County as "Disabled American Veterans Intersection."

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs so designating the intersection.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the Pickens Chapter #47 of the Disabled American Veterans and the Department of Transportation.

### PART III

WHEREAS, the substantial contributions of Mr. Frank G. Harris to the community and to the state significantly improved the quality of life for his fellow citizens; and

WHEREAS, he was born in Gilmer County, Georgia, on September 17, 1911, and married Julia Frances Morrow in 1933; and

WHEREAS, a deeply religious person, he was a member of the Faith United Methodist Church for over 65 years, serving as the Chairman of the Building Committee during the construction of the former church building and parsonage, as a certified lay speaker in the North Georgia Conference, and for four years on the Evangelism Board of the North Georgia Conference; and

WHEREAS, he received an honorary doctorate degree in Human Letters from Asbury College in 1990, served on the Board of Trustees of Asbury College for 16 years, and established the Frank G. and Frances M. Harris Scholarship for Georgia students; and

WHEREAS, he was actively involved with the Indian Springs Holiness Camp, serving on the Board of Trustees for 42 years and as President for 24 years, during which time he supervised the building of five new buildings; and

WHEREAS, he demonstrated his commitment to education by serving for 11 years on the Cartersville School Board, serving as Chairman of the Board for ten years, during which time he integrated all schools peacefully; and

WHEREAS, in 1961, his family was voted Family of the Year for Cartersville and Bartow County and, in 1972, he received the Distinguished Service Award by the United States Committee for the United Nations; and

WHEREAS, he was the loving father of Fredric Alan, Joe Frank, and Glenda Chloe; and

WHEREAS, this fine gentleman and his exemplary public service will be remembered with honor throughout the State of Georgia.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of State Route 42 in Butts County from its intersection with

State Route 87 to the entrance of Indian Springs State Park is dedicated as the Frank G. Harris Memorial Highway in remembrance of the public service of this distinguished Georgia citizen.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs designating the highway.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the Department of Transportation and to the family of the late Mr. Frank G. Harris.

#### PART IV

WHEREAS, after coming to Georgia from his native Virginia in 1904, Parson Joyner was employed for two years by the Seaboard Railroad, and then for seven years he edited a weekly newspaper in Rockmart; and

WHEREAS, in 1913, he answered the call to the ministry and went to the Louisville Seminary for three years; and

WHEREAS, Parson Joyner came to Rome, Georgia, in 1916 and accepted a position at the Maple Street Baptist Church, which proved to be his first and last pastorate; and

WHEREAS, after seeing what was then the slums of Rome, he was inspired to a calling which he could not overlook; he set out to prove that the best way to fight juvenile delinquency was to give a child a ball instead of a rock; and

WHEREAS, in 1920, he opened a community house which later became the home of Parson and Mrs. Joyner; and

WHEREAS, in November, 1920, the gymnasium was completed as part of the Maple Street Community Center; and

WHEREAS, for many years, the Maple Street gym was used by every basketball team from Atlanta to Chattanooga and was the headquarters for every major basketball tournament in the area; professional basketball teams from throughout the country presented exhibitions at the Maple Street gym; and

WHEREAS, in 1932, Parson Joyner resigned from the Maple Street Baptist Church in order to devote his energies full time to the Maple Street Community Center; and

WHEREAS, in 1932, the Maple Street Community Center became the first affiliate member of the Boys Club of America in Georgia; and

WHEREAS, Parson Joyner continues to live in the hearts and minds of adult men and women of old East Rome who spent their childhood at the Maple Street Community Center; and

WHEREAS, he had a tremendously positive influence upon the lives of countless young boys and girls in the Rome area, many of whom might have gone astray without his Christian ministering.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body join in honoring the memory of a great Georgian, Reverend H. F. (Parson) Joyner, for his many contributions to the City of Rome and the State of Georgia.

BE IT FURTHER RESOLVED that the North Bridge at East 2nd Avenue in Rome, Georgia, is dedicated as the Parson H. F. Joyner Memorial Bridge; and the Department of Transportation is authorized and directed to place and maintain appropriate signs so designating the bridge.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the family of the late Reverend H. F. (Parson) Joyner and to the Department of Transportation.

#### PART V

WHEREAS, Chip Riddle was born in New London, Connecticut, on January 23, 1960, the son of Bradford L. Riddle, Sr., and Maureen Bradley Riddle; and

WHEREAS, he graduated from West Rome High School and attended Floyd College, Jacksonville State University, and The Harvard Business School and graduated from The Economic Development Academy; and

WHEREAS, Chip served on the Business Technology Association National Board of Directors and was a member and past president of the Georgia Office Machine Dealers; he served on the Board of Directors for the Georgia Home Furnishings Association from 1996 until 1999; he was a member of the Floyd-Gordon County Development Authority, where he oversaw the Joint Industrial Park location in Floyd County; and he served two terms as chairman of the Greater Rome Convention and Visitors Bureau; and

WHEREAS, he worked to bring the 1996 Olympic Flag Ceremony to Rome; he was the recipient of the Dickie Starnes Memorial Award and served as president of the Rome Jaycees; he also received the community's Distinguished Service Award; and

WHEREAS, Chip served as chairman of the Rome Zoning Board of Appeals; was president of the Seven Hills Rotary Club, past president and past Heart Fund chairman

for the Floyd County Heart Association, and past chairman of the Heart of the Community Board of Governors; was a member of the YMCA Board of Trustees, the Rome Sailing Club, and the Rome First United Methodist Church; and was a basketball coach for youth teams; and

WHEREAS, his best friend was his co-employee and his mentor, his father, Brad Riddle; and

WHEREAS, he leaves behind his loving wife, Kandis Drummond Riddle, a son, Bradford Lee Riddle III, and a daughter, Rebecca Brennen Riddle; parents, Maureen and Bradford L. Riddle, Sr.; a sister, Suzanne Riddle Knight; paternal grandmother, Vivian H. Riddle; and two sisters-in-law, Kim Drummond Evans and Kristi Drummond Duckworth; and

WHEREAS, Chip loved working, tinkering with tools, teaching and coaching basketball, Jimmy Buffet, and, most of all, sailing; and

WHEREAS, he was a true leader, a terrific father, husband, son, partner, and a great friend.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body join in honoring the memory of a great Georgian, Bradford Lee "Chip" Riddle, Jr., for his many contributions to the City of Rome and the State of Georgia.

BE IT FURTHER RESOLVED that the South Bridge at East 2nd Avenue in Rome, Georgia, is dedicated as the Chip Riddle Memorial Bridge; and the Department of Transportation is authorized and directed to place and maintain appropriate signs so designating the bridge.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the family of the late Bradford Lee "Chip" Riddle, Jr., and the Department of Transportation.

#### PART VI

WHEREAS, the late Dr. Martin Luther King, Jr., was a distinguished Georgian whose efforts to obtain a peaceful and just society earned a Nobel Prize; and

WHEREAS, the mayor and council of the City of McRae have requested by unanimous vote that the General Assembly honor the late Dr. King by dedicating a portion of US Highway 341 within the corporate limits of that city in his name; and

WHEREAS, it is only fitting and proper that the life and memory of the late Dr. Martin

Luther King be so honored as requested.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of South Railroad Street which is also US Highway 341 within the corporate limits of the City of McRae is dedicated as Martin Luther King, Jr., Blvd., and the Department of Transportation is authorized and directed to erect and maintain signs so identifying the highway.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the Department of Transportation and the mayor and council of the City of McRae.

#### PART VII

WHEREAS, the late Johnny Bradfield served with dedication and ability as a member of the city council of the City of McRae from 1970 until October, 1985, and as mayor from 1986 through 1995; and

WHEREAS, he is remembered fondly by the citizens of McRae when they see the beautiful Bradford pear trees which he planted in the median of South Third Avenue; and

WHEREAS, the mayor and council of the City of McRae have requested that the General Assembly honor the late Mayor Johnny Bradfield by dedicating a portion of US Highway 441 within the corporate limits of that city in his name; and

WHEREAS, it is only fitting and proper that the life and memory of the late Honorable Johnny Bradfield be so honored as requested.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of South Third Avenue within the corporate limits of the City of McRae which is also US Highway 441 and which goes to Telfair County High School is dedicated as the Mayor Johnny Bradfield Highway, and the Department of Transportation is authorized and directed to erect and maintain signs so identifying the highway.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the Department of Transportation, the mayor and council of the City of McRae, and the family of Honorable Johnny Bradfield.

#### PART VIII

WHEREAS, Roger C. Caudell, a native of Banks County, entered the Army Air Force during World War II and served as a flight engineer on the B-29 Bomber and was a member of the fourth crew selected to deliver an atomic bomb upon Japan prior to its surrender; and

WHEREAS, he returned from serving our country to Stephens County and opened on West Currahee Street, now Georgia Highway 365, a grocery, hardware, and farm supply business which he and his family operated for more than 40 years; and

WHEREAS, during the same time he operated a poultry farm and resided beside the same highway; and

WHEREAS, during hard times, he extended credit on a handshake to many families for purchase of groceries, farm supplies, and gasoline and through his community activities became widely known and respected as a generous man who loved his customers and neighbors who lived beside the same road; and

WHEREAS, he served as a deacon of the First Baptist Church of Toccoa for more than 50 years and provided leadership which contributed substantially to the growth and expansion of his church; and

WHEREAS, he served as a trustee of the Stephens County Board of Education and served 15 years as a board member of the Stephens County Department of Family and Children Services; and

WHEREAS, he was instrumental in expanding the poultry industry in Stephens County and for a time was the largest poultry grower in the county; and

WHEREAS, after the sale of his hardware, grocery, and farm supply business, he joined his son in the construction of residential, commercial, and industrial properties, primarily in Stephens County, and thereby added significantly to the tax base of his county; and

WHEREAS, he is highly respected and recognized as one of the foremost leaders in Northeast Georgia and continues, at age 81, to make significant contributions to his community; and

WHEREAS, it is altogether fitting and proper that the road on which he lived and which served as a connector to his neighbors and friends who experienced his lifelong influence as a generous and guiding leader of his community be dedicated in his honor as a tribute to the legacy of this man who loves his country, his community, and his church and who has set an example through his integrity and leadership for those many friends, neighbors, and recipients of his friendship and assistance.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that this body commends Roger Caudell for his service to his country, his state, and his community.

BE IT FURTHER RESOLVED that the portion of Georgia State Highway 365 extending east from the Jamieson Intersection to Lake Hartwell at the South Carolina boundary be dedicated as the "Roger Caudell Highway" and the Department of Transportation is authorized and directed to erect and maintain appropriate signs so dedicating the highway.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to Roger Caudell and the Department of Transportation.

#### PART IX

WHEREAS, born in 1928, Mr. George Edward Bentley was a native of Marietta, Georgia; and

WHEREAS, as a youth, Mr. Bentley was named Cobb's Future Farmer of the Year, and he went on to become a successful and highly respected dairy farmer; and

WHEREAS, his love for the 300 acres of land on which he grew up and with which he refused to part was well known, and his story was featured as part of Home & Garden TV's "Homestead Holdouts" after he turned down a developer's \$7.7 million offer for 52 acres; and

WHEREAS, he was also deeply dedicated to his community and served on the Cobb County Civil Service Board, the Hospital Authority of Cobb County, and the North Central Georgia Law Enforcement Academy Board; and

WHEREAS, he was not a man who garnered the spotlight, but as a man vitally interested in politics and the well-being of his community and his state, he was actively involved behind the scenes of government as a friend and trusted adviser to many public officials; and

WHEREAS, Mr. Bentley will be remembered as one of Georgia's most distinguished and esteemed citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body join together to express their deepest regret at the passing of Mr. George Edward Bentley and extend their most sincere condolences to his family and the Cobb County community.

BE IT FURTHER RESOLVED that the portion of the GA 120 Loop in Marietta, Georgia, from the end of the Martin Luther King, Jr., designation to that portion crossing Black Jack Mountain Stables is dedicated as the George Bentley Memorial Highway, and the Department of Transportation is authorized and directed to place and maintain appropriate signs so designating the highway.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to Mrs. June White Bentley and the Department of Transportation.

PART X

WHEREAS, James D. (Jim) McGee was born in New Smyrna Beach, Florida, on August 23, 1930; and

WHEREAS, he served his country with honor as an aviator in the United States Navy from 1951-1955; and

WHEREAS, he earned his bachelor's and master's degrees in civil engineering from the Georgia Institute of Technology; and

WHEREAS, he began his distinguished career in civil engineering with the Georgia Department of Transportation while still a student at the Georgia Institute of Technology; and

WHEREAS, during his 34 year career with the department, his service as a Senior Materials Test Engineer, State Highway Maintenance Engineer, Director of Administration in the Office of State Aid, and Director of Planning and Programming earned him the respect of his colleagues and furthered the department's mission of building safe and sustainable transportation infrastructure; and

WHEREAS, he became Deputy Commissioner of the Department in 1987, where he assisted the Commissioner with the overall management of a \$1 billion transportation program for the State of Georgia; and

WHEREAS, as Deputy Commissioner he served as the department's legislative liaison, working closely with the Georgia House of Representatives and Georgia Senate in fashioning legislation on transportation issues beneficial to the citizens of the State of Georgia; and

WHEREAS, upon his retirement in 1989, James D. (Jim) McGee began a second career in consulting engineering as vice president and manager of the Transportation Group for Jordan, Jones & Goulding in Atlanta; and

WHEREAS, he co-founded McGee Partners, Inc., in 2002 serving as chairman of the board and chief executive officer; and

WHEREAS, throughout his engineering career, as both a public servant and private businessman, James D. (Jim) McGee had a keen sense of integrity and a commitment to quality and client satisfaction; and

WHEREAS, he was a devoted husband to his wife of 49 years, Eve; a loving father to daughter Kelley and sons James Michael (Mickey) and Davis Alan; and a proud grandfather of 11 grandchildren and one great-grandson; and

WHEREAS, in recognition and tribute to the exemplary public service of James D. (Jim) McGee, it is most fitting that the State of Georgia perpetuate his name in an appropriate fashion.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of U.S. Interstate Highway 85 from Flat Shoals Road to State Route 74 is dedicated as the James D. (Jim) McGee Memorial Highway.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to place and maintain appropriate markers designating the James D. (Jim) McGee Memorial Highway.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the family of James D. (Jim) McGee and to the Commissioner of Transportation.

Senators Jones of the 10th and Miles of the 43rd offered the following amendment:

Amend the substitute to HR 269 by adding on Page 13 a new line 10 to read as follows:

BE IT FURTHER RESOLVED that the portion of Georgia State Highway 155, AKA Flatshoals Parkway extending east from its intersection with I-285 to its intersection with Snapfinger Road, be dedicated as "Earl Paulk Parkway" and the Department of Transportation is authorized and directed to erect and maintain appropriate signs so dedicating the highway.

On the adoption of the amendment, the yeas were 36, nays 0, and the Jones, Miles amendment was adopted.

On the adoption of the substitute, the yeas were 39, nays 0, and the committee substitute was adopted as amended.

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

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Adelman  
Balfour

Y Hill,Jack  
Y Hill,Judson

Y Smith  
E Starr

Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

On the adoption of the resolution, the yeas were 42, nays 0.

HR 269, having received the requisite constitutional majority, was adopted by substitute.

HB 458. By Representatives Smith of the 129th, Rogers of the 26th, Fleming of the 117th, Graves of the 12th and Loudermilk of the 14th:

A BILL to be entitled an Act to amend Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to administration of the Department of Motor Vehicle Safety, so as to create the Commercial Transportation Advisory Committee; to provide for purposes and membership; to provide for terms of office and voting privileges; to provide for meetings and agendas; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Tolleson of the 20th.

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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton

Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the passage of the bill, the yeas were 41, nays 0.

HB 458, having received the requisite constitutional majority, was passed.

Senator Kemp of the 46th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

The following legislation, favorably reported by the committees, as listed on the Consent Calendar for General Legislation and dropped to the foot of today's Senate Rules Calendar, was put upon its adoption.

**CONSENT CALENDAR FOR GENERAL LEGISLATION  
THURSDAY, MARCH 24, 2005  
THIRTY-SEVENTH LEGISLATIVE DAY**

- |        |  |
|--------|--|
| HR 50  | Joint Agricultural Education Study Committee; create (ED&Y-11th)<br>England-108th                            |
| HR 563 | Dahlonega/Lumpkin County; establish as Georgia's Premier Sports<br>Cycling Community (RULES-9th) Amerson-9th |
| HR 566 | Prater's Mill; Legacy of Georgia Tradition; recognize (RULES-9th)<br>Dickson-6th                             |

The reports of the committees, which were favorable to the adoption of the legislation as reported, were agreed to.

On the adoption of the legislation on the Consent Calendar for General Legislation, a roll call was taken and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	E Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the adoption of the legislation, the yeas were 42, nays 0.

The legislation on the Consent Calendar for General Legislation, having received the requisite constitutional majority, was adopted.

HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hill of the 4th.

The Senate Appropriations Committee offered the following substitute to HB 509:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, is amended by striking Code Section 45-12-71, relating to definitions regarding budgetary and financial affairs, and inserting in its place a new Code Section 45-12-71 to read as follows:

**. 45-12-71.**

As used in this part, the term:

- (1) 'Annual operating budget' means the operating budget for each budget unit which details the appropriations passed by the General Assembly for that budget unit.
- (2) 'Appropriation' means an authorization by the General Assembly to a budget unit to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure described in this part.
- (3) 'Appropriation Act' means an Act of the General Assembly which authorizes the expenditure of state money.
- (4) 'Budget' means the complete financial plan for the fiscal year as proposed in the budget report and modified and adopted by appropriation and revenue Acts.
- (5) 'Budget allotment' means a process of authorizing the withdrawal of state funds from the treasury based on a determination that the budget allotment request is consistent with an approved work program.
- (6) 'Budget class' means one of the kinds of expenditures denoting a class of service or commodities purchased or properties acquired as specified in the classification of expenditures provided for in this part for use in expenditure accounting, in the making of budget estimates, and in the budget reports and budgets.
- (7) 'Budget estimate' means the statement with accompanying explanations, as provided in this part, in which a budget unit states its financial requirements and requests appropriations.

(8) 'Budget message' means the required statement by the Governor to the General Assembly after its convening which gives a summary description of the Governor's proposed financial policies and plans contained in the budget report, together with recommendations for additional revenues, if any.

(9) 'Budget report' means and 'program budget report' mean recommendations of the Governor to the General Assembly as to financial plans, and expenditures to be authorized, and agency program information, with the accompanying statements and explanations provided for in this part.

(10) 'Budget unit' means a department, institution, agency, or other unit of organization for which separate appropriations are made.

(11) 'Core businesses' means policy areas that a budget unit was created to address. These are fundamental activities or groups of activities critical to the organization's overall mission.

(12) 'Outcome measure' means quantitative and qualitative indicators by which the performance of a program can be assessed against adopted goals and objectives.

(13) 'Program' means a discrete set of activities undertaken to carry out an agency's core businesses.

(12)(14) 'Strategic planning' means the process through which a preferred future direction and organizational mission are established and periodically updated in light of changing trends and issues and goals, objectives, and strategies are adopted and implemented to guide an organization toward that preferred future direction.

## SECTION 2.

Said chapter is further amended by striking paragraph (2) of Code Section 45-12-73, relating to powers and duties of the Office of Planning and Budget, and inserting in its place a new paragraph (2) to read as follows:

. (2) Develop and implement an outcome based a program budgeting system that relates funding to achievement of established goals and objectives, measures agency performance against attainment of planned outcomes, and provides for program evaluations for policy and funding determinations. Program evaluations may include cost benefit analyses, decision analyses, statistical analyses, comparisons with similar programs in other jurisdictions, relevant historical trends, and demographic factors and other useful techniques;.

## SECTION 3.

Said chapter is further amended by striking subsection (a) of Code Section 45-12-78, relating to submission of annual budget estimates by heads of budget units, and inserting in its place a new subsection (a) to read as follows:

. (a) Not earlier than August 1 of each year or later than September 1 of each year, the head of each budget unit, other than the General Assembly and the judiciary, shall submit to the Office of Planning and Budget, the House Budget Office, and the Senate Budget Office estimates of the financial requirements of the budget unit for the next fiscal year, on the forms and in the manner prescribed by the Office of Planning and

Budget, with such explanatory data as is required by the Office of Planning and Budget. The Governor may extend the time for submission if the Governor determines that particular circumstances require such an extension. Such submission shall utilize such budget classes and be within such expenditure parameters as may be established by the Governor. The head of a budget unit also may submit such additional data as is helpful. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted.

#### SECTION 4.

Said chapter is further amended by striking Code Section 45-12-86, relating to required reserve of certain specified appropriations, and inserting in its place a new Code Section 45-12-86 to read as follows:

. 45-12-86.

(a) Except as otherwise provided in subsection (b) of this Code section, when The Governor, during the first six months of a fiscal year period in which the current revenue estimate on which appropriations are based is expected to exceed actual revenues, the Governor is authorized to require state agencies to reserve such appropriations as specified by the Governor for budget reductions to be recommended to the General Assembly at its next regular session.

(b) Such authorization to require state agencies to reserve such appropriations shall not be exercised during and shall not apply during the period commencing with the first legislative day of a regular session of the General Assembly and ending on the day of such session that the General Assembly adjourns sine die.

#### SECTION 5.

Said chapter is further amended by striking Code Section 45-12-93, relating to the revenue shortfall reserve, and inserting in its place a new Code Section 45-12-93 to read as follows:

. 45-12-93.

(a) As of June 30 of each fiscal year, the state auditor shall reserve from the state surplus an amount equal to not less than 3 nor more than 5 percent, as directed by the director of the budget, of the net revenue collections of such fiscal year, to the extent that such surplus is available therefor. This reserve shall be entitled the revenue shortfall reserve and shall be in lieu of the working reserve for high income and low-income periods; provided, however, that the director of the budget may, with regard to all or any part of the fourth and fifth percentile so reserved, direct the return of the same to the general fund of the state treasury for appropriation according to law.

(b) As of June 30 of each fiscal year, the state auditor shall reserve from the state surplus an amount equal to 1 percent of the net revenue collections of such fiscal year, to the extent that such surplus is available therefor. This amount shall be reserved before the amount shall be reserved for the revenue shortfall reserve as provided in subsection (a) of this Code section. This reserve shall be entitled the midyear adjustment reserve and shall be available for appropriation by the General Assembly of

~~Georgia for such purposes as it may select.~~

~~(e) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$5 million for State Fiscal Year 1983 from the revenue shortfall reserve.~~

~~(d) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$12,500,000.00 for State Fiscal Year 1985 from the revenue shortfall reserve, for the purpose of financing the construction of water and sewer projects, through loans to local governments by the Georgia Development Authority.~~

~~(e) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$208,632,306 for State Fiscal Year 2004 from the revenue shortfall reserve.~~

~~(f) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$7 million for State Fiscal Year 2005 from the revenue shortfall reserve.~~

(a) There shall be a reserve of state funds known as the 'Revenue Shortfall Reserve.'

(b) The amount of all surplus in state funds existing as of the end of each fiscal year shall be reserved and added to the Revenue Shortfall Reserve. Funds in the Revenue Shortfall Reserve shall carry forward from fiscal year to fiscal year and shall be maintained, accumulated, appropriated, and otherwise disbursed only as provided in this Code section.

(c) For each existing fiscal year, the General Assembly may appropriate from the Revenue Shortfall Reserve an amount up to 1 percent of the net revenue collections of the preceding fiscal year for funding increased K-12 needs.

(d) The Governor may release for appropriation by the General Assembly a stated amount from funds in the Revenue Shortfall Reserve that are in excess of 4 percent of the net revenue of the preceding fiscal year.

(e) As of the end of each fiscal year, an amount shall be released from the Revenue Shortfall Reserve to the general fund to cover any deficit by which total expenditures and contractual obligations of state funds authorized by appropriation exceed net revenue and other amounts in state funds made available for appropriation.

(f) The combined Revenue Shortfall Reserve and the Midyear Adjustment Reserve existing on the effective date of this subsection shall become the Revenue Shortfall Reserve provided for in this Code section.

(g) Any other provision of law notwithstanding, the General Assembly is authorized to appropriate \$ 7 million for State Fiscal Year 2005 from the Revenue Shortfall Reserve.

(h) The Revenue Shortfall Reserve shall not exceed 10 percent of the previous fiscal year's net revenue for any given fiscal year.

#### SECTION 6.

Said chapter is further amended by striking subsection (d) of Code Section 45-12-173, relating to promotion of state development, and inserting in its place a new subsection (d) to read as follows:

. (d) The Governor shall prepare and submit to the General Assembly a ~~development~~

program budget report for the consideration and review of the General Assembly. The ~~development~~ program budget report shall be submitted within five days after the organization of the General Assembly for review with the budget document.

#### SECTION 7.

Said chapter is further amended by striking subsection (b) of Code Section 45-12-177, relating to review and establishment of certain goals and policies, and inserting in its place a new subsection (b) to read as follows:

. (b) The Governor, through the Office of Planning and Budget, shall prepare an annual policy document to reflect the state strategic plan and address state-wide goals, objectives, and opportunities. A program budget report shall satisfy this requirement. Such policy document shall be transmitted to the General Assembly at the beginning of each legislative session beginning with the ~~1994~~ 2006 session.

#### SECTION 8.

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

#### SECTION 9.

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

On the adoption of the substitute, the yeas were 39, nays 0, 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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	E Me V Bremen	E Thomas,R
E Chapman	Y Miles	Thompson,C
Y Douglas	Y Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

Y Harbison	Y Schaefer	E Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the passage of the bill, the yeas were 43, nays 0.

HB 509, having received the requisite constitutional majority, was passed by substitute.

Senator Stephens of the 27th moved that the Senate stand adjourned pursuant to HR 605 until 9:00 a.m. Tuesday, March 29th, 2005; the motion prevailed, and at 8:07 p.m. the President announced the Senate adjourned.

Senate Chamber, Atlanta, Georgia  
Tuesday, March 29, 2005  
Thirty-eighth Legislative Day

The Senate met pursuant to adjournment at 9:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th 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.

Senator Harp of the 29th moved that the Senate reconsider its action in defeating the following bill:

HB 221. By Representatives Burmeister of the 119th, Watson of the 91st, Mosby of the 90th, Morgan of the 39th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, so as to change certain provisions relating to the calculation of child support; to provide guidelines for determining amount of child support to be paid; to provide for factors for apportioning child support obligations; to provide a schedule of basic child support obligation amounts; to change the form of the final judgment in divorce actions to conform such changes in the determination and computation of child support; to remove a certain limitation on petitions to modify alimony and child support; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Harp of the 29th.

On the motion, a roll call was taken, and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Starr
N Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	Y Moody	Thompson,S

Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 35, nays 9; the motion prevailed, and HB 221 was reconsidered and placed on the General Calendar.

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 Senate:

SB 56. By Senators Thomas of the 54th, Unterman of the 45th, Harbison of the 15th, Hooks of the 14th, Pearson of the 51st and others:

A BILL to be entitled an Act to amend Chapter 14 of Title 31 of the Official Code of Georgia Annotated, relating to hospitalization for tuberculosis, so as to revise a definition; to revise obsolete references; to revise certain provisions relative to confinement of patients committed for tuberculosis treatment; to revise certain provisions relative to continuation of confinement of patients committed for tuberculosis treatment; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 277. By Senators Cagle of the 49th, Pearson of the 51st and Hudgens of the 47th:

A BILL to be entitled an Act to amend Article 9 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, the "Georgia Hazardous Site Reuse and Redevelopment Act," so as to change certain provisions relating to definitions; to provide that certain persons who purchased property after July 1, 2002, and before January 1, 2005, shall be treated as prospective

purchasers for purposes of said Act; to repeal conflicting laws; and for other purposes.

The House has adopted by the requisite constitutional majority the following Resolution of the Senate:

SR 294. By Senators Thomas of the 54th, Hill of the 32nd, Heath of the 31st, Hudgens of the 47th, Kemp of the 46th and others:

A RESOLUTION creating the Cervical Cancer Elimination Task Force; and for other purposes.

The House has adopted by the requisite constitutional majority the following Resolution of the House:

HR 754. By Representative Greene of the 149th:

A RESOLUTION designating the City of Colquitt in Miller County as Georgia's First Mural City; and for other purposes.

The House has agreed to the Senate amendments to the following Bills of the House:

HB 58. By Representatives Powell of the 29th and Rice of the 51st:

A BILL to be entitled an Act to enact the "Working Against Recidivism Act"; to provide a short title and legislative findings; to amend Chapters 1, 5, and 10 of Title 42 of the O.C.G.A., relating respectively to general provisions relative to penal institutions, state and county correctional institutions, and correctional industries, so as to authorize work programs employing inmates as voluntary, paid labor for privately owned profit-making employers producing goods, services, or goods and services for sale to public or private purchasers under certain circumstances; to provide for rules and regulations; to provide for federal certification and state operation of such programs; to provide for compensation for state costs and use of state resources; to provide for compliance with federal law; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 279. By Representatives Floyd of the 147th, Roberts of the 154th, Royal of the 171st, Crawford of the 127th, James of the 135th and others:

A BILL to be entitled an Act to amend Code Section 32-6-26 of the Official Code of Georgia Annotated, relating to weight of vehicle and load, so as to

change certain provisions relating to weight limitations for certain types of vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

- HB 306. By Representatives Rice of the 51st, Ehrhart of the 36th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Code Section 48-8-63 of the Official Code of Georgia Annotated, relating to payment of sales and use tax by contractors, so as to change certain provisions regarding payment of use tax with respect to certain tangible personal property; to repeal conflicting laws; and for other purposes.

- HB 428. By Representatives Keen of the 179th, Ralston of the 7th and Rogers of the 26th:

A BILL to be entitled an Act to amend Chapter 7 of Title 33 of the Official Code of Georgia Annotated, relating to kinds of insurance, limits of risks, and reinsurance, so as to provide an exception to the category of property insurance for warranty service agreements for major appliances, utility systems, and roofing; to provide for surety bonds; to provide for identification of an insurer or surety insurer; to provide for cancellation; to require warranty agreements that are not insurance to so state; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitutes to the following Bills of the House:

- HB 1. By Representative Royal of the 171st:

A BILL to be entitled an Act to amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to provide for additional acts which shall not constitute a breach of a conservation use covenant; to repeal conflicting laws; and for other purposes.

- HB 216. By Representatives Neal of the 1st, Ralston of the 7th, Miller of the 106th, Burmeister of the 119th, Sheldon of the 105th and others:

A BILL to be entitled an Act to amend Chapter 13 of Title 16 of the O.C.G.A., relating to controlled substances, so as to limit the sale and manner of sale of products containing pseudoephedrine; to provide for exceptions; to provide for mitigation of punishment under certain circumstances; to provide for penalties; to restrict the sale, transfer,

manufacture, purchase for resale, and furnishing of certain precursor chemicals; to provide for definitions; to authorize the State Board of Pharmacy to promulgate certain rules and regulations regarding precursor chemicals and licenses and permits; to provide for licensing and permitting of persons who sell, transfer, manufacture, purchase for resale, or otherwise furnish or possess precursor chemicals; to require certain records to be maintained; to provide for exceptions; to provide for certain forfeitures; to provide for penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 298. By Representatives Hembree of the 67th, Ehrhart of the 36th, Martin of the 47th and Smith of the 113th:

A BILL to be entitled an Act to amend Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to scholarships, grants, and loans, so as to allow the Georgia Higher Education Assistance Corporation and the Georgia Student Finance Authority to exercise powers possessed by private corporations performing similar functions; to increase the amount of bonds that the Georgia Student Finance Authority may issue; to provide the Georgia Student Finance Authority with collection tools to collect unpaid service cancelable loans that are in cash repayment status; to provide the Georgia Student Finance Commission with collection tools to collect unpaid HOPE scholarship and grant funds; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 367. By Representatives Rice of the 51st and Parham of the 141st:

A BILL to be entitled an Act to amend Chapter 13 of Title 43 of the Official Code of Georgia Annotated, relating to licensing of driver training and commercial driver training schools, so as to provide definitions; to provide exceptions from these provisions; to regulate licensing of schools; to provide for insurance and bonds for school operators; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 394. By Representatives Walker of the 107th, Willard of the 49th and O'Neal of the 146th:

A BILL to be entitled an Act to amend Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the protection of disabled adults and elder persons, so as to revise a definition; to revise certain provisions relating to investigation of reports of need for protective services; to amend Code Section 31-8-116 of the Official Code of Georgia Annotated, relating

to involuntary transfer of residents discharged from a facility and return to facility after transfer, so as to revise the notification provisions; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 520. By Representatives Coan of the 101st, Williams of the 4th, Horne of the 71st, Carter of the 159th, Butler of the 18th and others:

A BILL to be entitled an Act to amend Chapter 8 of Title 34 of the O.C.G.A., relating to employment security, so as to provide a change to the definition of the term "employment"; to identify certain business acquisitions with respect to which the succession of experience tax rates shall not be permitted and to impose civil and criminal penalties with regard thereto; to extend suspension of adjustments based upon the State-wide Reserve Ratio for the calendar year 2006 and to provide for a reduced adjustment in contribution rates through December 31, 2006; to continue provisions relating to administrative assessments; to provide for a change in the weekly benefit amount over a two-year period; to provide for the Department of Labor a supplemental appropriation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has adopted the report of the Committee of Conference on the following Bill of the House:

HB 282. By Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Davis of the 109th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income taxes, so as to provide deductions in determining individual and corporate taxable net income for certain purchases which may be treated as expenses under federal law; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

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

TUESDAY, MARCH 29, 2005

2477

SR 557. By Senators Thomas of the 54th, Harp of the 29th, Moody of the 56th, Mullis of the 53rd, Smith of the 52nd and others:

A RESOLUTION urging the Board of Regents of the University System of Georgia to consult with representatives of the Association of Governing Boards; and for other purposes.

Referred to the Higher Education Committee.

SR 560. By Senator Williams of the 19th:

A RESOLUTION urging Governor Sonny Perdue to appoint a Blue Ribbon committee to review all aspects of initiatives at Jekyll Island relating to resource stewardship, tourism infrastructure, economic development, land management, and future needs and concerns of the island; and for other purposes.

Referred to the Economic Development Committee.

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

HR 754. By Representative Greene of the 149th:

A RESOLUTION designating the City of Colquitt in Miller County as Georgia's First Mural City; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Finance 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 559      Do Pass by substitute

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

Mr. President:

The Retirement 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 319      Do Pass

Respectfully submitted,  
Senator Heath of the 31st District, Chairman

Mr. President:

The Rules Committee has had under consideration the Governor's appointments for confirmation which can be found in the Senate Journal on March 17, 2005 and has instructed me to report the same back to the Senate with the following recommendation:

Do Pass

Respectfully submitted,  
Senator Balfour of the 9th 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 360	Do Pass	HB 838	Do Pass
HB 581	Do Pass	HB 839	Do Pass
HB 600	Do Pass	HB 840	Do Pass
HB 614	Do Pass	HB 857	Do Pass
HB 725	Do Pass by substitute	HB 858	Do Pass
HB 773	Do Pass	HB 861	Do Pass
HB 787	Do Pass	SB 355	Do Pass
HB 789	Do Pass	SB 363	Do Pass
HB 810	Do Pass		

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

Mr. President:

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

TUESDAY, MARCH 29, 2005

2479

SR 503      Do Pass by substitute

Respectfully submitted,  
Senator Williams of the 19th District, Chairman

The following legislation was read the second time:

SR 503

Senator Meyer von Bremen of the 12th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

Senator Hooks of the 14th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Brown of the 26th asked unanimous consent that Senator Harbison of the 15th be excused. The consent was granted, and Senator Harbison was excused.

Senator Powell of the 23rd asked unanimous consent that Senator Walker of the 22nd be excused. The consent was granted, and Senator Walker was excused.

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

Adelman	Hill,Jack	Shafer,D
Balfour	Hill,Judson	Smith
Brown	Hooks	Staton
Bulloch	Hudgens	Stephens
Butler	Johnson	Stoner
Cagle	Jones	Tate
Carter	Kemp	Thomas,D
Chance	Me V Bremen	Thomas,R
Chapman	Miles	Thompson,C
Douglas	Moody	Tolleson
Goggans	Mullis	Unterman
Grant	Powell	Weber
Hamrick	Reed	Whitehead
Harp	Rogers	Wiles
Heath	Schaefer	Williams
Henson	Seay	Zamarripa

Not answering were Senators:

Fort	Golden	Harbison (Excused)
Pearson	Seabaugh	Starr (Excused)
Thompson, S (Excused)	Walker (Excused)	

Senator Fort was off the floor of the Senate when the roll was called and wishes to be recorded as present.

The members pledged allegiance to the flag.

Senator Hamrick of the 30th introduced the chaplain of the day, Reverend Allen T. Waldrop of Winston, Georgia, who offered scripture reading and prayer.

Senator Staton of the 18th introduced the doctor of the day, Dr. Joe Sam Robinson.

The following resolutions were read and adopted:

SR 537. By Senators Henson of the 41st, Rogers of the 21st and Goggans of the 7th:

A RESOLUTION designating the first week of April each year as "Living Will Week" in Georgia; and for other purposes.

SR 561. By Senator Hooks of the 14th:

A RESOLUTION honoring Mr. Hosie Waters; and for other purposes.

SR 562. By Senator Douglas of the 17th:

A RESOLUTION honoring the memory of Davis Carter Morgan and expressing regret at his passing; and for other purposes.

SR 563. By Senator Douglas of the 17th:

A RESOLUTION honoring the life of William T. (Billy) Strickland and expressing sorrow at the time of his passing; and for other purposes.

SR 564. By Senators Stephens of the 27th and Brown of the 26th:

A RESOLUTION commending and congratulating the staff of Lawmakers on their 35th season; and for other purposes.

SR 565. By Senator Chapman of the 3rd:

A RESOLUTION expressing regret at the passing of Lester M. "Mack" Wilson; and for other purposes.

SR 566. By Senators Kemp of the 46th, Hudgens of the 47th and Whitehead, Sr. of the 24th:

A RESOLUTION commending Coach Jack Bauerle; and for other purposes.

SR 567. By Senators Kemp of the 46th, Hudgens of the 47th and Whitehead, Sr. of the 24th:

A RESOLUTION commending the University of Georgia Lady Bulldogs swimming and diving team; and for other purposes.

SR 568. By Senator Miles of the 43rd:

A RESOLUTION recognizing Bishop Jim Earl Swilley, founder of Church in the Now; and for other purposes.

SR 569. By Senator Meyer von Bremen of the 12th:

A RESOLUTION honoring the joint ministries of Mount Zion Baptist Church and Sherwood Baptist Church; and for other purposes.

Senator Meyer von Bremen of the 12th recognized Albany State University President Dr. Portia Holmes Shields, commended by SR 472, adopted previously.

Senator Carter of the 13th recognized Miss Heart of Georgia, Erin Grizzle, commended by SR 512, adopted previously.

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

Mr. President:

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

SB 323. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Jeff Davis County, approved March 27, 1972 (Ga. L. 1972, p. 2760), as amended, so as to change the description of the education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

SB 343. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act placing the judge of the Probate Court of Clayton County on an annual salary, approved February 7, 1950 (Ga. L. 1950, p. 2068), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4331), so as to change the compensation of the judge of the probate court; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 351. By Senator Kemp of the 46th:

A BILL to be entitled an Act to amend an Act establishing a City Court in the County of Clarke, formerly known as the State Court of Clarke County, Georgia, approved September 9, 1879 (Ga. L. 1878-79, p. 291), as amended, now known as the State Court of Athens-Clarke County, as redesignated by an Act approved March 2, 1990 (Ga. L. 1990, p. 3560), so as to authorize the court to charge a technology fee for each civil case filed and each criminal fine imposed; to specify the uses to which said technology fees may be utilized; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

HB 885. By Representative Sims of the 169th:

A BILL to be entitled an Act to amend an Act establishing a board of education of Coffee County, approved March 10, 1970 (Ga. L. 1970, p. 2441), as amended, particularly by an Act approved October 25, 2001 (Ga. L. 2001, Ex. Sess., p. 755), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related

matters; to provide for preclearance of this Act pursuant to the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

Senator Thompson of the 33rd recognized Lindsay and Billy Winzeler, family of the late Sandy Winzeler, honored by SR 508, adopted previously.

Senator Pearson of the 51st recognized Major Leon Millholland, commended by SR 493, adopted previously.

Senator Jones of the 10th recognized Ms. Angela Kirby, commended by SR 448, adopted previously.

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

Mr. President:

The House has adopted, by substitute, by the requisite constitutional majority the following Resolutions of the Senate:

SR 21. By Senators Kemp of the 46th, Grant of the 25th, Tate of the 38th and Hamrick of the 30th:

A RESOLUTION creating the Joint Early Learning Initiative Commission; and for other purposes.

SR 23. By Senators Johnson of the 1st and Harbison of the 15th:

A RESOLUTION creating the Joint Port Authority for the Port of Savannah Study Committee; and for other purposes.

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

SR 161. By Senators Hamrick of the 30th, Tate of the 38th, Kemp of the 46th, Unterman of the 45th and Harbison of the 15th:

A RESOLUTION creating the Juvenile Code Rewrite Joint Study Committee; and for other purposes.

SR 305. By Senators Johnson of the 1st and Chapman of the 3rd:

A RESOLUTION recognizing Mack Mattingly for his many contributions to the State of Georgia and dedicating a portion of I-95 in Glynn County as the "Mack Mattingly Highway"; and for other purposes.

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

HB 885. By Representative Sims of the 169th:

A BILL to be entitled an Act to amend an Act establishing a board of education of Coffee County, approved March 10, 1970 (Ga. L. 1970, p. 2441), as amended, particularly by an Act approved October 25, 2001 (Ga. L. 2001, Ex. Sess., p. 755), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to provide for preclearance of this Act pursuant to the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following Resolutions were read and adopted:

SR 530. By Senator Heath of the 31st:

A RESOLUTION recognizing C.L. Tidwell; and for other purposes.

SR 531. By Senators Cagle of the 49th, Schaefer of the 50th, Pearson of the 51st and Hill of the 32nd:

A RESOLUTION honoring the life work of Mrs. June LeBlanc Webb; and for other purposes.

SR 532. By Senator Schaefer of the 50th:

A RESOLUTION commending Georgia FCCLA on the occasion of FCCLA's 60th anniversary; and for other purposes.

SR 533. By Senator Schaefer of the 50th:

A RESOLUTION commending Andrew Sosebee, Hart County's STAR Student; and for other purposes.

SR 534. By Senator Schaefer of the 50th:

A RESOLUTION commending Eric Berryman; and for other purposes.

SR 535. By Senator Thomas of the 2nd:

A RESOLUTION celebrating the 100th birthday of Mrs. Julia Lewis Gordon Pelote; and for other purposes.

SR 536. By Senator Thompson of the 33rd:

A RESOLUTION expressing regret at the passing of Honorable Robert Edward Flournoy, Jr.; and for other purposes.

SR 538. By Senator Butler of the 55th:

A RESOLUTION congratulating the DeKalb County Community Relations Commission; and for other purposes.

SR 539. By Senator Tolleson of the 20th:

A RESOLUTION recognizing and commending Dr. Brenda Shuman-Riley for outstanding contributions to public education in the State of Georgia; and for other purposes.

SR 540. By Senators Harp of the 29th, Johnson of the 1st and Goggans of the 7th:

A RESOLUTION remembering and honoring the life and ministry of Dr. William H. Hinson; and for other purposes.

SR 541. By Senators Thomas of the 2nd, Johnson of the 1st, Hill of the 4th, Fort of the 39th and Thomas of the 54th:

A RESOLUTION commending the Savannah College of Art and Design for providing 25 years of excellence in higher education and opening their new Atlanta Campus and recognizing Friday, April 22, 2005, as Savannah College of Art and Design Day at the state capitol; and for other purposes.

SR 542. By Senators Hill of the 4th and Williams of the 19th:

A RESOLUTION expressing regret at the passing of Mr. E.B. Register; and for other purposes.

SR 543. By Senator Hill of the 4th:

A RESOLUTION commending Dr. Kemp Mabry; and for other purposes.

SR 544. By Senator Hill of the 4th:

A RESOLUTION remembering and honoring the life of C. D. Dean, Mayor of the City of Guyton; and for other purposes

SR 545. By Senator Hill of the 4th:

A RESOLUTION expressing regret at the passing of Perry Lee DeLoach; and for other purposes.

SR 546. By Senator Hill of the 4th:

A RESOLUTION expressing regret at the passing of W. Swinton Smith, Sr.; and for other purposes.

SR 547. By Senator Rogers of the 21st:

A RESOLUTION commending Carine Davila; and for other purposes.

SR 548. By Senator Rogers of the 21st:

A RESOLUTION commending Elizabeth Lemoine; and for other purposes.

SR 549. By Senator Rogers of the 21st:

A RESOLUTION commending Babafunlola Kalejaiye; and for other purposes.

SR 550. By Senator Rogers of the 21st:

A RESOLUTION commending Kyleen Junier; and for other purposes.

SR 551. By Senator Rogers of the 21st:

A RESOLUTION commending Grace Lam; and for other purposes.

SR 552. By Senator Rogers of the 21st:

A RESOLUTION commending Jeffrey Michael Lott; and for other purposes.

SR 553. By Senator Rogers of the 21st:

A RESOLUTION commending Jacey Planteen; and for other purposes.

SR 554. By Senator Powell of the 23rd:

A RESOLUTION recognizing and commending Hephzibah High School, winner of the 2004 Class AAAA Governor's Cup; and for other purposes.

SR 555. By Senator Powell of the 23rd:

A RESOLUTION commending and congratulating the Hephzibah High School Girls Basketball team; and for other purposes.

SR 556. By Senator Powell of the 23rd:

A RESOLUTION remembering and honoring the life of Mr. James O. "Jim" Gunn, Jr.; and for other purposes.

SR 558. By Senator Adelman of the 42nd:

A RESOLUTION commending and saluting the exemplary civic, cultural, and professional achievements of Melita Easters of Atlanta; and for other purposes.

SR 559. By Senators Brown of the 26th, Johnson of the 1st, Golden of the 8th, Stephens of the 27th, Douglas of the 17th and others:

A RESOLUTION commending and honoring Georgia's 48th Infantry Brigade (Enhanced) (Mechanized); and for other purposes.

Senators Brown of the 26th and Johnson of the 1st recognized Georgia's 48th Infantry Brigade and introduced General David Poythress, commanded by SR 559.

Senator Moody of the 56th asked unanimous consent that Senator Butler of the 55th be excused. The consent was granted, and Senator Butler was excused.

Senator Hill of the 32nd asked unanimous consent that Senator Pearson of the 51st be excused. The consent was granted, and Senator Pearson was excused.

Senator Hill of the 32nd asked unanimous consent that Senator Carter of the 13th be excused. The consent was granted, and Senator Carter was excused.

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**

Tuesday, March 29, 2005  
Thirty-eighth Legislative Day

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

SB 355

Seay of the 34th  
Starr of the 44th  
**CLAYTON JUDICIAL CIRCUIT**

A BILL to be entitled an Act to amend an Act providing a county supplement to the state salary of the district attorney of the Clayton Judicial Circuit, approved March 4, 1977 (Ga. L. 1977, p. 2856), as amended, particularly by an Act approved April 9, 1999 (Ga. L. 1999, p. 4127), so as to change the amount of such county supplement; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 363

Smith of the 52nd  
**FLOYD COUNTY**

A BILL to be entitled an Act to provide that future elections for the office of judge of the Probate Court of Floyd County shall be nonpartisan elections; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 360

Johnson of the 1st  
**CITY OF RICHMOND HILL**

A BILL to be entitled an Act to provide a new charter for the City of Richmond Hill; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such

governing authority; to provide for inquiries and investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for ordinances and codes; to provide for a city manager, mayor, and mayor pro tempore and certain duties, powers, and other matters relative thereto; to provide for administrative affairs and responsibilities; to provide for other matters relative to the foregoing; to repeal specific Acts; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 581

Seabaugh of the 28th  
Heath of the 31st  
**CITY OF BREMEN**

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Bremen, approved December 30, 1898 (Ga. L. 1898, p. 136), as amended, particularly by an Act approved March 22, 1990 (Ga. L. 1990, p. 4406), so as to provide that the Bremen City Board of Education shall have sole authority to set, approve, and amend its budget; to provide taxing authority; to vest title of certain property in the board of education; to provide a joint review committee with the board of education and the board of commissioners; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 600

Cagle of the 49th  
**HALL COUNTY**

A BILL to be entitled an Act to amend an Act providing a method of compensating the members of the board of education of Hall County, approved February 25, 1991 (Ga. L. 1991, p. 3504), so as to change certain provisions regarding the amount of such compensation; to provide for the automatic repeal of this Act; to repeal conflicting laws; and for other purposes.

HB 614

Thompson of the 5th  
Balfour of the 9th  
Weber of the 40th  
Henson of the 41st  
Unterman of the 45th  
Shafer of the 48th  
Butler of the 55th  
**GWINNETT COUNTY**

A BILL to be entitled an Act to amend an Act creating the Recorder's Court of Gwinnett County, approved March 27, 1972 (Ga. L. 1972, p. 3125), as amended, particularly by an Act approved April 4, 1991 (Ga. L. 1991, p. 4183), so as to change provisions relating to the qualifications of assistant solicitors; to repeal conflicting laws; and for other purposes.

HB 725

Thompson of the 5th  
Balfour of the 9th  
Weber of the 40th  
Henson of the 41st  
Unterman of the 45th  
Shafer of the 48th  
Butler of the 55th

**GWINNETT COUNTY**

A BILL to be entitled an Act to amend an Act providing for the election of the Board of Education of Gwinnett County, approved April 7, 1972 (Ga. L. 1972, p. 4058), as amended, particularly by an Act approved April 9, 1993 (Ga. L. 1993, p. 5260), so as to provide for the compensation of members of the board of education; to provide for future adjustments of compensation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

**(SUBSTITUTE)**

HB 773

Walker of the 22nd  
Powell of the 23rd

**CITY OF AUGUSTA**

A BILL to be entitled an Act to authorize the consolidated government of Augusta, Georgia, to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 787

Thompson of the 5th  
Jones of the 10th  
Weber of the 40th  
Henson of the 41st

Adelman of the 42nd  
Miles of the 43rd  
Butler of the 55th  
**DEKALB COUNTY**

A BILL to be entitled an Act to amend an Act providing for the compensation of certain county officers and officials of DeKalb County, approved March 31, 1976 (Ga. L. 1976, p.3986), as amended, particularly by an Act approved April 14, 1997 (Ga. L. 1997, p.3822), so as to change the compensation of the sheriff; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 789

Thompson of the 5th  
Jones of the 10th  
Henson of the 41st  
Adelman of the 42nd  
Miles of the 43rd  
Butler of the 55th

**STONE MOUNTAIN JUDICIAL CIRCUIT**

A BILL to be entitled an Act to amend an Act providing a supplement to the compensation, expenses, and allowances of the judges of the superior court of the Stone Mountain Judicial Circuit, approved March 21, 1974 (Ga. L. 1974, p. 391), as amended, particularly by an Act approved March 30, 1989 (Ga. L. 1989, p. 4696), an Act approved April 15, 1992 (Ga. L. 1992, p. 6269), an Act approved March 27, 1995 (Ga. L. 1995, p. 3521), and an Act approved April 2, 1998 (Ga. L. 1998, p. 4075), so as to increase the amount of such supplement; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 810

Bulloch of the 11th  
**SEMINOLE COUNTY**

A BILL to be entitled an Act to amend an Act providing for the election of members of the board of education of Seminole County, approved March 14, 1983 (Ga. L. 1983, p. 3994), as amended, so as to change certain provisions relating to compensation of members of the board; to repeal conflicting laws; and for other purposes.

HB 838

Schaefer of the 50th  
**BANKS COUNTY**

A BILL to be entitled an Act to amend an Act creating the Banks County Family Connection Commission, approved April 13, 2001 (Ga. L. 2001, p. 4134), so as to change the membership of the commission; to change certain provisions requiring an oath of office; to repeal conflicting laws; and for other purposes.

HB 839

Whitehead of the 24th  
**COLUMBIA COUNTY**

A BILL to be entitled an Act to amend an Act providing for the election of the Board of Education of Columbia County, approved March 21, 1968 (Ga. L. 1968, p. 2708), as amended, particularly by an Act approved September 21, 1995 (Ga. L. 1995, Ex. Sess., p. 336), and by an Act approved April 25, 2002 (Ga. L. 2002, p. 4528), so as to change provisions relating to education districts for the board; to define certain terms; to provide for the manner and dates of election of members of the board; to provide for related matters; to provide for the submission of this Act to the United States Department of Justice; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 840

Wiles of the 37th  
**CITY OF KENNESAW**

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Kennesaw, approved April 10, 1971 (Ga. L. 1971, p. 3620), as amended, particularly by an Act approved June 30, 2003 (Ga. L. 2003, p. 4373), so as to change the provisions relating to the corporate limits of said city; to repeal conflicting laws; and for other purposes.

HB 857

Grant of the 25th  
**JASPER COUNTY**

A BILL to be entitled an Act to repeal an Act entitled "Jasper County Economic Development Authority Act" approved April 4, 1991 (Ga.L. 1991, p. 4524); to provide an effective date; to repeal conflicting laws; and for other purposes.

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HB 858

Mullis of the 53rd  
**WALKER COUNTY**

A BILL to be entitled an Act to amend an Act to create a board of elections and registration for Walker County and provide for its powers and duties, approved April 4, 1997 (Ga. L. 1997, p. 3657), so as to revise the manner of appointing members of the board; to revise the manner of filling vacancies; to revise the qualifications of members of the board; to provide for related matters; to provide for the submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 861

Pearson of the 51st  
**FANNIN COUNTY**

A BILL to be entitled an Act to amend an Act providing for a Board of Commissioners of Fannin County, approved August 10, 1920 (Ga. L. 1920, p. 519), as amended, particularly by an Act approved March 14, 1983 (Ga. L. 1983, p. 3939), so as to change the provision relating to the compensation of the members of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

The substitute to the following bill was put upon its adoption:

\*HB 725:

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 725:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act providing for the election of the Board of Education of Gwinnett County, approved April 7, 1972 (Ga. L. 1972, p. 4058), as amended, particularly by an Act approved April 9, 1993 (Ga. L. 1993, p. 5260), so as to provide for the compensation of members of the board of education; to provide for future adjustments of compensation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

An Act providing for the election of the Board of Education of Gwinnett County, approved April 7, 1972 (Ga. L. 1972, p. 4058), as amended, particularly by an Act approved April 9, 1993 (Ga. L. 1993, p. 5260), is amended by striking Section 2 and inserting in lieu thereof a new Section 2 to read as follows:

**"SECTION 2.**

- (a) Effective January 1, 2006, each member of the Board of Education of Gwinnett County shall receive a salary equal in amount to the salary received by members of the General Assembly.
- (b) On and after January 1, 2006, the Gwinnett County Board of Education is authorized to fix the salary and compensation of the members of the Gwinnett County Board of Education subject to the following conditions:
  - (1) Any increase in salary or compensation for members of the Gwinnett County Board of Education shall not be effective until the first day of January of the year following the next general election held after the date on which the action to increase the compensation was taken;
  - (2) The Gwinnett County Board of Education shall take no action to increase the salary or compensation of the members of the board until notice of intent to take such action and the fiscal impact of such action has been published in a newspaper designated as the legal organ for the county at least once a week for three consecutive weeks immediately preceding the meeting at which the action is taken; and
  - (3) Such action shall not be taken during the period of time beginning with the date that candidates for election as members of the Gwinnett County Board of Education may first qualify as such candidates and ending with the first day of January following the date of qualification.

This subsection shall not affect the power of the General Assembly at any time to increase or decrease any or all of such compensation or to withdraw the authority otherwise granted under this subsection."

**SECTION 2.**

This Act shall become effective on January 1, 2006.

**SECTION 3.**

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

On the adoption of the substitute, the yeas were 40, nays 0, and the substitute was adopted.

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

On the passage of the bills on the Local Consent Calendar, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
E Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Harp	Y Seabaugh	Y Williams
Heath	Y Seay	Zamarripa
Y Henson	Shafer,D	

On the passage of the local bills, the yeas were 40, nays 0.

The bills on the Local Consent Calendar, except HB 725, having received the requisite constitutional majority, were passed.

HB 725, having received the requisite constitutional majority, was passed by substitute.

The following legislation, favorably reported by the committees, as listed on the Consent Calendar for Senate Resolutions, was put upon its adoption.

**CONSENT CALENDAR FOR SENATE RESOLUTIONS**  
**TUESDAY, MARCH 29, 2005**  
**THIRTY-EIGHTH LEGISLATIVE DAY**

- |        |   |
|--------|---|
| SR 41  | Senate Music Industry Committee; create (ECD-26th)                                |
| SR 302 | Tax Relief Legislation; urge Congress to abolish death tax permanently (FIN-48th) |
| SR 457 | Senate Inverse Condemnation Study Committee; create (NR&E-51st)                   |
| SR 458 | Senate Tree Ordinance Study Committee; create (NR&E-51st)                         |

- SR 469 Senate Environmental Program Privatization Study Committee; create (NR&E-49th)
- SR 497 Election Laws; create Senate Study Committee (SLGO(G)-27th)
- SR 499 Senate Coastal Georgia Sound Science Initiative Study Committee; create (NR&E-20th)
- SR 334 Georgia National Guard Family Support Foundation, Inc.; urging financial contributions (APPROP-4th)

Senator Brown of the 26th objected to all legislation on the Consent Calendar for Senate Resolutions. The legislation was placed at the foot of today's Senate Rules Calendar in the order in which it appears above.

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

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

- SB 46. By Senators Shafer of the 48th, Staton of the 18th, Cagle of the 49th, Heath of the 31st and Chance of the 16th:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service in general, so as to provide that suppliers of wireless telephone service providing directory information shall not include wireless service dialing numbers without the express written consent of a subscriber; to provide for terms and conditions; to provide exceptions and authorize waivers; to provide for civil enforcement and immunity from certain liability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Johnson of the 1st moved to engross HB 48, which was on today's Senate Rules Calendar.

On the motion a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr

N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	Thompson,C
Y Douglas	Y Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	N Shafer,D	

On the motion, the yeas were 33, nays 17; the motion prevailed and HB 48 was engrossed.

NOTICE OF MOTION TO RECONSIDER:

HB 221      Child support; guidelines; basic obligation amounts (Substitute)  
                   (Amendments) (JUDY-29th) Burmeister-119th

**SENATE RULES CALENDAR  
                   TUESDAY, MARCH 29, 2005  
                   THIRTY-EIGHTH LEGISLATIVE DAY**

HB 116      Ad valorem tax of property; change definitions (Substitute) (FIN-49th)  
                   O'Neal-146th

HB 488      State and Local Tax Revision Act of 2005; enact (Substitute) (FIN-7th)  
                   O'Neal-146th

HB 48        Ethics in government; amend provisions (Substitute) (ETHICS-45th)  
                   Golick-34th

HB 59        Minimum wage mandates by local governments; change certain  
                   provisions (I&L-21st) Ehrhart-36th

- HB 444 Professional engineers and land surveyors; change certification requirements (RI&Util-51st) Graves-137th
- HB 452 Dog and cat sterilization fund; contributions; state income tax returns (AG&CA-52nd) Maddox-172nd
- HB 244 Elections and voting; amend provisions (Substitute) (SLGO(G)-37th) Burmeister-119th
- HB 10 Female genital mutilation; define offense; penalties; exceptions (Substitute)(JUDY-55th) Oliver-83rd
- HB 301 Fishing; authorize taking by hand under certain conditions (NR&E-24th) Warren-122nd
- HB 246 Prescription drug orders; electronic transmission; amend provisions (H&HS-7th) Graves-137th
- HB 254 Courts; establish drug courts division (Substitute) (JUDY-30th) Knox-24th
- HB 266 Chiropractors; board of examiners; additional authority (Substitute) (H&HS-45th) Wilkinson-52nd
- HB 296 Family Court Division; Superior Court of Fulton County; pilot project (Substitute)(SLGO(G)-37th) Willard-49th
- HB 353 Industrial Hygiene, Health Physics, and Safety Profession Recognition and Title Protection Act; enact (RI&Util-51st) Dodson-75th
- HB 355 Class Nine Fire Department Pension Fund; secretary-treasurer renamed executive director (RET-38th) Cummings-16th
- HB 381 Employees' Retirement; optional retirement allowances; technical corrections (RET-50th) Bridges-10th
- HB 425 Insurers; permit food and refreshments under certain circumstances (Substitute)(I&L-21st) Harbin-118th
- HB 440 Georgia veterans cemeteries; interment; remove residency requirement (V&MA-17th) Yates-73rd

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- HB 442 Occupation taxes; administrative or regulatory fees; exemption certification (V&MA-17th) Yates-73rd
- HB 460 Public retirement systems; compliance with Internal Revenue Code; provisions (RET-50th) Bridges-10th
- HB 492 Judicial Retirement System; dates and election for participation; amend (RET-38th) Cummings-16th
- HB 505 Hotel-motel tax; review board; amend certain provisions (FIN-49th) Royal-171st
- HB 526 International and Maritime Trade Center Authority; membership (ECD-1st) Bryant-160th
- HB 613 Drivers' licenses; bioptic drivers; change renewal period (PS&HS-13th) Wix-33rd
- HB 669 Open meetings; certain athletic or fine art associations; encourage school participation (ED&Y-56th) Martin-47th
- HB 470 Official Code of Georgia; change references to "911" to read 9-1-1 (Substitute)(RI&Util-28th) Lunsford-110th
- HB 106 Sex offender registry; sexually violent offense; redefine (Substitute) (JUDY-30th) Barnard-166th
- HB 236 Theft; certain services or property knowingly obtained by deception (Substitute) (Amendment) (JUDY-13th) Lane-158th
- HB 334 Juvenile courts; salary supplements; amend provisions (JUDY-30th) Mumford-95th
- HB 459 Employees' Retirement; disability retirement and allowance; amend provisions (RET-32nd) Bridges-10th
- HB 495 Teachers Retirement; reemployment of retired teachers (Substitute) (RET-47th) Coleman-97th
- HR 113 U. S. Senators from Georgia; support repeal of excise tax on telecommunications (FIN-49th) Forster-3rd

HB 320      Georgia Health Insurance Risk Pool; create (Substitute) (I&L-21st)  
Forster-3rd

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

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

HB 116. By Representative O`Neal of the 146th:

A BILL to be entitled an Act to amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to change certain definitions regarding such taxation; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

The Senate Finance Committee offered the following substitute to HB 116:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to change certain provisions regarding ad valorem taxation; to change certain provisions regarding homeowner tax relief grants; to change certain provisions regarding the issuance of tax executions; to provide for effective dates; to provide for applicability; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking Code Section 36-89-1, relating to definitions regarding homeowner tax relief grants, and inserting in its place a new Code Section 36-89-1 to read as follows:

"36-89-1.

As used in this chapter, the term:

(1) 'Applicable rollback' means a:

- (A) Rollback of an ad valorem tax millage rate pursuant to subsection (a) of Code Section 48-8-91 in a county or municipality that levies a local option sales tax;
- (B) Rollback of an ad valorem tax millage rate pursuant to subparagraph (c)(2)(C) of Code Section 48-8-104 in a county or municipality that levies a homestead option sales tax;

- (C) Subtraction from an ad valorem millage rate pursuant to Code Section 20-2-334 in a local school system that receives a state school tax credit;
- (D) Reduction of an ad valorem tax millage rate pursuant to the development of a service delivery strategy under Code Section 36-70-24; and
- (E) Reduction of an ad valorem tax millage rate pursuant to paragraph (2) of subsection (a) of Code Section 33-8-8.3 in a county that collects insurance premium tax.
- (2) 'County millage rate' means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a county for county purposes and applying to qualified homesteads in the county, including any millage levied for those special district purposes districts reported on the 2004 ad valorem tax digest certified to and received by the commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of a county school district for educational purposes.
- (3) 'Eligible assessed value' means a certain stated amount of the assessed value of each qualified homestead in the state. The amount of the eligible assessed value for any given year shall be fixed in that year's General Appropriations Act.
- (4) 'Fiscal authority' means the individual authorized to collect ad valorem taxes for a county or municipality which levies ad valorem taxes.
- (5) 'Municipal millage rate' means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a municipality for municipal purposes and applying to qualified homesteads in the municipality, including any millage levied for those special tax district purposes districts reported on the 2004 City and Independent School Millage Rate Certification certified to and received by the commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of an independent school district for educational purposes.
- (6) 'Qualified homestead' means a homestead qualified for any exemption, state, county, or school, authorized under Code Section 48-5-44.
- (7) 'School millage rate' means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied on behalf of a county or independent school district for educational purposes and applying to qualified homesteads in the county or independent school district, not including any millage levied for purposes of bonded indebtedness and not including any millage levied for county or municipal purposes.
- (8) 'State millage rate' means the state millage levy."

## SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new subsection at the end of Code Section 48-3-3, relating to executions by tax collectors and tax commissioners, to be designated subsection (c) to read as follows:

- "(c) No execution shall be issued against any person who is not the record owner of the property on the day that the taxes become delinquent, if and when, that person has

provided satisfactory proof to the tax collector or tax commissioner that the property has been transferred by recorded deed and the liability for the payment of ad valorem taxes has been assigned to the vested transferee by written agreement or contract. In such cases, the execution shall be issued against the person who is the record owner of the property on the date that taxes became delinquent. If an execution has already been issued, such execution shall be affirmatively cleared and vacated of record by the tax collector or tax commissioner upon receiving satisfactory proof as provided in this subsection."

### SECTION 3.

- (a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.
- (b) Section 1 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2005.

### SECTION 4.

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

On the adoption of the substitute, the yeas were 33, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles

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Y Harp  
Heath  
Y Henson

Y Seabaugh  
Y Seay  
Y Shafer,D

Y Williams  
Y Zamarripa

On the passage of the bill, the yeas were 50, nays 0.

HB 116, having received the requisite constitutional majority, was passed by substitute.

HB 488. By Representatives O'Neal of the 146th and Knight of the 126th:

A BILL to be entitled an Act to amend Title 48 of the O.C.G.A., relating to revenue and taxation, so as to enact the "State and Local Tax Revision Act of 2005"; to provide for a short title; to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of federal law into Georgia law; to provide for applicability; to provide for the authority to establish fees for offer in compromises; to clarify that electronic funds transfer applies to use tax; to provide for electronic funds transfer requirements for third-party payroll providers; to clarify that no interest shall be paid when a taxpayer fails to claim credits listed in Article 2 of Chapter 7; to provide for selection of members of performance review boards; to provide for powers, duties, and authority of the state revenue commissioner; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Goggans of the 7th.

The Senate Finance Committee offered the following substitute to HB 488:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to enact the "State and Local Tax Revision Act of 2005"; to provide for a short title; to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of federal law into Georgia law; to provide for applicability; to provide for the authority to establish fees for offer in compromises; to clarify that electronic funds transfer applies to use tax; to provide for electronic funds transfer requirements for third-party payroll providers; to clarify that no interest shall be paid when a taxpayer fails to claim credits listed in Article 2 of Chapter 7; to provide for performance review of county boards of tax assessors; to provide for selection of members of performance review boards; to provide for powers, duties, and authority of the state revenue commissioner; to amend the definition of the term "taxable nonresident"; to clarify the requirements with respect to the subtraction from taxable

income of interest or dividends on obligations of the United States; to amend the requirements with respect to the sale or exchange of real or tangible personal property when the gain or loss is not recognized due to the purchase of similar property; to clarify the requirements with respect to the filing of consolidated returns for Georgia income tax purposes; to provide for the treatment of Georgia net operating losses for corporations; to clarify the treatment of the distributive share received by a nonresident member of a resident limited partnership or other similar nontaxable entity which derives income exclusively from buying, selling, dealing in, and holding securities on its own behalf; to clarify the requirements with respect to the oftlinesubtraction from taxable income of interest or dividends on obligations of the United States; to amend the requirements with respect to the sale or exchange of real or tangible personal property when the gain or loss is not recognized due to the purchase of similar property; to clarify when the tax imposed by Chapter 7 shall apply to a corporation; to clarify the limitations with respect to base year port traffic increases; to clarify the requirements with respect to the assignment of corporate income tax credits; to clarify the commissioner's authority with respect to adjustments which may be made when the taxpayer's activities distort true net income or the taxpayer engages in improper activities; to clarify the definition of the term "nonresident" as defined in Article 5 of Chapter 7; to amend the definition of the term "wages"; to clarify the requirements with respect to credit or refund of estimated tax overpayment; to clarify the sales and use tax registration for vendors on certain state contracts and their affiliates; to provide for entitlement of vendors compensation only when a return and payment of sales and use tax is timely; to extend the sunset provision for distribution of unidentifiable sales and use tax proceeds to December 31, 2007; to provide for entitlement of vendors compensation only when a return and payment of motor fuel tax is timely; to amend the provisions regarding estate taxes; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "State and Local Tax Revision Act of 2005."

**SECTION 2.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by striking paragraph (14) of Code Section 48-1-2, relating to definitions of terms, and inserting in its place a new paragraph (14) to read as follows:

"(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning on or after January 1, ~~2004~~ 2005, the provisions of the United States Internal Revenue Code of 1986 provided for in federal law enacted on or before January 1, ~~2004~~ 2005, except Section 168(k), ~~Section 199~~, and Section 1400L of the Internal Revenue Code of 1986 shall be treated as if they were not in effect ~~and Section 179(b) of the Internal Revenue Code of 1986 shall be treated as it was in effect before the enactment of the Jobs and Growth Tax Relief Reconciliation Act of~~

~~2003 (Public Law 108-27)~~. In the event a reference is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific date prior to January 1, ~~2004~~ 2005, the term means the provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided in this title, any term used in this title shall have the same meaning as when used in a comparable provision or context in the Internal Revenue Code of 1986. For taxable years beginning on or after January 1, ~~2004~~ 2005, provisions of the Internal Revenue Code of 1986 which were as of January 1, ~~2004~~ 2005, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes."

### SECTION 3.

Said title is further amended by striking Code Section 48-2-18.1, relating to tax settlement and compromise procedures, and inserting in its place a new Code Section 48-2-18.1 to read as follows:

"48-2-18.1.

(a) The commissioner or his or her designee shall be authorized to settle and compromise any proposed tax assessment, any final tax assessment, or any tax fi. fa., where there is doubt as to liability or there is doubt as to collectability, and the settlement or compromise is in the best interests of the state. The commissioner shall develop procedures for the acceptance and rejection of offers in compromise. The commissioner shall keep a record of all settlements and compromises made and the reasons for each settlement and compromise.

(b) Each offer in compromise shall be accompanied by a \$100.00 nonrefundable application fee. If the offer is accepted by the commissioner, such application fee shall be treated as part of the offer. Such application fee shall not apply if the applicant's total monthly income is at or below levels based on the poverty guidelines established by the United States Department of Health and Human Services. If this is the case, the applicant shall certify as such with their offer.

### SECTION 4.

Said title is further amended by striking subsection (f) of Code Section 48-2-32, relating to forms of payment, and inserting in its place a new subsection (f) to read as follows:

"(f)(1) As used in this subsection, the term 'electronic funds transfer' means a method of making financial payments from one party to another through a series of instructions and messages communicated electronically, via computer, among financial institutions. Such term shall not include the electronic filing of tax returns.

(2) The commissioner may require that any person or business owing more than \$10,000.00 in connection with any return, report, or other document required to be filed with the department on or after July 1, 1992, shall pay any such sales tax, use tax, withholding tax, motor fuel distributor tax, corporate estimated income tax, or individual estimated income tax liability to the state by electronic funds transfer so

that the state receives collectable funds on the date such payment is required to be made. In emergency situations, the commissioner may authorize alternative means of payment in funds immediately available to the state on the date of payment.

(3) In addition to the requirements contained in paragraph (2) of this subsection, every employer whose tax withheld or required to be withheld under Code Section 48-7-103 exceeds \$50,000.00 in the aggregate for the lookback period as defined in paragraph (4) of subsection (b) of Code Section 48-7-103 must pay the taxes by electronic funds transfer as follows:

(A) For paydays occurring on Wednesday, Thursday, or Friday, the taxes must be remitted on or before the following Wednesday or, in the case of a holiday, the next banking day thereafter;

(B) For paydays occurring on Saturday, Sunday, Monday, or Tuesday, the taxes must be remitted on or before the following Friday or, in the case of a holiday, the next banking day thereafter; and

(C) Notwithstanding any other provision of this paragraph to the contrary, for employers whose tax withheld or required to be withheld exceeds \$100,000.00 for the payday, the taxes must be remitted by the next banking day.

(4) In addition to the requirements contained in paragraphs (2) and (3) of this subsection, every third-party payroll provider who prepares or remits, or both, Georgia withholding tax for more than 250 employers must pay the taxes by electronic funds transfer.

~~(4)~~(5) The commissioner is specifically authorized to establish due dates and times for the initiation of electronic payments, establish an implementation schedule, promulgate regulations, and prescribe rules and procedures to implement this subsection.

~~(5)~~(6) A penalty of 10 percent of the amount due shall be added to any payment which is made in other than immediately available funds which are specified by regulation of the commissioner unless the commissioner has authorized an alternate means of payment in an emergency.

~~(6)~~(7) In addition to authority granted in Code Section 48-2-41, the commissioner is authorized to waive the collection of interest on electronic funds transfer payments, not to exceed the first two scheduled payments, whenever and to the extent that the commissioner reasonably determines that the default giving rise to the interest charge was due to reasonable cause and not due to gross or willful neglect or disregard of this subsection or regulations or instructions issued pursuant to this subsection.

~~(7)~~(8) Notwithstanding any provision of law to the contrary, the commissioner is authorized to promulgate rules and regulations setting forth the requirements for electronically transmitting all required returns, reports, or other documents required to be filed with taxes paid by electronic funds transfer.

~~(8)~~(9) Notwithstanding any provision of law to the contrary, the commissioner is authorized to promulgate rules and regulations setting forth the procedure for satisfying the signature requirement for returns whether by electronic signature, voice

signature, or other means, so long as appropriate security measures are implemented which assure security and verification of the signature procedure.

~~(9)(10)~~ Notwithstanding any provision of law to the contrary, the commissioner is authorized to pay all tax refunds by electronic funds transfer when requested by a taxpayer who has filed his or her return electronically with the department."

## SECTION 5.

Said title is further amended by striking Code Section 48-2-35, relating to refunds, and inserting in its place a new Code Section 48-2-35 to read as follows:

"48-2-35.

(a) A taxpayer shall be refunded any and all taxes or fees which are determined to have been erroneously or illegally assessed and collected from such taxpayer under the laws of this state, whether paid voluntarily or involuntarily, and shall be refunded interest, except as provided in subsection (b) of this Code section, on the amount of the taxes or fees at the rate of 1 percent per month from the date of payment of the tax or fee to the commissioner. For the purposes of this Code section, any period of less than one month shall be considered to be one month. Refunds shall be drawn from the treasury on warrants of the Governor issued upon itemized requisitions showing in each instance the person to whom the refund is to be made, the amount of the refund, and the reason for the refund.

(b) No interest shall be paid if the taxes or fees were erroneously or illegally assessed and collected due to the taxpayer failing to claim any credits listed in Article 2 of Chapter 7 of this title on or before the due date for filing the applicable income tax return, including any extensions which have been granted.

~~(b)~~(c)(1)(A) A claim for refund of a tax or fee erroneously or illegally assessed and collected may be made by the taxpayer at any time within three years after:

- (i) The date of the payment of the tax or fee to the commissioner; or
- (ii) In the case of income taxes, the later of the date of the payment of the tax or fee to the commissioner or the due date for filling the applicable income tax return, including any extensions which have been granted.

(B) Each claim shall be filed in writing in the form and containing such information as the commissioner may reasonably require and shall include a summary statement of the grounds upon which the taxpayer relies. Should any person be prevented from filing such an application because of service of such person or such person's counsel in the armed forces during such period, the period of limitation shall date from the discharge of such person or such person's counsel from such service. A claim for refund may not be submitted by the taxpayer on behalf of a class consisting of other taxpayers who are alleged to be similarly situated.

(2) In the event the taxpayer desires a conference or hearing before the commissioner in connection with any claim for refund, he or she shall specify such desire in writing in the claim and, if the claim conforms with the requirements of this Code section, the commissioner shall grant a conference at a time he or she shall reasonably specify.

- (3) The commissioner or his or her delegate shall consider information contained in the taxpayer's claim for refund, together with such other information as may be available, and shall approve or disapprove the taxpayer's claim and notify the taxpayer of his or her action.
- (4) Any taxpayer whose claim for refund is denied by the commissioner or his or her delegate or whose claim is not decided by the commissioner or his or her delegate within one year from the date of filing the claim shall have the right to bring an action for a refund in the superior court of the county of the residence of the taxpayer, except that:
- (A) If the taxpayer is a public utility or a nonresident, the taxpayer shall have the right to bring an action for a refund in the superior court of the county in which is located the taxpayer's principal place of doing business in this state or in which the taxpayer's chief or highest corporate officer or employee resident in this state maintains his or her office; or
- (B) If the taxpayer is a nonresident individual or foreign corporation having no place of doing business and no officer or employee resident and maintaining his or her office in this state, the taxpayer shall have the right to bring an action for a refund in the Superior Court of Fulton County or in the superior court of the county in which the commissioner in office at the time the action is filed resides.
- (5) An action for a refund pursuant to paragraph (4) of this subsection may not be brought by the taxpayer on behalf of a class consisting of other taxpayers who are alleged to be similarly situated.
- (6) No action or proceeding for the recovery of a refund under this Code section shall be commenced before the expiration of one year from the date of filing the claim for refund unless the commissioner or his or her delegate renders a decision on the claim within that time, nor shall any action or proceeding be commenced after the expiration of two years from the date the claim is denied. The two-year period prescribed in this paragraph for filing an action for refund shall be extended for such period as may be agreed upon in writing between the taxpayer and the commissioner during the two-year period or any extension thereof.
- ~~(e)~~(d) In the event any taxpayer's claim for refund is approved by the commissioner or his or her delegate and the taxpayer has not paid other state taxes which have become due, the commissioner or department may set off the unpaid taxes against the refund. When the setoff authorized by this subsection is exercised, the refund shall be deemed granted and the amount of the setoff shall be considered for all purposes as a payment toward the particular tax debt which is being set off. Any excess refund remaining after the setoff has been applied shall be refunded to the taxpayer.
- ~~(f)~~(e) This Code section shall not apply to taxes paid or stamps purchased for alcoholic beverages pursuant to Title 3."

#### SECTION 6.

Said title is further amended by striking subsection (a) of Code Section 48-5-295.1, relating to the appointment of an independent performance review board, and inserting in its place a new subsection (a) to read as follows:

"(a) The county governing authority may, upon adoption of a resolution, request that a performance review of the county board of tax assessors be conducted. Such resolution shall be transmitted to the commissioner who shall appoint an independent performance review board within 30 days after receiving such resolution. The commissioner shall appoint three competent persons to serve as members of the performance review board, one of whom shall be an employee of the department and two of whom shall be assessors or chief appraisers who are not members of the board or a chief appraiser for the county under review."

#### **SECTION 7.**

Said title is further amended by striking subparagraph (A) of paragraph (11) of Code Section 48-7-1, relating to definitions, and inserting in its place a new subparagraph (A) to read as follows:

"(A) Every individual who is not otherwise a resident of this state for income tax purposes and who regularly and not casually or intermittently engages within this state, by himself or herself or by means of employees, agents, or partners, in employment, trade, business, professional, or other activity for financial gain or profit including, but not limited to, the rental of real or personal property located within this state or for use within this state. 'Taxable nonresident' does not include a legal resident of another state whose only activity for financial gain or profit in this state consists of performing services in this state for an employer as an employee when the remuneration for the services does not exceed the lesser of 5 percent of the income received by the person for performing services in all places during any taxable year or \$5,000.00;"

#### **SECTION 8.**

Said title is further amended by striking subparagraph (b)(1)(B) of Code Section 48-7-21, relating to taxation of corporations, and inserting in its place a new subparagraph (b)(1)(B) to read as follows:

"(B) There shall be subtracted from taxable income interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent such interest or dividends are includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. There shall also be subtracted from taxable income any income derived from the authorized activities of a domestic international banking facility operating pursuant to the provisions of Article 5A of Chapter 1 of Title 7, the 'Domestic International Banking Facility Act,' and any income arising from the conduct of a banking business with persons or entities located outside the United States, its territories, or possessions. Any amount subtracted pursuant to this subparagraph shall be reduced by any interest expenses directly or indirectly attributable to the production of the interest or dividend income. The direct and indirect interest expense shall be determined by multiplying the total interest expense by a fraction, the numerator of which is the taxpayer's average adjusted bases of such United States obligations,

and the denominator of which is the average adjusted bases for all assets of the taxpayer."

#### **SECTION 9.**

Said title is further amended by striking paragraph (5) of subsection (b) of Code Section 48-7-21, relating to taxation of corporations, and inserting in its place a new paragraph (5) to read as follows:

~~"(5) When on the sale or exchange of real or tangible personal property located in this state gain or loss is not recognized because the taxpayer receives or purchases similar property, the nonrecognition shall be allowed only when the property is replaced with property located in this state. Reserved."~~

#### **SECTION 10.**

Said title is further amended by striking division (b)(7)(A)(i) of Code Section 48-7-21, relating to taxation of corporations, and inserting in its place a new division (b)(7)(A)(i) to read as follows:

~~"(A)(i) If two or more corporations file federal income tax returns on a consolidated basis and all of the corporations derive all of their income from sources within this state, the corporations must file consolidated returns for Georgia income tax purposes. Affiliated corporations which file a consolidated federal income tax return but which derive income from sources outside this state must file separate income tax returns with this state unless they have prior approval or have been requested to file a consolidated return by the department. The commissioner shall by regulation provide the time period within which the permission must be requested. A request for permission beyond such time period will not be considered and will result in the filing of separate income tax returns for the applicable year."~~

#### **SECTION 11.**

Said title is further amended by striking the "Reserved" designation of paragraph (10) of subsection (b) of Code Section 48-7-21, relating to taxation of corporations, and inserting in its place a new paragraph (10) to read as follows:

~~"(10) Net operating losses for corporations shall be treated as follows:~~

(A) For any taxable year in which the taxpayer takes a federal net operating loss deduction on its federal income tax return, the amount of such deduction shall be added back to federal taxable income, and Georgia taxable net income for such taxable year shall be computed from the taxpayer's federal taxable income as so adjusted. There shall be allowed as a separate deduction from Georgia taxable net income so computed an amount equal to the aggregate of the Georgia net operating loss carryovers to such year, plus the Georgia net operating loss carrybacks to such year;

(B) The Georgia net operating loss for such taxable year shall be computed by making the adjustments to federal taxable income required by this article and in the

case of corporations doing business both within and outside Georgia, by apportioning and allocating to Georgia, as provided in Code Section 48-7-31, only the amount of the loss attributable to operations within Georgia. The term 'Georgia net operating loss' shall mean the loss computed as provided in this paragraph. In the event the net Georgia adjustments completely offset a federal net operating loss, there shall be no Georgia net operating loss for the taxable year, and any excess of net Georgia adjustments over the federal net operating loss shall constitute Georgia taxable net income after any such excess has been allocated and apportioned to Georgia as provided in Code Section 48-7-31. The procedural sequence of taxable years to which a Georgia net operating loss may be carried back or carried over, and the number of years for which a net operating loss may be carried back or carried over, shall be the same as provided in the Internal Revenue Code. The terms 'Georgia net operating loss carryback' and 'Georgia net operating loss carryover' shall mean the Georgia net operating loss for the applicable year carried back or carried over in the manner and for the number of years as provided in this paragraph;

(C) In the event the taxpayer elects to forgo the carryback period for the federal net operating loss as allowed under the Internal Revenue Code, the taxpayer shall also forgo the carryback period for Georgia purposes. If the taxpayer does not elect to forgo the carryback period for the federal net operating loss, the election to forgo the net operating loss period shall not be allowed for Georgia purposes. If the taxpayer does not have a federal net operating loss, the taxpayer may make an irrevocable election to forgo the carryback period for the Georgia net operating loss, provided that an affirmative statement is attached to the Georgia return for the year of the loss. Such election must be made on or before the due date for filing the income tax return for the taxable year wherein the loss was incurred, including any extensions which have been granted;

(D) The provisions of Sections 108, 381, 382, and 384 of the Internal Revenue Code of 1986, as amended, as they relate to net operating losses also apply for Georgia purposes. The commissioner shall by regulation provide the method of determining how such sections apply;

(E) In the event a taxpayer is entitled to a refund of income taxes by reason of a net operating loss carryback, a claim for such refund must be filed within three years after the due date for filing the income tax return for the taxable year wherein the loss was incurred, including any extensions which have been granted. Such tax refund shall be deemed to have been erroneously assessed and collected, and shall be paid under the provisions of Code Section 48-2-35; provided, however, that no interest shall accrue or be paid for any period prior to the close of the taxable year in which such net operating loss arises and no interest shall be paid if the claim for refund is processed within 90 days from the last day of the month in which the claim for such refund is filed; and

(F) The commissioner shall have the authority to promulgate regulations regarding net operating losses with respect to this paragraph and with respect to consolidated return net operating losses."

#### **SECTION 12.**

Said title is further amended by striking subsection (c) of Code Section 48-7-24, relating to nonresident members of resident partnerships and resident members of nonresident partnerships, and inserting in its place a new subsection (c) to read as follows:

"(c) Notwithstanding any other provision of this chapter to the contrary, the distributive share of a nonresident member of a resident limited partnership or other similar nontaxable entity which derives income exclusively from buying, selling, dealing in, and holding securities on its own behalf and not as a broker shall not constitute taxable income under this chapter. For purposes of this subsection, a resident limited partnership or similar nontaxable entity shall not include a family limited partnership or similar nontaxable entity the majority interest of which is owned by one or more natural or naturalized citizens related to each other within the fourth degree of reckoning according to the laws of descent and distribution. This subsection shall not apply to a person that participates in the management of the resident limited partnership or other similar nontaxable entity or that is engaged in a unitary business with another person that participates in the management of the resident limited partnership or other similar nontaxable entity."

#### **SECTION 13.**

Said title is further amended by striking paragraph (2) of subsection (b) of Code Section 48-7-27, relating to computation of taxable net income, and inserting in its place a new paragraph (2) to read as follows:

"(2) There shall be subtracted from taxable income interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. Any amount subtracted under this paragraph shall be reduced by any interest expenses directly or indirectly attributable to the production of the interest or dividend income. For all taxpayers except individuals, the direct and indirect interest expense shall be determined by multiplying the total interest expense by a fraction, the numerator of which is the taxpayer's average adjusted bases of such United States obligations, and the denominator of which is the average adjusted bases for all assets of the taxpayer."

#### **SECTION 14.**

Said title is further amended by striking paragraph (6) of subsection (b) of Code Section 48-7-27, relating to computation of taxable net income, and inserting in its place a new paragraph (6) to read as follows:

"(6) When, on the sale or exchange of real or tangible personal property located in this state, gain or loss is not recognized because the taxpayer receives or purchases

~~similar property, the nonrecognition shall be allowed only when the property is replaced with property located in this state except for the sale or exchange of a personal residence in which case the nonrecognition shall apply if the taxpayer purchases another personal residence anywhere in the United States within the time allowed under the applicable provisions of the Internal Revenue Code of 1986.~~  
Reserved.

#### **SECTION 15.**

Said title is further amended by striking subsection (a) of Code Section 48-7-31, relating to taxation of corporations, the allocation and apportionment formula, and the formula for apportionment, and inserting in its place a new subsection (a) to read as follows:

"(a) The tax imposed by this chapter shall apply to the entire net income, as defined in this article, received by every foreign or domestic corporation owning property ~~or within this state, doing business within this state, or deriving income from sources within this state to the extent permitted by the United States Constitution.~~ A corporation shall be deemed to be doing business within this state if it engages within this state in any activities or transactions for the purpose of financial profit or gain whether or not:

- (1) The corporation qualifies to do business in this state;
- (2) The corporation maintains an office or place of doing business within this state; or
- (3) Any such activity or transaction is connected with interstate or foreign commerce."

#### **SECTION 16.**

Said title is further amended by striking paragraph (3) of subsection (e) of Code Section 48-7-40.15, relating to alternative tax credits for base year port traffic increases, and inserting in its place a new paragraph (3) to read as follows:

"(3)(A) Any tax credit claimed under subsection (c) of this Code section in lieu of Code Section 48-7-40.7, 48-7-40.8, or 48-7-40.9 shall be allowed for the ensuing ten taxable years following the taxable year the qualified investment property was first placed in service, provided that the increase in port traffic remains above the minimum level established in this Code section and the qualified investment property remains in service.

(B) The tax credit established by this Code section in lieu of Code Section ~~48-7-40~~, 48-7-40.2, 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year.

(C) ~~The tax credit established by this Code section in addition to that pursuant to Code Section 48-7-40 and taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year.~~

~~(C)(D)~~ The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer."

#### SECTION 17.

Said title is further amended by striking subsection (b) of Code Section 48-7-42, relating to affiliated entities and assignment of corporate income tax credits, and inserting in its place a new subsection (b) to read as follows:

"(b) In lieu of claiming any Georgia income tax credit for which a taxpayer otherwise is eligible for the taxable year (such eligibility being determined for this purpose without regard to any limitation imposed by reason of the taxpayer's precredit income tax liability), the taxpayer may elect to assign such credit in whole or in part to one or more affiliated entities for such taxable year by attaching a statement to the taxpayer's return for the taxable year; provided, however, that no carryover attributable to the unused portion of any previously claimed or assigned credit may be assigned or reassigned, except as provided in subsection (d) of this Code section. Such election must be made on or before the due date for filing the applicable income tax return, including any extensions which have been granted. In the case of any credit that must be claimed in installments in more than one taxable year, the election under this subsection may be made on an annual basis with respect to each such installment, provided that the taxpayer shall notify the commissioner with respect to the assignment of each such installment by filing a separate copy of the election statement for such installment no later than the time of filing of the taxpayer's state income tax return for such taxable year due date for filing the applicable income tax return, including any extensions which have been granted. Once made, an election under this subsection shall be irrevocable."

#### SECTION 18.

Said title is further amended by striking Code Section 48-7-58, relating to taxpayer activities distorting true net income, and inserting in its place a new Code Section 48-7-58 to read as follows:

~~48-7-58.~~

(a) When the commissioner has reason to believe that any taxpayer conducts his or her trade or business so as to evade taxes, distort directly or indirectly his or her true net income, or distort directly or indirectly the net income properly attributable to this state, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, as a result of which the net income is arbitrarily assigned to one or another unit in a group of taxpayers conducting business under a substantially common control, a person related to the taxpayer, the commissioner may require the facts as he or she deems necessary for the proper computation of the entire net income and the net income properly attributable to this state. In determining the computation, the commissioner shall consider the fair profit which would normally arise from the conduct of the trade

or business. The commissioner shall by regulation provide when to apply this subsection.

(b)(1) The Additionally, the commissioner may determine the amount of taxable income of any one or more corporations for a calendar or fiscal year when a corporation:

(A) Subject to taxation under this chapter conducts its business in such manner as to benefit either directly or indirectly the members or stockholders of the corporation or any person interested in the business of the corporation by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained for the goods or commodities;

(B) A substantial portion of whose capital stock is directly or indirectly owned by another corporation acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income for either of the corporations; or

(C) Directly or indirectly owning a substantial portion of the stock of another corporation acquires and disposes of the products of the corporation of which it so owns a substantial portion of the stock in such a manner as to create a loss or improper net income for either of the corporations.

(2) In his or her determination, the commissioner shall consider the reasonable profits which, but for the arrangement or understanding, might or could have been obtained by the corporation or corporations subject to taxation under this chapter from dealing in such products, goods, or commodities."

#### **SECTION 19.**

Said title is further amended by striking paragraph (6.2) of Code Section 48-7-100, relating to definitions, and inserting in its place a new paragraph (6.2) to read as follows:

"(6.2) 'Nonresident' shall mean an individual or fiduciary member who resides outside this state and ~~a foreign or domestic corporate member~~ all other members whose headquarters or principal place of business is located outside this state."

#### **SECTION 20.**

Said title is further amended by striking subparagraph (K) of paragraph (10) of Code Section 48-7-100, relating to definitions, and inserting in its place a new subparagraph (K) to read as follows:

"(K) For services performed by a nonresident if the nonresident has been employed within this state for no more than 23 calendar days during the calendar quarter and the nonresident is not a taxable nonresident as defined in Code Section 48-7-1; or"

#### **SECTION 21.**

Said title is further amended by striking Code Section 48-7-121, relating to credit of estimated tax payment, and inserting in its place a new Code Section 48-7-121 to read as follows:

"48-7-121.

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

(1) 'Final return' means the original income tax return filed by the taxpayer for the tax year or an amended return filed on or before the due date of the return without extensions. Such term does not include any other amended income tax return for the period or an estimated tax return.

(2) 'Income tax liability for a taxable year' means the taxpayer's income tax liability as calculated under Code Section 48-7-20 or 48-7-21 for the taxable year reduced (but not below zero) by all nonrefundable credits to which the taxpayer is entitled. Nonrefundable credits include any credit that is limited by the taxpayer's income tax liability or some percentage thereof.

(3) 'Other credits allowed by law' means only those income tax credits that are refundable, such as the credit for income tax withholding and the credit allowed by Code Section 48-7-28.1. Refundable credits do not include any credit that is limited by the taxpayer's income tax liability or some percentage thereof.

(a)(b) The amount of estimated tax paid under this article for any taxable year shall be allowed as a credit to the taxpayer against the taxpayer's income tax liability under Code Section 48-7-20 or 48-7-21 for the taxable year.

(b)(c) To the extent that the estimated tax credit, together with other credits allowed by law, is in excess of the taxpayer's income tax liability for a taxable year as shown on ~~an income tax a final~~ return filed by the taxpayer for that year, the overpayment shall be considered as taxes erroneously paid and shall be credited or refunded as provided in this subsection. The overpayment shall be credited to the taxpayer's estimated income tax liability for the succeeding taxable year unless the taxpayer claims a refund for the overpayment. The commissioner may consider any final return showing an overpayment as a claim for refund per se. An overpayment shall bear no interest if credit is given for the overpayment. Amounts refunded as overpayments shall bear interest at the rate provided in Code Section 48-2-35 but only after 90 days from the filing date of the final return showing the overpayment or 90 days from the due date of the final return, whichever is later."

## SECTION 22.

Said title is further amended by adding a new Code section immediately following Code Section 48-8-13 to be designated Code Section 48-8-14, to read as follows:

"48-8-14.

(a) As used in this Code section, the term 'state agency' means any authority, board, department, instrumentality, institution, agency, or other unit of state government. The term 'state agency' shall not include any county, municipality, or local or regional governmental authority.

(b) On or after the effective date of this Code section, the Department of Administrative Services and any other state agency shall not enter into a state-wide contract or agency contract for goods or services, or both, in an amount exceeding \$100,000.00 with a nongovernmental vendor if the vendor or an affiliate of the vendor

is a dealer as defined in paragraph (3) of Code Section 48-8-2, or meets one or more of the conditions thereunder, but fails or refuses to collect sales or use taxes levied under this chapter on its sales delivered to Georgia.

(c) The Department of Administrative Services and any other state agency may contract for goods or services, or both, with a source prohibited under subsection (b) of this Code section in the event of an emergency or where the nongovernmental vendor is the sole source of such goods or services or both.

(d) The determination of whether a vendor is a prohibited source shall be made by the Department of Revenue, which shall notify the Department of Administrative Services and any other state agency of its determination within three business days of a request for such determination.

(e) Prior to awarding a contract, the Department of Administrative Services and any other state agency to which this article applies shall provide the Department of Revenue the name of the nongovernmental vendor awarded the contract, the name of the vendor's affiliate, and the certificate of registration number as provided for under Code Section 48-8-59 for the vendor and affiliate of the vendor.

(f) The commissioner is specifically authorized to promulgate regulations to implement this Code section."

### **SECTION 23.**

Said title is further amended by striking subsection (b) of Code Section 48-8-50, relating to vendors compensation, and inserting in its place a new subsection (b) to read as follows:

"(b) Each dealer required to file a return under this article shall include such dealer's certificate of registration number or numbers for each sales location or affiliated entity of such dealer on such return. In reporting and paying the amount of tax due under this article, each dealer shall be allowed the following deduction, but only if the return was timely filed and the amount due was not delinquent at the time of payment; and that deduction shall be subject to the provisions of subsection (f) of this Code section pertaining to calculation of the deduction when more than one tax is reported on the same return:

(1) With respect to each certificate of registration number on such return, a deduction of 3 percent of the first \$3,000.00 of the combined total amount of all sales and use taxes reported due on such return for each location other than the taxes specified in paragraph (3) of this subsection;

(2) With respect to each certificate of registration number on such return, a deduction of one-half of 1 percent of that portion exceeding \$3,000.00 of the combined total amount of all sales and use taxes reported due on such return for each location other than the taxes specified in paragraph (3) of this subsection;

(3) With respect to each certificate of registration number on such return, a deduction of 3 percent of the combined total amount due of all sales and use taxes on motor fuel as defined under paragraph (9) of Code Section 48-9-2, which are imposed under any provision of this title, including, but not limited to, sales and use taxes on motor fuel

imposed under any of the provisions described in subsection (f) of this Code section but not including Code Section 48-9-14; and

(4) A deduction with respect to Code Section 48-9-14, as defined in paragraph (5.1) of Code Section 48-8-2, shall be at the rate of one-half of 1 percent of the total amount due of the prepaid state tax reported due on such return, so long as the return and payment is are timely, regardless of the classification of tax return upon which the remittance is made."

#### **SECTION 24.**

Said title is further amended by striking subsection (h) of Code Section 48-8-67, relating to distribution of unidentifiable proceeds, and inserting in its place a new subsection (h) to read as follows:

"(h) The authority of the commissioner to make distributions pursuant to this Code section shall cease on December 31, 2005 2007, unless such authority is extended by a subsequent general Act of the General Assembly."

#### **SECTION 25.**

Said title is further amended by striking subsection (b) of Code Section 48-9-8, relating to tax reports of motor fuel distributors, and inserting in its place a new subsection (b) to read as follows:

"(b) At the time of submitting the report required by subsection (a) of this Code section, the distributor shall pay to the commissioner the tax imposed by paragraph (1) of subsection (a) of Code Section 48-9-3 on all gasoline, fuel oils, compressed petroleum gas, special fuel, and aviation gasoline sold or used in this state during the preceding calendar month, less an allowance of 1 percent of the tax as compensation to cover losses and expenses incurred in reporting the tax to the state. The allowance shall not be deductible unless the report and payment of tax is are made on or before the twentieth day of the month as required by this article."

#### **SECTION 26.**

Said title is further amended by adding a new Code section immediately following Code Section 48-12-1, to be designated Code Section 48-12-1.1, to read as follows:

"48-12-1.1.

This chapter shall not apply to any estate with a date of death which occurred in a year for which the Internal Revenue Code does not allow a credit for state death taxes."

#### **SECTION 27.**

(a) Section 2 of this Act shall become effective on its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2005. Provisions of the Internal Revenue Code of 1986 which were as of January 1, 2005, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes.

- (b) Section 4 of this Act shall become effective on its approval by the Governor or upon its becoming law without such approval and shall be applicable to all payments made on or after July 1, 2005.
- (c) Sections 7, 8, 11, and 13 of this Act shall become effective on their approval by the Governor or upon their becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2005.
- (d) Section 20 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all calendar quarters beginning on or after July 1, 2005.
- (e) Sections 3, 6, 23, and 25 of this Act shall become effective on July 1, 2005.
- (f) This section and Sections 1, 5, 10, 12, 15, 16, 17, 18, 19, 21, 22, 24, and 28 of this Act shall become effective on their approval by the Governor or upon their becoming law without such approval.
- (g) Section 26 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to estates of decedents with a date of death after December 31, 2004.
- (h) Sections 9 and 14 of this Act shall become effective upon their approval by the Governor or upon their becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2004.

### **SECTION 28.**

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

On the adoption of the substitute, the yeas were 33, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman

Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

HB 488, having received the requisite constitutional majority, was passed by substitute.

Senator Kemp of the 46th asked unanimous consent that Senator Moody of the 56th be excused. The consent was granted, and Senator Moody was excused.

HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government; local government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Unterman of the 45th.

The Senate Ethics Committee offered the following substitute to HB 48:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 5 of Title 21 and Titles 36 and 45 of the Official Code of Georgia Annotated, relating, respectively, to ethics in government, local government, and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to change certain provisions relating to the

Ethics Commission; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to change provisions relating to mailing complaints; to provide for rule making with regard to technical defects and the time frame for correction of technical defects in financial disclosure statements; to change certain provisions regarding connected organizations; to create certain restrictions on receipt or award of state contracts; to change certain provisions regarding contributions made to candidates and the location where certain reports are filed; to change provisions relating to contributions or expenditures other than through candidates or campaign committees and disclosure of extensions of credit; to change certain provisions regarding disclosure reports; to change certain provisions regarding electronic filing of reports; to change certain provisions relating to acceptance of campaign contributions during legislative sessions; to change certain provisions relating to maximum allowable contributions; to change certain provisions relating to accounting for and expenditure of campaign contributions; to change certain provisions relating to filing of financial disclosure statements; to change provisions relating to filing by mail; to change certain provisions relating to lobbyist registration; to change provisions relating to lobbyist disclosure reports and the contents thereof and the definition of lobbyist; to create provisions relating to a lobbyist's eligibility for certain appointments; to provide for restrictions for lobbying activities for certain persons; to provide restrictions for lobbyists relating to contingency agreements; to provide for restrictions for lobbyists relating to presence on the floor of the House of Representatives and Senate; to correct cross-references; to change certain provisions relating to complaints or information regarding fraud, waste, and abuse in state programs and operations; to change certain provisions relating to the code of ethics for members of boards, commissions, and authorities; to change provisions relating to a board, commission, or authority's authority to enact rules and regulations; to create the Legislative Ethics Committee; to provide for powers and duties of the committee; to provide for initiation of complaints; to provide for anti-nepotism provisions; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to provide for related matters; to provide for applicability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in government, is amended by striking Code Section 21-5-2, relating to declaration of policy, and inserting in lieu thereof the following:

"21-5-2.

It is declared to be the policy of this state, in furtherance of its responsibility to protect the integrity of the democratic process and to ensure fair elections for constitutional

offices; state offices; district attorneys; members of the Georgia House of Representatives and Georgia Senate; all constitutional judicial officers; and all county and municipal elected officials, to institute and establish a requirement of public disclosure of campaign contributions and expenditures relative to the seeking of such offices, to the recall of public officers holding elective office, and to the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any county or municipal election. Further, it is the policy of this state that the state's public affairs will be best served by disclosures of significant private interests of public officers and officials which may influence the discharge of their public duties and responsibilities. The General Assembly further finds that it is for the public to determine whether significant private interests of public officers have influenced the state's public officers to the detriment of their public duties and responsibilities and, in order to make that determination and hold the public officers accountable, the public must have reasonable access to the disclosure of the significant private interests of the public officers of this state."

## SECTION 2.

Said chapter is further amended by striking Code Section 21-5-3, relating to definitions, and inserting in lieu thereof the following:

"21-5-3.

As used in this chapter, the term:

- (1) 'Business entity' means any corporation, sole proprietorship, partnership, limited partnership, limited liability company, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether profit or nonprofit.
- (2) 'Campaign committee' means the candidate, person, or committee which accepts contributions or makes expenditures designed to bring about the nomination or election of an individual to any elected office. The term 'campaign committee' also means any person or committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer holding elective office or to oppose the recall of a public officer holding elective office or any person or any committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any this state, or a county, or a municipal election in this state.
- (3) 'Campaign contribution disclosure report' means a report filed with the appropriate filing officer by a candidate or the chairperson or treasurer of a campaign committee setting forth all expenditures of \$101.00 or more and all contributions of \$101.00 or more, including contributions and expenditures of lesser amounts when the aggregate amount thereof by or to a person is \$101.00 or more for the calendar year in which the report is filed. Such report shall also include the total amount of all individual contributions received or expenditures made of less than \$101.00 each. The first report required in the calendar year of the election shall contain all such

expenditures made and all such contributions received by the candidate or the committee in prior years in support of the campaign in question.

(4) 'Candidate' means an individual who seeks nomination for election or election to any public office, whether or not such an individual is elected; and a person shall be deemed to seek nomination or election if such person has taken necessary action under the laws of this state to qualify such person for nomination for election or election or has received any contributions or made any expenditures in pursuit of such nomination or election or has given such person's consent for such person's campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or election to such office.

(5) 'Commission' means the State Ethics Commission created under Code Section 21-5-4.

(6) 'Connected organization' means any organization, including any business entity, labor organization, membership organization, or cooperative, which is not a political action committee, as defined in this Code section, but which, directly or indirectly, establishes or administers a political action committee or which provides more than 40 percent of the funds of the political action committee for a calendar year.

(6)(7) 'Contribution' means a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value conveyed or transferred for the purpose of influencing the nomination for election or election of any person for office, bringing about the recall of a public officer holding elective office or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any this state, or a county, a or municipal election in this state. The term specifically shall not include the value of personal services performed by persons who serve without compensation from any sourees source and on a voluntary basis. The term 'contribution' shall include other forms of payment made to candidates for office or who hold office when such fees and compensation made can be reasonably construed as a campaign contribution designed to encourage or influence a candidate or public officer holding elective office. The term 'contribution' shall also encompass transactions wherein a qualifying fee required of the candidate is furnished or paid by anyone other than the candidate.

(7)(8) 'Direct ownership interest' means the holding or possession of good legal or rightful title of property or the holding or enjoyment of real or beneficial use of the property by any person and includes any interest owned or held by a spouse of such person if such interest is held jointly or as tenants in common between the person and spouse.

(8)(9) 'Election' means a primary election; run-off election, either primary or general; special election; or general election. The term 'election' also means a recall election.

(8.1)(10) 'Election cycle' means the period from the day following the date of an election or appointment of a person to elective public office through and including the

date of the next such election of a person to the same public office and shall be construed and applied separately for each elective office.

(9)(11) 'Expenditure' means a purchase, payment, distribution, loan, advance, deposit, or ~~gift any transfer~~ of money or anything of value made for the purpose of influencing the nomination for election or election of any person, bringing about the recall of a public officer holding elective office or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in ~~any this state, or a county, or a municipal election in this state~~. The term specifically shall not include the value of personal services performed by persons who serve without compensation from any source and on a voluntary basis. The term 'expenditure' shall also include the payment of a qualifying fee for and in behalf of a candidate.

(10)(12) 'Fiduciary position' means any position imposing a duty to act primarily for the benefit of another person as an officer, director, manager, partner, guardian, or other designation of general responsibility of a business entity.

(11)(13) 'Filing officer' means that official who is designated in Code Section 21-5-34 to receive campaign contribution disclosure reports; ~~provided, however, that such term shall not include the State Ethics Commission.~~

(12)(14) 'Gift' means any gratuitous transfer to a public officer, ~~the spouse of the public officer, or any dependents of the public officer member of the family of the public officer~~ or a loan of property or services which is not a contribution as defined in paragraph (6) (7) of this Code section and which is in the amount of \$101.00 or more.

(12.1)(15) 'Independent committee' means any committee, club, association, partnership, corporation, labor union, or other group of persons, other than a campaign committee, political party, or political action committee, which receives donations during a calendar year from persons who are members or supporters of the committee and which expends such funds either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate.

(13)(16) 'Intangible property' means property which is not real property and which is held for profit and includes stocks, bonds, interest in partnerships, choses in action, and other investments but shall not include any ownership interest in any public or private retirement or pension fund, account, or system and shall not include any ownership interest in any public or private life insurance contract or any benefit, value, or proceeds of such life insurance contract.

(17) 'Member of the family' means a spouse and all dependent children.

(18) 'Ordinary and necessary expenses' shall include, but shall not be limited to, reasonable expenditures made during the reporting period for office costs and rent, lodging, equipment, travel, advertising, postage, staff salaries, consultants, files storage, polling, special events, volunteers, reimbursements to volunteers, contributions to nonprofit organizations, and flowers for special occasions, which

shall include, but are not limited to, birthdays and funerals, and any other expenditure that is deemed appropriate for the purposes of Code Section 21-5-33.

(14)(19) 'Person' means an individual, partnership, committee, association, corporation, limited liability company, limited liability partnership, trust, professional corporation, or other business entity recognized in the State of Georgia, labor organization, or any other organization or group of persons.

(14.1)(20) 'Political action committee' means:

(A) Any any committee, club, association, partnership, corporation, labor union, or other group of persons which receives donations during a calendar year from persons who are members or supporters of the committee and which distributes these contributes funds ~~as contributions~~ to one or more candidates for public office or campaign committees of candidates for public office; and

(B) A a 'separate segregated fund' as defined in Code Section 21-5-40.

Such term does not include a candidate campaign committee.

(14.2)(21) 'Public employee' means every person employed by the executive, legislative, or judicial branch of state government, or any department, board, bureau, agency, commission, or authority thereof.

(15)(22) 'Public officer' means:

(A) Every constitutional officer;

(B) Every elected state official;

(C) The executive head of every state department or agency, whether elected or appointed;

(D) Each member of the General Assembly;

(E) The executive director of each state board or authority and the members thereof;

(F) Every elected county official and every elected member of a local board of education; and

(G) Every elected municipal official."

### SECTION 3.

Said chapter is further amended by striking subsection (b) of Code Section 21-5-4, relating to the Ethics Commission, and inserting in lieu thereof the following:

"(b) There is created the State Ethics Commission, with such duties and powers as are set forth in this chapter. The commission shall be a successor to the State Campaign and Financial Disclosure Commission in all matters pending before the State Campaign and Financial Disclosure Commission on March 1, 1987, and may continue to investigate, prosecute, and act upon all such matters. The commission shall be governed by five members appointed as follows: three members, not more than two of whom shall be from the same political party, shall be appointed by the Governor, two for terms of three years and one for a term of two years; one member shall be appointed by the Lieutenant Governor Senate Committee on Assignments for a term of four years; and one member shall be appointed by the Speaker of the House of Representatives for a term of four years. The initial members shall take office on March 2, 1987. Upon the

expiration of a member's term of office, a new member, appointed in the same manner as the member whose term of office expired as provided in this subsection, shall become a member of the commission and shall serve for a term of four years and until such member's successor is duly appointed and qualified. If a vacancy occurs in the membership of the commission, a new member shall be appointed to the unexpired term of office by the state official who appointed the vacating member. Members of the commission shall not serve for more than one complete term of office; provided, however, that the members of the State Campaign and Financial Disclosure Commission serving on March 1, 1987, shall be eligible for appointment as initial members of the State Ethics Commission."

#### SECTION 4.

Said chapter is further amended by striking Code Section 21-5-5, relating to operating expenses, and inserting in lieu thereof the following:

"21-5-5.

The funds necessary to carry out this chapter shall come from the funds appropriated to and available to the State Ethics Commission and from any other available funds. The commission shall be a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the commission shall be assigned for administrative purposes only to the Secretary of State."

#### SECTION 5.

Said chapter is further amended by striking Code Section 21-5-6, relating to powers and duties of the commission, and inserting in lieu thereof the following:

"21-5-6.

(a) The commission is vested with the following powers:

- (1) To meet at such times and places as it may deem necessary;
- (2) To contract with other agencies, public or private, or persons as it deems necessary for the rendering and affording of such services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities;
- (3) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this chapter, of Code Sections 45-10-3 and 45-10-4, and of Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government;
- (4) To employ an executive secretary and such additional staff as the commission deems necessary to carry out the powers delegated to the commission by this chapter, by Code Sections 45-10-3 and 45-10-4, and by Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government;

- (5) To issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence;
  - (6) To institute and prosecute actions in the superior courts, in its own name, seeking to enjoin or restrain any violation or threatened violation of this chapter;
  - (7) To adopt in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' such rules and regulations as are necessary to carry out the purposes of this chapter; and
  - (8) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the ~~power~~ powers granted to it.
- (b) The commission shall have the following duties:
- (1) To prescribe forms to be used in complying with this chapter and, insofar as practical, produce forms which may allow a filer to use a single form in complying with multiple Code sections, including but not limited to the filings required by Code Sections 21-5-50 and 45-10-26;
  - (2) To prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required by this chapter to file statements and reports;
  - (3) To accept and file any information voluntarily supplied that exceeds the requirements of this chapter;
  - (4) To develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter;
  - (5) To adopt a retention standard for records of the commission in accordance with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act';
  - (6) To prepare and publish such other reports and technical studies as in its judgment will tend to promote the purposes of this chapter;
  - (7) To provide for public dissemination of such summaries and reports;
  - (8) To determine whether the required statements and reports have been filed and, if so, whether they conform to the requirements of this chapter;
  - (9) To make investigations, subject to the limitations contained in Code Section ~~21-5-7~~ 21-5-7.1, with respect to the statements and reports filed under this chapter and with respect to alleged failure to file any statements or reports required under this chapter and upon receipt of the written complaint of any person, ~~verified under oath to the best information, knowledge, and belief by the person making such complaint~~ with respect to an alleged violation of any provision of this chapter, provided that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter;
  - (10)(A) To conduct a preliminary investigation, subject to the limitations contained in Code Section ~~21-5-7~~ 21-5-7.1, of the merits of a written complaint by any person who believes that a violation of this chapter has occurred, ~~verified under oath to the best information, knowledge, and belief by the person making such complaint~~. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of

additional evidence or relevant material. If the commission determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The commission may file a complaint charging violations of this chapter, and any person aggrieved by the final decision of the commission is entitled to judicial review in accordance with Chapter 13 of Title 50; provided, however, that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.

(B) In any such preliminary investigation referenced in subparagraph (A) of this paragraph, until such time as the commission determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';

(11) To report suspected violations of law to the appropriate law enforcement authority;

(12) To investigate upon a written complaint any illegal use of ~~state~~ public employees in a political campaign by any candidate;

(13) To issue, upon written request, and publish written advisory opinions on the requirements of this chapter, or Code Sections 45-10-3 and 45-10-4, and of Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government, based on a real or hypothetical set of circumstances; and each such written advisory opinion shall be issued within 60 days of the written request for the advisory opinion. The commission shall make all advisory opinions that were issued after January 9, 2006, publicly available for review and shall post these and all future opinions on the commission's website and to the extent possible, the commission shall make all advisory opinions that were issued prior to January 9, 2006, publically available for review and shall post these opinions on the commission's website. No liability shall be imposed under this chapter for any act or omission made in conformity with a written advisory opinion issued by the commission that is valid at the time of the act or omission;

(14) To issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or Code Sections 45-10-3 and 45-10-4 and Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government, or prohibiting the actual or threatened commission of any conduct constituting a violation, which order may include a provision requiring the violator:

(A) To cease and desist from committing further violations;

(B) To make public complete statements, in corrected form, containing the information required by this chapter;

- (C)(i) ~~To Except as provided in paragraph (2) of Code Section 21-5-7.1, to pay a civil penalty not to exceed \$1,000.00 for each violation contained in any report required by this chapter or for each failure to comply with any other provision of this chapter or of any rule or regulation promulgated under this chapter or with Code Sections 45-10-3 and 45-10-4 and with Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government; provided, however, that a civil penalty not to exceed \$5,000.00 may be imposed for a second occurrence of a violation of the same provision and a civil penalty not to exceed \$10,000.00 may be imposed for each third or subsequent occurrence of a violation of the same provision.~~
- (ii) A civil penalty shall not be assessed ~~against any person~~ except after notice and hearing as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the commission. All moneys recovered pursuant to this Code section shall be deposited in the state treasury.
- (iii) The Attorney General of this state shall, upon complaint by the commission, or may, upon the Attorney General's own initiative if after examination of the complaint and evidence the Attorney General believes a violation has occurred, bring an action in the superior court in the name of the commission for a temporary restraining order or other injunctive relief or for civil penalties ~~assessed against any person violating for a violation of~~ any provision of this chapter ~~or of~~ Code Sections 45-10-3 and 45-10-4 and Part 1 of Article 2 of Chapter 10 of Title 45, ~~except as said part applies to persons employed by or elected to the legislative branch of state government,~~ or any rule or regulation duly issued by the commission.
- (iv) Any action brought by the Attorney General to enforce civil penalties ~~assessed against any person for violating for a violation of~~ the provisions of this chapter, ~~of Code Sections 45-10-3 and 45-10-4 and of Part 1 of Article 2 of~~ Chapter 10 of Title 45, ~~except as said part applies to persons employed by or elected to the legislative branch of state government,~~ or ~~of~~ any rule or regulation duly issued by the commission or any order issued by the commission ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county of the residence of the party against whom relief is sought. Service of process shall lie in any jurisdiction within the state. In such actions, the superior court inquiry will be limited to whether notice was given by the commission to the violator in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the superior court shall enforce the orders of the commission and the civil penalties assessed under this chapter and the superior court shall not make independent inquiry as to whether the violations have occurred.

(v) In any action brought by the Attorney General to enforce any of the provisions of this chapter or of any rule or regulation issued by the commission, the judgment, if in favor of the commission, shall provide that the defendant pay to the commission the costs, including reasonable attorneys' fees, incurred by the commission in the prosecution of such action; and

The commission shall make all such orders that were issued after January 9, 2006, publicly available for review and shall post these and all future orders on the commission's website and to the extent possible, the commission shall make all advisory orders that were issued prior to January 9, 2006, publicly available for review and shall post these orders on the commission's website. Such orders shall serve as precedent for all future orders.

(15) To make public its conclusion that a violation has occurred and the nature of such violation;

(16) To petition the superior court within the county where the hearing was or is being conducted for the enforcement of any order issued in connection with such hearing; and

(17) To report to the General Assembly and the Governor at the close of each fiscal year concerning the action taken during that time, the names, salaries, and duties of all individuals employed, and the funds disbursed and to make such further report on the matters within its jurisdiction as may appear desirable; and

(18) To carry out the procedures, duties, and obligations relative to the commission set forth in this chapter, in Code Sections 45-10-3 and 45-10-4, and in Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government;

(19) On a quarterly basis, to prepare, update, and publish a report and post such report on its website, listing the name of each filer who has not filed the campaign contribution disclosure report required by Code Sections 21-5-34 and 21-5-34.1, the financial disclosure statement required by Code Section 21-5-50, or the disclosure report required by Code Section 21-5-73 within 30 days of the date such report was due to be filed;

(20) To publish overall lobbyist spending by category. Such categories shall be established by rule of the commission and may, without limitation, include gifts, meals, entertainment, office supplies, lodging, equipment, advertising, travel, and postage;

(21) To promulgate rules and regulations with respect to electronic filings; and

(22) To provide and conduct semiannual training on the mechanics of electronic filing and registration.

(c) The Secretary of State, through the Secretary of State's office, shall perform the ministerial functions which the commission may require. The office of the Secretary of State shall be designated as the place where members of the public may file papers or correspond with the commission and receive any form or instruction from the commission. The Secretary of State or the Secretary of State's designee shall serve as secretary to the commission. The State Ethics Commission shall have the same powers

and duties with respect to Code Sections 45-10-3 and 45-10-4 and Part 1 of Article 2 of Chapter 10 of Title 45, except as said part applies to persons employed by or elected to the legislative branch of state government, as the commission has with respect to this chapter.

(d) The Attorney General shall have the same powers and duties with respect to Code Sections 45-10-3 and 45-10-4 and Part 1 of Article 2 of Chapter 10 of Title 45 as the Attorney General has with respect to this chapter. Without limiting the generality of the foregoing, it is specifically provided that the Attorney General may bring civil actions for the enforcement of Code Sections 45-10-3 and 45-10-4 and Part 1 of Article 2 of Chapter 10 of Title 45 in the same general manner as provided in this chapter."

## SECTION 6.

Said chapter is further amended by striking Code Section 21-5-7, relating to initiation of complaints, and inserting in lieu thereof the following:

"21-5-7.

~~(a)~~ The commission shall not initiate any investigation or inquiry into any matter under its jurisdiction based upon the complaint of any person unless that person shall ~~reduce~~ produce the same in writing and verify the same under oath to the best information, knowledge, and belief of such person, the falsification of which shall be punishable as false swearing under Code Section 16-10-71. The person against whom any complaint is made shall be furnished by hand delivery or statutory overnight delivery or mailed by certified mail, return receipt requested, a copy of the complaint by the commission immediately upon within two business days of the commission's receipt of such complaint and prior to any other public dissemination of such complaint. Nothing in this Code section, however, shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.

~~(b)~~ The commission shall adopt rules which shall provide that:

~~(1) Upon the commission's receipt of a complaint, a determination shall be made as to whether the complaint relates to an alleged technical defect in a filing. For this purpose, a technical defect shall be a defect such as a failure to include a date or an incorrect date, a failure to include a contributor's occupation or an incorrect occupation, a failure to include an address or an incorrect address, or any other similar technical defect as specified by rule of the commission;~~

~~(2) When the commission determines that a complaint relates to a technical defect in a filing, the subject of the complaint shall be given a period of ten days to correct the alleged technical defect. During such ten day period the complaint shall be considered as received by the commission but not yet filed with the commission. If during such ten day period the alleged technical violation is cured by an amended filing or otherwise, or if during such ten day period the subject of the complaint demonstrates that there is no technical violation as alleged, the complaint shall be disposed of without filing or further proceedings and no penalty shall be imposed."~~

**SECTION 7.**

Said chapter is further amended by inserting a new Code Section 21-5-7.1 to follow Code Section 21-5-7 to read as follows:

"21-5-7.1.

The commission shall adopt rules which shall provide that:

- (1) Upon the commission's receipt of a complaint, a determination shall be made as to whether the complaint relates to an alleged technical defect in a filing. For this purpose, a technical defect shall be a defect such as a failure to include a date or an incorrect date, a failure to include a contributor's occupation or an incorrect occupation, a failure to include an address or an incorrect address, a failure to include an employer or an incorrect employer, accounting errors, or any other similar technical defect as specified by rule of the commission;
- (2) When the commission determines that a complaint relates to a technical defect in a filing, the subject of the complaint shall be issued a notice of an alleged technical defect by certified mail, return receipt requested, or statutory overnight delivery and shall be given a period of 30 calendar days from the receipt of the notice to correct the alleged technical defect. During the 30 day period the complaint shall be considered as received by the commission but not yet filed with the commission and shall not be considered a violation of this chapter. If during the 30 day period the alleged technical violation is cured by an amended filing or otherwise or if during the 30 day period the subject of the complaint demonstrates that there is no technical violation as alleged, the complaint shall be disposed of without filing or further proceedings and no penalty shall be imposed. If the subject of the complaint fails to respond to the notice of an alleged technical defect, make an amended filing, or demonstrate that there is no technical violation as alleged by the thirty-first day, the commission shall impose and collect an administrative fee not to exceed \$50.00 per technical defect. For the purposes of the penalties imposed by this paragraph, the same error or inaccurate entry shall be considered a single technical violation if the error or inaccurate entry appears multiple times on that report or causes further errors or inaccurate entries in that report or in any future reports or further technical violations in that report or in any future reports;
- (3) If the subject of the complaint does not pay the administrative fee required by paragraph (2) of this Code section, if any, and does not otherwise also comply with paragraph (2) of this Code section by the sixtieth day from the receipt of the notice of an alleged technical defect, the commission shall conduct further investigation and the complaint may proceed further in accordance with the provisions of this chapter; and
- (4) When the commission determines in its discretion that best efforts have been made to complete a required filing, said filing shall be considered in compliance with this Code section and any complaint relative to said filing shall be dismissed."

**SECTION 8.**

Said chapter is further amended by striking Code Section 21-5-12, relating to connected organizations, and inserting in lieu thereof the following:

"21-5-12.

(a) As used in this Code section, the term 'connected organization' means any organization, including any corporation, labor organization, membership organization, or cooperative, which is not a political action committee, as defined in this article, but which, directly or indirectly, establishes or administers a political action committee or which provides more than 40 percent of the funds of the political action committee for a calendar year.

(b)(a) The name of each political action committee shall include the name of its connected organization.

(e)(b) The name of any separate segregated fund, as defined in Code Section 21-5-40, shall include the name of its connected organization."

#### SECTION 9.

Said chapter is further amended by inserting a new Code Section 21-5-13 to follow Code Section 21-5-12 to read as follows:

"21-5-13.

Any action alleging a violation of this chapter shall be commenced within three years after the date of filing of the first report containing the alleged violation involving any person elected to serve for a term of two years, and any action alleging a violation of this chapter shall be commenced within five years after the date of filing of the first report containing the alleged violation involving any person elected to serve for a term of four years. For purposes of this Code section, an action shall be deemed to have commenced against a person only when either:

- (1) A complaint has been accepted by the commission in compliance with Code Section 21-5-7; or
- (2) The commission serves on such person notice that it has found probable cause to initiate an investigation on its own cognizance."

#### SECTION 10.

Said chapter is further amended by striking Code Section 21-5-30, relating to contributions made to a candidate or a campaign committee or for the recall of a public officer, and inserting in lieu thereof the following:

"21-5-30.

(a) Except as provided in subsection (e) of Code Section 21-5-34, no contributions to bring about the nomination or election of a candidate for any office shall be made or accepted except directly to a candidate or such candidate's campaign committee which is organized for the purpose of bringing about the nomination or election of any such candidate; and no contributions to bring about the recall of a public officer or to oppose the recall of a public officer or to bring about the approval or rejection by the voters of a proposed constitutional amendment, state-wide referendum, or other issue proposed question at the state, municipal, or county level shall be made or accepted except directly by a campaign committee organized for that purpose.

- (b) Each candidate shall maintain records and file reports as required by this chapter or shall have a campaign committee for the purposes of maintaining records and filing reports as required by this chapter. Every campaign committee shall have a chairperson and a treasurer, except that the candidate may serve as the chairperson and treasurer. Before a campaign committee accepts contributions, the name and address of the chairperson and treasurer shall be filed with the ~~Secretary of State commission~~. When a candidate has been elected to public office, the registration of that candidate's campaign committee with the ~~Secretary of State commission~~ shall remain in effect so long as the candidate remains in office until and unless: (1) the registration is canceled by the campaign committee or the candidate; or (2) a new campaign committee for that candidate is registered with the ~~Secretary of State~~. The same person may serve as chairperson and treasurer. No contributions shall be accepted by or on behalf of the campaign committee at a time when there is a vacancy in the office of chairperson or treasurer of the campaign committee.
- (c) Contributions of money received pursuant to subsection (a) of this Code section shall be deposited in ~~the separate~~ a campaign depository account opened and maintained by the candidate or the campaign committee ~~for the purpose for which such campaign committee was organized~~. Such ~~The~~ account may be an interest-bearing account; provided, however, that any interest earned on such account shall be ~~deemed contributions reported~~ and may only be used for the purposes allowed ~~for contributions~~ under this chapter. ~~Those who elect the separate accounting option as provided in Code Section 21-5-43 may also open, but are not required to open, a separate campaign depository account for each election for which contributions are accepted beyond their next upcoming election.~~
- (d) ~~Where Unless otherwise reported individually, where~~ separate contributions of less than \$101.00 are knowingly received from a common source, such contributions shall be aggregated for reporting purposes. For purposes of fulfilling such aggregation requirement, members of the ~~same~~ family, ~~members of the same~~ firm, or partnership, or employees of the same person, as defined in paragraph (14) (19) of Code Section 21-5-3, shall be considered to be a common source; provided, however, that the purchase of tickets for not more than \$25.00 each and for or attendance at a fundraising event by members of the ~~same~~ family, ~~members of the same~~ firm, or partnership, or employees of the same person shall not be considered to be contributions from a common source except to the extent that tickets are purchased as a block.
- (e) The making and acceptance of anonymous contributions are prohibited. Any anonymous contributions received by a candidate or campaign committee shall be transmitted to the director of the Office of Treasury and Fiscal Services for deposit in the state treasury, and the fact of such contribution and transmittal shall be reported to the commission.
- (f) A person acting on behalf of a public utility corporation regulated by the Public Service Commission shall not make, directly or indirectly, any contribution to a political campaign. This subsection shall not apply to motor carriers whose rates are not regulated by the Public Service Commission. Any person who knowingly violates this

subsection with respect to a member of the Public Service Commission, a candidate for the Public Service Commission, or the campaign committee of a candidate for the Public Service Commission shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years or by a fine not to exceed \$5,000.00 \$10,000.00, or both; and any person who knowingly violates this subsection with respect to any other public officer, a candidate for such other public office, or the campaign committee of a candidate for such other public office shall be guilty of a misdemeanor.

(g) Neither a candidate who is not a public officer nor his or her campaign committee may lawfully accept a campaign contribution until the candidate has filed with the Secretary of State commission or appropriate local filing officer a declaration of intention to accept campaign contributions which shall include the name and address of the candidate and the names and addresses of his or her campaign committee officers, if any."

#### **SECTION 11.**

Said chapter is further amended by striking Code Section 21-5-31, relating to contributions or expenditures other than through candidate or committee and disclosure of extensions of credit, and inserting in lieu thereof the following:

"21-5-31.

(a) ~~Any person who accepts contributions for, makes contributions to, or makes expenditures on behalf of candidates is subject to the same disclosure requirements of this chapter as a candidate, except that contributions from individuals made directly to a candidate or his campaign committee do not require separate reporting, except that contributions from persons as defined in paragraph (14) of Code Section 21-5-3 which do not exceed \$500.00 in the aggregate or which are made to only one candidate, regardless of the amount, do not require separate reporting, and except that copies of campaign contribution disclosure reports do not have to be filed with local election superintendents as required of candidates for membership in the General Assembly pursuant to paragraph (1) of subsection (a) of Code Section 21-5-34.~~

(b) ~~When a contribution consists of the proceeds of a loan, advance, or other extension of credit, the campaign contribution disclosure report shall also contain the name of the lending institution or party making the advance or extension of credit and the names, mailing addresses, occupations, and places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have a fiduciary relationship to the lending institution or party making the advance or extension of credit, the report shall specify such relationship.~~ Reserved."

#### **SECTION 12.**

Said chapter is further amended by striking Code Section 21-5-34, relating to disclosure reports, and inserting in lieu thereof the following:

"21-5-34.

(a)(1)(A) The candidate or the chairperson or treasurer of each campaign committee organized to bring about the nomination or election of a candidate for any office except county and municipal offices or the General Assembly and the chairperson or treasurer of every campaign committee designed to bring about the recall of a public officer or to oppose the recall of a public officer or designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, state-wide proposed question, or state-wide referendum shall sign and electronically file with the Secretary of State commission the required campaign contribution disclosure reports. A candidate for membership in the General Assembly or the chairperson or treasurer of such candidate's campaign committee shall electronically file such candidate's reports with the Secretary of State commission and a copy thereof of such report with the election superintendent of the county of such candidate's residence.

(B) The chairperson or treasurer of each independent committee as defined in Code Section 21-5-3 shall electronically file the required disclosure reports with the Secretary of State commission.

(2)(A) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed question which is to appear on the ballot in any this state, or a county, or a municipal election in this state shall electronically file a campaign contribution disclosure report as prescribed by this chapter; provided, however, that such report shall only be required if such campaign committee has received contributions which total more than \$500.00 or if such campaign committee has made expenditures which total more than \$500.00. All advertising pertaining to referendums must shall identify the principal officer of such campaign committee by listing or stating the name and title of the principal officer.

(B) If a campaign committee is required to file a report under subparagraph (A) of this paragraph, such report shall be filed with the election superintendent of the county in the case of a county election or with the municipal clerk in the case of a municipal election. Any such report shall be filed 15 days prior to the date of the election; and a final report shall be filed prior to December 31 of the year in which the election is held.

(3) A candidate for county office or the chairperson or treasurer of such candidate's campaign committee shall sign and file the required campaign contribution disclosure reports with the election superintendent in the respective county of election.

(4) A candidate for municipal office or such candidate's campaign committee shall file the reports with the municipal clerk in the respective municipality of election or, if there is no clerk, with the chief executive officer of the municipality.

(b)(1) All reports shall list the following:

(A) The As to any contributions of \$101.00 or more, its amount and date of receipt, the election for which the contribution has been accepted, along with the name, and mailing address, occupation, and employer of any person making a contribution of \$101.00 or more, including of the contributor, and, if the contributor is an

individual, that individual's occupation and the name of his or her employer. Such contributions shall include, but shall not be limited to, the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events coordinated for the purpose of raising campaign contributions for the reporting candidate person;

(B) The name and mailing address and occupation or place of employment of any person to whom an expenditure of \$101.00 or more is made and the amount, date, and general purpose of such expenditure; As to any expenditure of \$101.00 or more, its amount and date of expenditure, the name and mailing address of the recipient receiving the expenditure, and, if that recipient is an individual, that individual's occupation and the name of his or her employer and the general purpose of the expenditure;

(C) When a contribution consists of a loan, advance, or other extension of credit, the report shall also contain the name of the lending institution or party making the advance or extension of credit and the names, mailing addresses, occupations, and places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have a fiduciary relationship to the lending institution or party making the advance or extension of credit, the report shall specify such relationship;

(D) Total contributions received and total expenditures made as follows:

(i) Contributions and expenditures shall be reported for the applicable reporting cycle;

(ii) A reporting cycle shall commence on January 1 of the year in which an election is to be held for the public office to which a candidate seeks election and shall conclude:

(I) At the expiration of the term of office if such candidate is elected and does not seek reelection or election to some other office;

(II) On December 31 of the year in which such election was held if such candidate is unsuccessful; or

(III) If such candidate is successful and seeks reelection or seeks election to some other office the current reporting cycle shall end when the reporting cycle for reelection or for some other office begins;

(iii) The first report of a reporting cycle shall list the net balance on hand brought forward from the previous reporting cycle, if any, and the total contributions received during the period covered by the report;

(iv) Subsequent reports shall list the total contributions received during the period covered by the report and the cumulative total of contributions received during the reporting cycle;

(v) The first report of a reporting cycle shall list the total expenditures made during the period covered by the report;

(vi) Subsequent reports shall list the total expenditures made during the period covered by the report, the cumulative total of expenditures made during the reporting cycle, and net balance on hand; and

(vii) If a public officer seeks reelection to the same public office, or if the public officer is a member of the General Assembly seeking reelection in another district as a result of redistricting, the net balance on hand at the end of the current reporting cycle shall be carried forward to the first report of the applicable new reporting cycle; and

(E) The corporate, labor union, or other affiliation of any political action committee or independent committee making a contribution of \$101.00 or more.

(2) Each report shall be in such form as will allow for the separate identification of a contribution or contributions which are less than \$101.00 but which become reportable due to the receipt of an additional contribution or contributions which when combined with such previously received contribution or contributions cumulatively equal or exceed \$101.00.

(c) Candidates or campaign committees which accept contributions, make expenditures designed to bring about the nomination or election of a candidate, or have filed a declaration of intention to accept campaign contributions pursuant to subsection (g) of Code Section 21-5-30 shall file campaign contribution disclosure reports in compliance with the following schedule:

(1) In each nonelection year on June 30 and December 31;

(2) In each year in which the candidate qualifies to run for public office:

(A) On March 31, June 30, September 30, October 25, and December 31;

(B) Six days before any run-off primary or election in which the candidate is listed on the ballot; and

(C) During the period of time between the last report due prior to the date of any state-wide primary or state-wide election for which the candidate is qualified and the date of such primary or election, all contributions of \$1,000.00 or more must shall be reported within 48 hours two business days of receipt to the location where the original disclosure report for such candidate or committee was filed and also reported on the next succeeding regularly scheduled campaign contribution disclosure report;

(3) If the candidate is candidate in a special primary or special primary runoff, 15 days prior to the special primary and six days prior to the special primary runoff; and

(4) If the candidate is candidate in a special election or special election runoff, 15 days prior to the special election and six days prior to the special election runoff.

All persons or entities required to file reports shall have a five-day grace period in filing the required reports, except that the grace period shall be two days for required reports prior to run-off primaries or run-off elections, and no grace period shall apply to contributions required to be reported within 48 hours two business days. Except as provided for electronic filing, the The mailing of such reports by United States mail with adequate postage affixed, within the required filing time as determined by the official United States postage date cancellation, shall be prima-facie evidence of filing but reports required to be filed within 48 hours two business days of a contribution must shall also be reported by facsimile, electronic transmission, or otherwise within those 48 hours two business days to the location where the original disclosure report for

such candidate or committee was filed. A report or statement required to be filed by this Code section other than a report of contributions required to be reported within ~~48 hours~~ ~~two business days~~ shall be verified by the oath or affirmation of the person filing such report or statement taken before an officer authorized to administer oaths. Each report required in the calendar year of the election shall contain cumulative totals of all contributions which have been received and all expenditures which have been made in support of the campaign in question and which are required, or previously have been required, to be reported.

(d) In the event any candidate covered by this chapter has no opposition in either a primary or a general election and receives no contribution of \$101.00 or more, such candidate shall only be required to make the initial and final report as required under this chapter.

(e) Any person who makes contributions to, accepts contributions for, or makes expenditures on behalf of candidates, and any independent committee, shall file a registration with the ~~Secretary of State commission~~ in the same manner as is required of campaign committees prior to accepting or making contributions or expenditures. Such persons, other than independent committees, shall also file campaign contribution disclosure reports in the same places and at the same times as required of the candidates they are supporting, ~~but such persons shall not be required to file copies of campaign contribution disclosure reports with local election superintendents as is required of candidates for membership in the General Assembly.~~ The following persons shall be exempt from the foregoing registration and reporting requirements:

(1) Individuals making aggregate contributions of \$25,000.00 or less directly to candidates or the candidates' campaign committees in one calendar year; ~~and~~

(2) Persons other than individuals making aggregate contributions and expenditures to or on behalf of candidates of \$5,000.00 or less in one calendar year; ~~and~~

(3) Contributors who make contributions to only one candidate during one calendar year.

(f)(1) Any independent committee which accepts contributions or makes expenditures for the purpose of affecting the outcome of an election or advocates the election or defeat of any candidate shall file disclosure reports with the ~~Secretary of State commission~~ as follows:

(A) On ~~on~~ the first day of each of the two calendar months preceding any such election;

(B) Two ~~two~~ weeks prior to the date of such election; and

(C) Within ~~within~~ the two-week period prior to the date of such election the independent committee shall report within ~~48 hours~~ ~~two business days~~ any contributions or expenditure of more than \$1,000.00.

The independent committee shall file a final report prior to December 31 of the year in which the election is held and shall file supplemental reports on June 30 and December 31 of each year that such independent committee continues to accept contributions or make expenditures.

(2) Reports filed by independent committees shall list the following:

- (A) The amount and date of receipt, along with the name, mailing address, occupation, and employer of any person making a contribution of \$101.00 or more;
  - (B) The name, mailing address, occupation, and employer of any person to whom an expenditure or provision of goods or services of the value of \$101.00 or more is made and the amount, date, and general purpose thereof, including the name of the candidate or candidates, if any, on behalf of whom, or in support of or in opposition to whom, the expenditure or provision was made;
  - (C) Total expenditures made as follows:
    - (i) Expenditures shall be reported for the applicable reporting year;
    - (ii) The first report of a reporting year shall list the total expenditures made during the period covered by the report; and
    - (iii) Subsequent reports shall list the total expenditures made during the period covered by the report, the cumulative total of expenditures made during the reporting year, and net balance on hand; and
  - (D) The corporate, labor union, or other affiliation of any political action committee, candidate, campaign committee, or independent committee making a contribution of the value of \$101.00 or more.
  - (3) Whenever any independent committee makes an expenditure for the purpose of financing any communication intended to affect the outcome of an election, such communication shall clearly state that it has been financed by such independent committee.
  - (g) Any campaign committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer or to oppose the recall of a public officer shall file campaign contribution disclosure reports with the ~~Secretary of State commission~~ as follows:
    - (1) An initial report shall be filed within 15 days after the date when the official recall petition forms were issued to the sponsors;
    - (2) A second report shall be filed 45 days after the filing of the initial report;
    - (3) A third report shall be filed within 20 days after the election superintendent certifies legal sufficiency or insufficiency of a recall petition;
    - (4) A final report shall be filed prior to December 31 of the year in which the recall election is held or, in any case where such recall election is not held, a final report shall be filed prior to December 31 of any year in which such campaign committee accepts such contributions or makes such expenditures; and
    - (5) In the case of state officials or county officials, a copy of each of the reports shall also be filed with the election superintendent in the county of residence of the official sought to be recalled. In the case of municipal officials, a copy of the reports shall also be filed with the municipal clerk in the municipality of residence of the official sought to be recalled or, if there is no clerk, with the chief executive officer of the municipality.
- Each filing officer shall forward a copy of the reporting forms required by this Code section to each candidate or public officer holding elective office required to file such report within a reasonable time prior to each filing.

- (h) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of a proposed constitutional amendment or a state-wide referendum shall file a campaign contribution disclosure report with the ~~Secretary of State commission~~ 75, 45, and 15 days prior to the date of the election and shall file a final report prior to December 31 of the year in which the election is held.
- (i) In any county in which the county board of elections does not maintain an office open to the public during normal business hours for five days a week, the reports required by this Code section shall be filed in the office of the judge of the probate court of that county.
- (j)(1) Any person elected to a public office who is required to file campaign contribution disclosure reports pursuant to this article shall, upon leaving public office with excess contributions, be required to file supplemental campaign contribution disclosure reports on June 30 and December 31 of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33.
- (2) Any person who is an unsuccessful candidate in an election and who is required to file campaign contribution disclosure reports pursuant to this article shall for the remainder of the reporting cycle file such reports at the same times as a successful candidate and thereafter, upon having excess contributions from such campaign, be required to file a supplemental campaign contribution disclosure report no later than December 31 of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33. Any unsuccessful candidate in an election who is required to file campaign contribution disclosure reports pursuant to this article and who receives contributions following such election to retire debts incurred in such campaign for elective office shall be required to file a supplemental campaign contribution disclosure report no later than December 31 of each year until such unpaid expenditures from such campaign are satisfied.
- (k) Notwithstanding any other provision of this chapter to the contrary, soil and water conservation district supervisors elected pursuant to Article 2 of Chapter 6 of Title 2, the 'Soil and Water Conservation Districts Law,' shall not be required to file campaign contribution disclosure reports under this Code section.
- (l) In addition to other penalties provided under this chapter, an additional filing fee of \$25.00 shall be imposed for each report that is filed late. In addition, a filing fee of \$50.00 shall be imposed on the fifteenth day after the due date if the report has still not been filed; provided, however, a 15 day extension period shall be granted on the final report.
- (m) It shall be the duty of the commission or any other officer or body which receives for filing any disclosure report or statement or other document required to be filed under this chapter to maintain with the filed document a copy of the postal markings or statutory overnight delivery service markings of any envelope, package, or wrapping in

which the document was delivered for filing if mailed or sent after the date such filing was due.

(n) The sending of the campaign contribution disclosure report may be proven by evidence from the filer's archived computer mailbox files or any other proof demonstrating when the filer sent the campaign contribution disclosure report.

(o) Any disclosure report, statement, or other document required to be filed under this chapter which is in the possession of the Secretary of State shall be transferred to the commission."

### SECTION 13.

Said chapter is further amended by striking Code Section 21-5-34.1, relating to filing campaign contribution disclosure reports electronically, and inserting in lieu thereof the following:

"21-5-34.1.

(a) Beginning February 1, 2001, candidates Candidates seeking election to constitutional offices, the Supreme Court, the Court of Appeals, and the Public Service Commission shall use electronic means to file their campaign contribution disclosure reports with the Secretary of State commission upon having raised or spent a minimum of \$20,000.00 in an election cycle. Under that threshold, electronic filing is permitted and encouraged but not required.

(b) Beginning January 1, 2003, candidates Candidates seeking election to the General Assembly, superior courts, and the office of district attorney shall use electronic means to file their campaign contribution disclosure reports with the Secretary of State commission, as specified in Code Section 21-5-34, upon having raised or spent a minimum of \$10,000.00 in an election cycle, but contributions and expenditures received or made prior to reaching such threshold need not be electronically filed if previously reported, except as cumulative totals. Under that threshold, electronic filing is permitted and encouraged but not required.

(c) Beginning January 1, 2003, candidates Candidates seeking election to county or municipal offices shall use electronic means to file their campaign contribution disclosure reports with the election superintendent of their county or the municipal clerk or chief executive officer of their municipality, as specified in Code Section 21-5-34, upon having raised or spent a minimum of \$10,000.00 in an election cycle, but contributions and expenditures received or made prior to reaching such threshold need not be electronically filed if previously reported, except as cumulative totals. Under that threshold, electronic filing is permitted and encouraged but not required.

(d) Beginning January 1, 2003, political Political action committees, independent committees, and any persons otherwise required by this article to file campaign contribution disclosure reports shall use electronic means to file such reports with the Secretary of State commission upon having raised or spent \$5,000.00 in a calendar year. Under that threshold, electronic filing is permitted and encouraged but not required.

(e) At least 20 days prior to filing the initial When campaign contribution disclosure reports report, the filer shall submit to the commission a notarized statement requesting

a personal identification number, and thereafter when campaign disclosure reports are filed electronically as provided in subsections (a) through (d) of this Code section, the original report shall be filed at the same location pursuant to this Code section or Code Section 21-5-34, the filer shall use a confidential personal identification number to provide for secure electronic filing and shall submit the campaign disclosure reports pursuant to a verification statement that reads as follows: 'I hereby swear or affirm that I have examined this report which is a complete, true, and accurate representation of my campaign contribution disclosure report.'

(f) No funds raised or spent prior to the implementation date of electronic filing shall be counted toward the appropriate threshold. When campaign contribution disclosure reports are filed electronically, no paper copy of the report shall be filed.

(g) The commission is authorized to promulgate rules and regulations to implement this Code section."

#### **SECTION 14.**

Said chapter is further amended by striking Code Section 21-5-35, relating to acceptance of contributions during legislative sessions, and inserting in lieu thereof the following:  
"21-5-35.

(a) No member of the General Assembly or that member's campaign committee or public officer elected state wide or campaign committee of such public officer shall accept or solicit a contribution or a pledge of a contribution to the member, the member's campaign committee, or public officer elected state wide, or campaign committee of such public officer during a legislative session.

(b) Subsection (a) of this Code section shall not apply to:

- (1) The receipt of a contribution which is returned with reasonable promptness to the donor or the donor's agent;
- (2) The receipt and acceptance during a legislative session of a contribution consisting of proceeds from a dinner, luncheon, rally, or similar fundraising event held prior to the legislative session; or
- (3) A judicial officer elected state wide or campaign committee of such judicial officer."

#### **SECTION 15.**

Said chapter is further amended by striking Code Section 21-5-40, relating to definitions applicable to campaign contributions, and inserting in lieu thereof the following:  
"21-5-40.

As used in this article, the term:

(1) 'Affiliated committees' means any two or more political committees (including a separate segregated fund) established, financed, maintained, or controlled by the same ~~corporation business entity~~, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof.

(2) 'Affiliated corporation' means with respect to any ~~corporation business entity~~ any other ~~corporation business entity~~ related thereto: as a parent ~~corporation business entity~~; as a subsidiary ~~corporation business entity~~; as a sister ~~corporation business~~

entity; by common ownership or control; or by control of one ~~corporation business entity~~ by the other.

(3) '~~Corporation~~' means any business or nonprofit corporation organized under the laws of this state, any other state, or the United States. 'Business entity' shall have the same meaning as provided in Code Section 21-5-3.

(4) 'Election year' shall be construed and applied separately for each elective office and means for each elective office the calendar year during which a regular or special election to fill such office is held.

(4.1) 'Nonelection year' shall be construed and applied separately for each elective office and means for each elective office any calendar year during which there is no regular or special election to fill such office.

(5) 'Person' means an individual.

(6) 'Political committee' means: (A) any partnership, committee, club, association, organization, party caucus of the House of Representatives or the Senate, or similar entity (other than a ~~corporation business entity~~) or any other group of persons or entities which makes a contribution; or (B) any separate segregated fund.

(6.1) 'Political party' means any political party as that term is defined in paragraph (25) of Code Section 21-2-2, as amended; provided, however, that for purposes of this article, local, state, and national committees shall be separate political parties.

(6.2) 'Public office' means the office of each elected public officer as specified in paragraph (45)(22) of Code Section 21-5-3.

(7) 'Separate segregated fund' means a fund which is established, administered, and used for political purposes by a ~~corporation business entity~~, labor organization, membership organization, or cooperative and to which the ~~corporation business entity~~, labor organization, membership organization, or cooperative solicits contributions."

## SECTION 16.

Said chapter is further amended by striking Code Section 21-5-41, relating to maximum allowable contributions, and inserting in lieu thereof the following:

"21-5-41.

(a) No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for state-wide elected office which in the aggregate for an election cycle exceed:

- (1) Five thousand dollars for a primary election;
- (2) Three thousand dollars for a primary run-off election;
- (3) Five thousand dollars for a general election; and
- (4) Three thousand dollars for a general election runoff.

(b) No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for an election cycle exceed:

- (1) Two thousand dollars for a primary election;

- (2) One thousand dollars for a primary run-off election;
- (3) Two thousand dollars for a general election; and
- (4) One thousand dollars for a general election runoff.

~~(c) No business entity shall make any election contributions to any candidate which when aggregated with contributions to the same candidate for the same election from any affiliated corporations exceed the per election maximum allowable contribution limits for such candidate as specified in subsection (a) of this Code section.~~

~~(e)(d) Candidates and campaign committees may separately account for contributions pursuant to Code Section 21-5-43. Candidates and campaign committees not separately accounting for contributions pursuant to such Code section shall not accept contributions for any election in an election cycle prior to the conclusion of the immediately preceding election in such cycle; provided, however, that contributions may be accepted for a primary election at any time in the election cycle prior to and including the date of such primary election. Upon At the conclusion of an each election, contributions remaining unexpended may be expended on succeeding elections in the election cycle, and contributions not exceeding the contribution limits of this Code section may continue to be accepted for repayment of campaign obligations incurred as a candidate in that election except as provided in subsection (h) of this Code section.~~

~~(e)(e) Candidates and campaign committees shall designate on their disclosure reports the election for which a contribution has been accepted. Any contribution not so designated shall be presumed to have been accepted for the election on or first following the date of the contribution.~~

~~(e)(f) A contribution by a partnership shall be deemed to have been made pro rata by the partners as individuals for purposes of this Code section, as well as by the partnership in toto unless the partnership by proper action under its partnership agreement otherwise directs allocation of the contribution among the partners. At such direction of the partnership, the contribution may be allocated in any proportion among the partners, including to one or some but not all. Such allocation shall be indicated on the face of any instrument constituting the contribution or on an accompanying document referencing such instrument.~~

~~(e)(g) The limits established by this Code section shall not apply to a loan or other contribution made to a campaign committee or candidate by the candidate or a member of the candidate's immediate family, a member of the family of the candidate, or by any business entity wholly owned by the candidate or owned by a member of the family of the candidate.~~

~~(h) Any candidate who incurs personal loans on or after January 9, 2006, in connection with the candidate's campaign for election shall not repay, directly or indirectly, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of the election for which the loan was made to the extent that such loans exceed \$250,000.00.~~

~~(e)(i) The limits established by this Code section shall not apply to a bona fide loan made to a candidate or campaign committee by a state or federally chartered financial~~

institution or a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation if:

- (1) Such loan is made in the normal course of business with the expectation on the part of all parties that such loan shall be repaid; and
- (2) Such loan is based on the credit worthiness of the candidate and the candidate is personally liable for the repayment of the loan.

~~(b)(j)~~ The limitations provided for in this Code section shall not include contributions or expenditures made by a political party in support of a party ticket or a group of named candidates.

~~(b)(k)~~ At the end of the election cycle applicable to each public office as to which campaign contributions are limited by this Code section and every four years for all other elections to which this Code section is applicable, the contribution limitations in this Code section shall be raised or lowered in increments of \$100.00 by regulation of the State Ethics Commission pursuant to a determination by the commission of inflation or deflation during such cycle or four-year period, as determined by the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, and such limitations shall apply until next revised by the commission. The commission shall adopt rules and regulations for the implementation of this subsection."

## SECTION 17.

Said chapter is further amended by striking subsection (a) of Code Section 21-5-43, relating to accounting for and expenditure of campaign contributions, and inserting in lieu thereof the following:

"(a)(1) A candidate or campaign committee may separately account for contributions for each election in an election cycle for which contributions are accepted. If no contributions are accepted for an election, no corresponding accounting shall be required. Subject to the contribution limits of this chapter, contributions so separately accounted for may be accepted at any time in the election cycle. Upon the conclusion of ~~an~~ each election, contributions not exceeding such limits may continue to be accepted for repayment of campaign obligations incurred as a candidate in that election.

(2) A candidate who wishes to accept contributions for more than one election at a time shall separately account for such campaign contributions and shall file an 'Option to Choose Separate Accounting' form with the commission prior to accepting contributions for any election other than the candidate's next upcoming election; provided, however, that a candidate shall only be required to file one such form which shall be utilized for all subsequent elections to the same elective office, regardless of whether an election occurs in a new election cycle.

(3) A candidate who accepts contributions for more than one election at a time may allocate contributions received from a single contributor to any election in the election cycle, provided that the contributions shall not violate maximum allowable contribution limits for any election; provided, however, that in order to allocate

contributions to a past election, the candidate shall have outstanding campaign debt from the previous election."

#### **SECTION 18.**

Said chapter is further amended by striking Code Section 21-5-50, relating to filing by public officers and filings by candidates for public office, and inserting in lieu thereof the following:

"21-5-50.

(a)(1) Except as modified in subsection (c) of this Code section with respect to candidates for state-wide elected public office, each public officer, as defined in subparagraphs (A) through (E) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the ~~Secretary of State~~ commission not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year; and each person who qualifies as a candidate for election as a public officer, as defined in subparagraphs (A) through (E) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the ~~Secretary of State~~ commission, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(2) Each public officer, as defined in subparagraph (F) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the election superintendent of the county of election of such public officer, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer, as defined in subparagraph (F) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the election superintendent of the county of election, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(3) Each public officer, as defined in subparagraph (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer, as defined in subparagraph (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(4) The filing officer shall review each financial disclosure statement to determine that such statement is in compliance with the requirements of this chapter.

- (5) A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in a year in which there occurs qualifying for election to succeed such public officer, if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this subsection, a public officer shall not be deemed to hold office in a year in which the public officer holds office for less than 15 days.
- (b) A financial disclosure statement shall be in the form specified by the commission and shall identify:
- (1) Each monetary fee or honorarium ~~of \$101.00 or less~~ which is accepted by a public officer from speaking engagements, participation in seminars, discussion panels, or other activities which directly relate to the official duties of the public officer or the office of the public officer, with a statement identifying the fee or honorarium accepted and the person from whom it was accepted;
  - (2) All fiduciary positions held by the candidate for public office or the public officer, with a statement of the title of each such position, the name and address of the business entity, and the principal activity of the business entity;
  - (3) The name, address, and principal activity of any business entity and the office held by and the duties of the candidate for public office or public officer within such business entity as of December 31 of the covered year in which such candidate or officer has a direct ownership interest which interest:
    - (A) Is more than ~~40~~ 5 percent of the total interests in such business; or
    - (B) Has a net fair market value of more than ~~\$20,000.00~~ \$10,000.00;
  - (4)(A) Each tract of real property in which the candidate for public office or public officer has a direct ownership interest as of December 31 of the covered year when that interest has a ~~net~~ fair market value in excess of ~~\$20,000.00~~ \$10,000.00. As used in this paragraph, the term '~~net~~ fair market' value means the appraised value of the property for ad valorem tax purposes ~~less any indebtedness thereon~~. The disclosure shall contain the county and state, ~~and general location therein where the property is located~~ description of the property, and whether the fair market value is between (i) \$10,000.00 and \$100,000.00; (ii) \$100,000.01 and \$200,000.00; or (iii) more than \$200,000.00;
  - (B) Each tract of real property in which the candidate for public office's spouse or public officer's spouse has a direct ownership interest as of December 31 of the covered year when that interest has a fair market value in excess of \$10,000.00. The disclosure shall contain the county and state, general description of the property, and whether the fair market value is between (i) \$10,000.00 and \$100,000.00; (ii) \$100,000.01 to \$200,000.00; (iii) or more than \$200,000.00;
  - (5) The filer's occupation, employer, and the principal activity and address of such employer;
  - (6) The filer's spouse's name, occupation, employer, and the principal activity and address of such employer;
  - (7) The names of the filer's dependent children;

(8) The name of any business or subsidiary thereof or investment, exclusive of the individual stocks and bonds in mutual funds, in which the filer, jointly or severally, owns a direct ownership interest which interest:

(A) Is more than 5 percent of the total interests in such business or investment, exclusive of the individual stocks and bonds in mutual funds; or

(B) Has a net fair market value of more than \$10,000.00;

(9) If the filer has actual knowledge of such ownership interest, the name of any business or subsidiary thereof or investment, exclusive of the individual stocks and bonds in mutual funds, in which the filer's spouse or dependent children, jointly or severally, own a direct ownership interest which interest:

(A) Is more than 5 percent of the total interests in such business or investment, exclusive of the individual stocks and bonds in mutual funds; or

(B) Has a net fair market value of more than \$10,000.00

or in which the filer's spouse or any dependent child serves as an officer, director, equitable partner, or trustee;

(5)(10) All annual payments in excess of \$20,000.00 received by the public officer or any business entity identified in paragraph (3) of this subsection from the state, any agency, department, commission, or authority created by the state, and authorized and exempted from disclosure under Code Section 45-10-25, and the agency, department, commission, or authority making the payments, and the general nature of the consideration rendered for the source of the payments; and

(6)(11) No form prescribed by the commission shall require more information or specify more than provided in the several paragraphs of this Code section with respect to what is required to be disclosed.

(c)(1) Each person who qualifies with a political party as a candidate for party nomination to a public office elected state wide (including an incumbent public officer elected state wide qualifying to succeed himself or herself) shall file with the Secretary of State commission, not later than seven days after so qualifying, a financial disclosure statement. Each person who qualifies as a candidate for election to a public office elected state wide through a nomination petition or convention shall likewise file a financial disclosure statement not later than seven days after filing his or her notice of candidacy. Such financial disclosure statement shall comply with the requirements of subsections (a) and (b) of this Code section and shall in addition identify, for the preceding five calendar years:

(A) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate (whether for himself or herself or on behalf of any business) or any business in which such candidate or any member of his or her family has a substantial interest or is an officer of such business has transacted business with the government of the State of Georgia, the government of any political subdivision of the State of Georgia, or any agency of any such government; and

(B) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate or any business in which such candidate or any

member of his or her family has a substantial interest or is an officer of such business received any income of any nature from any person who was at the time of such receipt of income represented by a lobbyist registered with the commission pursuant to Article 4 of this chapter.

(2) The financial disclosure statement required by paragraph (1) of this subsection shall include an itemized list of the transactions required to be reported, including the date of, dollar amount of, and parties to each such transaction. However, with respect to any transactions of a privileged nature only the total amount of such transactions shall be required to be reported, and names, dates, amounts of individual transactions, and other identifying data may be omitted; and for this purpose 'transactions of a privileged nature' shall include transactions between attorney and client, transactions between psychiatrist and patient, transactions between physician and patient, and any other transactions which are by law of a similar privileged and confidential nature.

(3) The financial disclosure statement required by paragraph (1) of this subsection shall be accompanied by a financial statement of the candidate's financial affairs for the calendar year prior to the year in which the election is held and the first quarter of the calendar year in which the election is held.

(4)(A) As used in this subsection, the term:

(i)(A) 'Agency' means any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia or any political subdivision of the State of Georgia.

(ii)(B) 'Financial statement' means a statement of a candidate's financial affairs in a form substantially equivalent to the short form financial statement required for bank directors under the rules of the Department of Banking and Finance.

(B) As used in this subsection, the term:

(i) ~~'Member of the family' includes the candidate's spouse and dependent children; and~~

(ii)(C) 'Person' and 'transact business' shall have the meanings specified in Code Section 45-10-20.

(iii)(D) 'Substantial interest' means the direct or indirect ownership of 10 percent or more of the assets or stock of any business.

(5) Notwithstanding any other provisions of this subsection, if, due to a special election or otherwise, a person does not qualify as a candidate for nomination or election to public office until after the filing date otherwise applicable, such person shall make the filings required by this subsection within seven days after so qualifying.

(d) Beginning January 9, 2006, all state-wide elected officials and members of the General Assembly shall file financial disclosure statements electronically. Prior to such date, electronic filing of financial disclosure statements by such persons is permitted and encouraged but not required.

(e) At least 20 days prior to filing the initial financial disclosure statement, the filer shall submit to the commission a notarized statement requesting a personal identification number, and thereafter when financial disclosure statements required by

paragraph (1) of subsection (a) of this Code section are filed electronically, the public officer, as that term is defined in subparagraphs (A) through (E) of paragraph (22) of Code Section 21-5-3, shall use a confidential personal identification number to provide for secure electronic filing and shall submit the financial disclosure statements pursuant to a verification statement that reads as follows: 'I hereby swear or affirm that I have examined this financial disclosure statement which is a complete, true, and accurate representation of my financial disclosure statement.'

(f) Any disclosure report, statement, or other document required to be filed under this chapter which is in the possession of the Secretary of State shall be transferred to the commission."

#### **SECTION 19.**

Said chapter is further amended by striking Code Section 21-5-52, relating to filing by mail, and inserting in lieu thereof the following:

"21-5-52.

Depositing of a properly addressed financial disclosure statement in the United States mails with adequate postage affixed shall constitute filing on the date of mailing.

(a) The sending of the lobbyist disclosure report may be proven by evidence from the filer's archived computer mailbox files or any other proof demonstrating when the filer sent the lobbyist disclosure report.

(b) It shall be the duty of the commission or any other officer or body which receives for filing any document required to be filed under this chapter to maintain with the filed document a copy of the postal markings or statutory overnight delivery service markings of any envelope, package, or wrapping in which the document was delivered for filing if mailed or sent after the date such filing was due."

#### **SECTION 20.**

Said chapter is further amended by striking Code Section 21-5-70, relating to definitions, and inserting in lieu thereof the following:

"21-5-70.

As used in this article, the term:

(1) 'Expenditure':

(A) Means a purchase, payment, distribution, loan, advance, deposit, or conveyance of money or anything of value made for the purpose of influencing the actions of any public officer or public employee;

(B) Includes any other form of payment when such can be reasonably construed as designed to encourage or influence a public officer;

(C) Includes any gratuitous transfer, payment, subscription, advance, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(D) Notwithstanding division (x) of subparagraph (E) of this paragraph, includes food or beverage consumed at a single meal or event by a public officer or public

employee or a member of the ~~immediate~~ family of such public officer or public employee; and

(E) The term shall not include:

- (i) The value of personal services performed by persons who serve voluntarily without compensation from any source;
- (ii) A gift received from a member of the public officer's ~~immediate~~ family;
- (iii) Legal compensation or expense reimbursement provided to public employees and to public officers in the performance of their duties;
- (iv) Promotional items generally distributed to the general public or to public officers and food and beverages produced in Georgia;
- (v) An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service;
- (vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's nonpublic business, employment, trade, or profession;
- (vii) Food, beverages, and registration at group events to which all members of an agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are invited. An agency shall include the Georgia House of Representatives, the Georgia Senate, committees and subcommittees of such bodies, and the governing body of each political subdivision of this state;
- (viii) Campaign contributions or expenditures reported as required by Article 2 of this chapter;
- (ix) A commercially reasonable loan made in the ordinary course of business; or
- (x) Food, beverage, or expenses afforded public officers, members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

(2) 'Filed' means the delivery to the ~~State Ethics Commission~~ commission, as specified in this article, of a document that satisfies the requirements of this article. A document is considered delivered when it is electronically delivered to the commission or placed in the United States mail within the required filing time, properly addressed to the ~~State Ethics Commission~~ commission, as specified in this article, with adequate postage affixed.

(3) 'Identifiable group of public officers' means a description that is specifically determinable by available public records.

~~(4) 'Immediate family' means a spouse or child.~~

~~(5)~~(4) 'Lobbying' means the activity of a lobbyist while acting in that capacity.

~~(6)~~(5) 'Lobbyist' means:

(A) Any natural person who, for compensation, either individually or as an employee of another person, undertakes to promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor;

(B) Any natural person who makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any legislation by the

General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor;

(C) Any natural person who as an employee of the executive branch or judicial branch of state government engages in any activity covered under subparagraph (A) of this paragraph;

(D) Any natural person who, for compensation, either individually or as an employee of another person, undertakes to promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution;

(E) Any natural person who makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution; ~~or~~

(F) Any natural person who as an employee of the executive branch or judicial branch of local government engages in any activity covered under subparagraph (D) of this paragraph;

(G) Any natural person who, for compensation, either individually or as an employee of another person is hired specifically to undertake influencing a public officer or state agency in the selection of a vendor to supply any goods or services to any state agency but does not include any employee of the vendor solely on the basis that such employee participates in soliciting a bid or in preparing a written bid, written proposal, or other document relating to a potential sale to a state agency; or  
(H) Any natural person who, for compensation, either individually or as an employee of another person, is hired specifically to undertake to promote or oppose the passage of any rule or regulation of any state agency.

~~(7)(6)~~ 'Public officer' means those public officers specified under subparagraphs (A) through (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, ~~as amended~~, except as otherwise provided in this article ~~and also includes any public officer, person employed by or elected to the legislative branch of state government, or employee who has any discretionary authority over, or is a member of a public body which has any discretionary authority over, the selection of a vendor to supply any goods or services to any state agency.~~

(7) 'State agency' means any branch of state government, agency, authority, department, board, bureau, commission, council, corporation, entity, or instrumentality of the state but does not include a local political subdivision, such as a county, city, or local school district or an instrumentality of such a local political subdivision.

(8) 'Vendor' means any person who sells to or contracts with any state agency for the provision of any goods or services."

**SECTION 21.**

Said chapter is further amended by striking Code Section 21-5-71, relating to lobbyist registration requirements, including the application, supplemental registration, expiration, docket, fees, identification cards, public rosters, and exemptions, and inserting in lieu thereof the following:

"21-5-71.

(a) No person shall engage in lobbying as defined by this article unless such person is registered with the ~~State Ethics Commission~~ commission as a lobbyist. The administration of this article is vested in the ~~State Ethics Commission~~ commission. ~~The State Ethics Commission shall be the successor to the Secretary of State with respect to such officer's former regulation of registered agents. At least 20 days prior to filing the initial lobbyist registration with the commission, the applicant shall submit to the commission a notarized statement requesting a personal identification number, and thereafter when a registration is updated or lobbyist disclosure reports are filed, the filer shall use a confidential personal identification number to provide for secure electronic filing. The lobbyist applicant shall submit the registration or the lobbyist disclosure report pursuant to a verification statement that reads as follows for the application: 'I hereby swear or affirm that I have examined this application which is a complete, true, and accurate representation of my lobbyist application' and for the lobbyist disclosure report the verification shall state: 'I hereby swear or affirm that I have examined this report which is a complete, true, and accurate representation of my lobbyist disclosure report.'~~

(b) Each lobbyist applicant shall electronically file an application for registration with the commission. The application shall be electronically verified by the applicant and shall contain:

- (1) The applicant's name, address, and telephone number, and a color photograph;
- (2) The name, address, and telephone number of the person or agency that employs, appoints, or authorizes the applicant to lobby on its behalf;
- (3) A statement of the general business or purpose of each person, firm, corporation, association, or agency the applicant represents;
- (4) If the applicant represents a membership group other than an agency or corporation, the general purpose and approximate number of members of the organization; and
- (5) A statement signed by the person or agency employing, appointing, or authorizing the applicant to lobby on its behalf;
- (6) If the applicant is a lobbyist within the meaning of subparagraph (G) or (H) of paragraph (5) of Code Section 21-5-70, the name of the state agency or agencies before which the applicant engages in lobbying; and
- (7) A statement disclosing each individual or entity on whose behalf the applicant is registering if such individual or entity has agreed to pay him or her an amount exceeding \$20,000.00 in a calendar year for lobbying activities.

(c) The lobbyist shall, within seven days of any substantial or material change or addition, file a supplemental registration indicating such substantial or material change

or addition to the registration prior to its expiration. Previously filed information may be incorporated by reference. Substantial or material changes or additions shall include, but are not limited to, the pertinent information concerning changes or additions to client and employment information required by paragraphs (2), (3), and (4), (6), and (7) of subsection (b) of this Code section.

(d) Each registration under this Code section shall expire on December 31 of each year. The commission may establish renewal procedures for those applicants desiring continuous registrations. Previously filed information may be incorporated by reference.

(e) The commission shall provide a suitable public docket for registration under this Code section with appropriate indices and shall enter promptly therein the names of the lobbyists and the organizations they represent.

(f)(1) Each person registering under this Code section shall pay the registration fees set forth in paragraph (2) of this subsection; provided, however, that a person who represents any state, county, municipal, or public agency, department, commission, or authority shall be exempted from payment of such registration fees and a person employed by an organization exempt from federal income taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2, shall be exempted from payment of such registration fees except for payment of an initial registration fee of \$25.00.

(2) The commission shall collect the following fees:

(A) Annual lobbyist registration filed pursuant to this Code section.....\$200.00

(B) Lobbyist supplemental registration filed pursuant to this Code section ... 10.00

(C) Each lobbyist identification card issued pursuant to this Code section.....5.00

(D) In addition to other penalties provided under this chapter, a filing fee of \$50.00 shall be imposed for each report that is filed late. In addition, a filing fee of \$25.00 shall be imposed on the fifteenth day after the due date if the report has still not been filed.

(g) As soon as practicable after registering any such person, the commission shall issue to such person an identification card which shall have printed thereon the name of the lobbyist and the person or agency such lobbyist represents, provided that, when any such person represents more than one entity, such identification card shall have printed thereon the name of the registered person and the word 'LOBBYIST.' Each lobbyist while engaged in lobbying at the capitol or in a government facility shall display said identification in a readily visible manner.

(h) The commission shall regularly publish public rosters of lobbyists along with the respective persons, firms, corporations, associations, agencies, or governmental entities they represent. During sessions of the General Assembly, the commission shall weekly report to the Clerk of the House of Representatives, the Secretary of the Senate, and the Governor those persons who have registered as lobbyists since the convening of the

General Assembly. The commission shall be authorized to charge a reasonable fee for providing copies of the roster to the public.

(i) The registration provisions of this Code section shall not apply to:

- (1) Any individual who expresses personal views, on that individual's own behalf, to any public officer;
- (2) Any person who appears before a public agency or governmental entity committee or hearing for the purpose of giving testimony when such person is not otherwise required to comply with the registration provisions of this Code section;
- (3) Any public employee of an agency appearing before a governmental entity committee or hearing at the request of the governmental entity or any person who furnishes information upon the specific request of a governmental entity;
- (4) Any licensed attorney appearing on behalf of a client in any adversarial proceeding before an agency of this state;
- (5) Any person employed or appointed by a lobbyist registered pursuant to this Code section whose duties and activities do not include lobbying;
- (6) Elected public officers performing the official duties of their public office; and
- (7) Any A public employee who performs services at the direction of a member of the General Assembly including, but not limited to, drafting petitions, bills, or resolutions; attending the taking of testimony; collating facts; preparing arguments and memorials and submitting them orally or in writing to a committee or member of the General Assembly; and other services of like character intended to reach the reason of the legislators."

## SECTION 22.

Said chapter is further amended by striking Code Section 21-5-73, relating to disclosure reports, and inserting in lieu thereof the following:

"21-5-73.

- (a) Each lobbyist registered under this article shall file disclosure reports as provided for in this Code section.
- (b) A person who is a lobbyist pursuant to subparagraph (A), (B), or (C) of paragraph (5) of Code Section 21-5-70 shall file a monthly disclosure report, current through the end of the preceding month, shall be filed on or before the fifth day of any month while the General Assembly is in session.
- (c) A person who is a lobbyist pursuant to subparagraph (D) or (E) of paragraph ~~(6)~~ (5) of Code Section 21-5-70 shall:
  - (1) File ~~file~~ a disclosure report, current through the end of the preceding month, on or before the fifth day of May, September, and January of each year instead of the reports otherwise required by subsection ~~(e)~~ subsections (b) and (d) of this Code section and the first sentence of this subsection; and
  - (2) File ~~file~~ such report with the commission, file a copy of such report with the election superintendent of each county involved if the report contains any expenditures relating to county or county school district affairs, and file a copy of such report with the municipal clerk (or if there is no municipal clerk, with the chief executive officer of the municipality) of each municipality involved if the report

contains any expenditures relating to municipal affairs or independent school district affairs.

~~(e)(d) A person who is a lobbyist pursuant to subparagraph (A), (B), (C), (F), (G), or (H) of paragraph (5) of Code Section 21-5-70 shall file a disclosure report, current through the end of the period ending on July 31 and December 31 of each year, shall be filed on or before August 5 and January 5 of each year.~~

~~(d)(e) Reports filed by lobbyists shall be electronically verified and shall include:~~

~~(1) A description of all expenditures, as defined in Code Section 21-5-70, or the value thereof made by the lobbyist or employees of the lobbyist on behalf or for the benefit of a public officer. The description of each reported expenditure shall include:~~

~~(A) The name and title of the public officer or, if the expenditure is simultaneously incurred for an identifiable group of public officers the individual identification of whom would be impractical, a general description of that identifiable group;~~

~~(B) The amount, date, and description of the expenditure and a summary of all spending classified by category. Such categories shall be established by rule of the commission and may, without limitation, include gifts, meals, entertainment, office supplies, lodging, equipment, advertising, travel, and postage;~~

~~(C) The provisions of Code Section 21-5-70 notwithstanding, aggregate expenditures described in divisions (1)(E)(vii) and (1)(E)(x) of Code Section 21-5-70 incurred during the reporting period; provided, however, expenses for travel and for food, beverage, and lodging in connection therewith afforded a public officer shall be reported in the same manner as under subparagraphs (A), (B), and (D) of this paragraph; and~~

~~(D) If applicable, the number of the bill, resolution, ordinance, or regulation pending before the governmental entity in support of or opposition to which the expenditure was made; and~~

~~(E) If applicable, the rule or regulation number or description of the rule or regulation pending before the state agency in support of or opposition to which the expenditure was made;~~

~~(2) The names of any members of the immediate family of a public officer employed by or whose professional services are paid for by the lobbyist during the reporting period. The amount, date, and name of any candidate or public officer to whom the lobbyist made a campaign contribution;~~

~~(3) For those who are lobbyists within the meaning of subparagraph (G) of paragraph (5) of Code Section 21-5-70, the name of any vendor or vendors for which the lobbyist undertook to influence the awarding of a contract or contracts by any state agency together with a description of the contract or contracts and the monetary amount of the contract or contracts; and~~

~~(4) For those who are lobbyists within the meaning of subparagraph (H) of paragraph (5) of Code Section 21-5-70, the name of the individual or entity for which the lobbyist undertook to influence the rule or regulation of a state agency.~~

(f) The sending of the lobbyist disclosure report may be proven by evidence from the filer's archived computer mailbox files or any other proof demonstrating when the filer sent the lobbyist disclosure report.

(g) The reports required by this article shall be in addition to any reports required under Code Section 45-1-6, relating to required reports by state vendors of gifts to public employees. Compliance with this Code section shall not excuse noncompliance with that Code section, and compliance with that Code section shall not excuse noncompliance with this Code section, notwithstanding the fact that in some cases the same information may be required to be disclosed under both Code sections."

### **SECTION 23.**

Said chapter is further amended by adding new Code Sections 21-5-74, 21-5-75, and 21-5-76 to follow Code Section 21-5-73 to read as follows:

#### **"21-5-74.**

A lobbyist shall not be eligible for executive appointment to any board, authority, commission, or bureau created and established by the laws of this state which regulates the activities of a business, firm, corporation, or agency that the lobbyist represented until one year after the expiration of the lobbyist's registration.

#### **21-5-75.**

(a) Except as provided in subsection (b) of this Code section, on and after January 9, 2006, persons identified in subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3 and the executive director of each state board or authority shall be prohibited from registering as a lobbyist or engaging in lobbying under this article for a period of one year after terminating such employment or leaving such office.

(b) The lobbying prohibition contained in subsection (a) of this Code section shall not apply to persons who terminate such employment or leave such office but who remain employed in state government and shall not apply to persons identified in subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3 and the executive director of each state board or authority who were elected or appointed prior to January 9, 2006.

#### **21-5-76.**

(a) No person, firm, corporation, or association shall retain or employ an attorney at law or an agent to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislative measure or upon the receipt or award of any state contract. No attorney at law or agent shall be employed to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislation or upon the receipt or award of any state contract.

(b) It shall be unlawful for any person registered pursuant to the requirements of this article or for any other person, except as authorized by the rules of the House of Representatives or Senate, to be on the floor of either chamber of the General Assembly while the same is in session."

**SECTION 24.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking paragraph (2.1) of Code Section 36-67A-1, relating to definitions for conflicts of interest in zoning actions, and inserting in lieu thereof the following:

"(2.1) 'Campaign contribution' means a 'contribution' as defined in paragraph ~~(6)~~ (7) of Code Section 21-5-3."

**SECTION 25.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by striking Code Section 45-1-4, relating to complaints or information regarding fraud, waste, and abuse in state programs and operations, and inserting in lieu thereof the following:

"45-1-4.

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

(1) 'Government agency' means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations.

(2) 'Law, rule, or regulation' includes any federal, state, or local statute or ordinance or any rule or regulation adopted according to any federal, state, or local statute or ordinance.

(~~1~~)~~(3)~~ (3) 'Public employee' means any person who is employed by the executive, judicial, or legislative branch of the state or by any other department, board, bureau, commission, authority, or other agency of the state ~~except the office of the Governor, the judicial branch, or the legislative branch.~~

(~~2~~)~~(4)~~ (4) 'Public employer' means the executive, judicial, or legislative branch of the state ~~and or~~ any other department, board, bureau, commission, authority, or other agency of the state which employs or appoints a public employee or public employees ~~except the office of the Governor, the judicial branch, or the legislative branch.~~

(5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public employer against a public employee in the terms or conditions of employment for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or state agency.

(6) 'Supervisor' means any individual:

(A) To whom a public employer has given authority to direct and control the work performance of the affected public employee;

(B) To whom a public employer has given authority to take corrective action regarding a violation of or noncompliance with a law, rule, or regulation of which the public employee complains; or

(C) Who has been designated by a public employer to receive complaints regarding a violation of or noncompliance with a law, rule, or regulation.

(b) A public employer may receive and investigate complaints or information from any public employee concerning the possible existence of any activity constituting fraud, waste, and abuse in or relating to any state programs and operations under the jurisdiction of such public employer.

- (c) Notwithstanding any other law to the contrary, such public employer shall not after receipt of a complaint or information from a public employee disclose the identity of the public employee without the written consent of such public employee, unless the public employer determines such disclosure is necessary and unavoidable during the course of the investigation. In such event, the public employee shall be notified in writing at least seven days prior to such disclosure.
- (d) ~~No action against any public employee shall be taken or threatened by any public employer who has authority to take, direct others to take, recommend, or approve any personnel action as a reprisal for making a complaint or disclosing information to the public employer unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.~~
- (d)(1) No public employer shall make, adopt, or enforce any policy or practice preventing a public employee from disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency.
- (2) No public employer shall retaliate against a public employee for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency, unless the disclosure was made with knowledge that the disclosure was false or with reckless disregard for its truth or falsity.
- (3) No public employer shall retaliate against a public employee for objecting to, or refusing to participate in, any activity, policy, or practice of the public employer that the public employee has reasonable cause to believe is in violation of or noncompliance with a law, rule, or regulation.
- (4) Paragraphs (1), (2), and (3) of this subsection shall not apply to policies or practices which implement, or to actions by public employers against public employees who violate, privilege or confidentiality obligations recognized by constitutional, statutory, or common law.
- (e) Any action taken in violation of subsection (d) of this Code section shall give the public employee a right to have such action set aside in a proceeding instituted in the superior court.
- (e)(1) A public employee who has been the object of retaliation in violation of this Code section may institute a civil action in superior court for relief as set forth in paragraph (2) of this subsection within one year after discovering the retaliation or within three years after the retaliation, whichever is earlier.
- (2) In any action brought pursuant to this subsection, the court may order any or all of the following relief:
- (A) An injunction restraining continued violation of this Code section;
- (B) Reinstatement of the employee to the same position held before the retaliation or to an equivalent position;
- (C) Reinstatement of full fringe benefits and seniority rights;
- (D) Compensation for lost wages, benefits, and other remuneration; and
- (E) Any other compensatory damages allowable at law.
- (f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing public employee."

**SECTION 26.**

Said title is further amended by striking Code Section 45-10-3, relating to code of ethics for members of boards, commissions, and authorities, and inserting in lieu thereof the following:

"45-10-3.

Notwithstanding any provisions of law to the contrary, each ~~member of all boards, commissions, and authorities created by general statute~~ public official and employee, as those terms are defined in Code Section 45-10-20 except as said part applies to persons employed by or elected to the legislative branch of state government, shall:

- (1) Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- (3) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his or her governmental duties;
- (4) Never use any information coming to him or her confidentially in the performance of governmental duties as a means for making private profit;
- (5) Expose corruption wherever discovered;
- (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;
- (7) Never accept any economic opportunity under circumstances where he or she knows or should know that there is a substantial possibility that the opportunity is being afforded him or her with intent to influence his or her conduct in the performance of his or her official duties;
- (8) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and
- (9) Never take any official action with regard to any matter under circumstances in which he or she knows or should know that he or she has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action."

**SECTION 27.**

Said title is further amended by striking Code Section 45-10-4, relating to violating code of ethics for members of boards, commissions, and authorities, and inserting in lieu thereof the following:

"45-10-4.

(a)(1) Upon formal charges being filed with the Governor State Ethics Commission relative to a violation of Code Section 45-10-3, Part 1 of Article 2 of this chapter, except as said part applies to persons employed by or elected to the legislative branch of state government, or both, on the part of a member of any such board, commission, or authority public official or employee, the Governor or his State Ethics Commission

or its designated agent shall conduct a hearing for the purpose of receiving evidence relative to the merits of such charges. The member so charged shall be given at least 30 days' notice prior to such hearing. If such charges are found to be true, the Governor shall forthwith remove such member from office and the vacancy shall be filled as provided by law. Such hearing shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and judicial review of any such decision shall be in accordance with such chapter preliminary investigation of the merits of a written complaint by any person who believes that a violation of Code Section 45-10-3, Part 1 of Article 2 of this chapter, except as said part applies to persons employed by or elected to the legislative branch of state government, or both, has occurred, such complaint to be verified under oath to the best information, knowledge, and belief by the complainant. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the commission determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The commission may file a complaint charging violations of Code Section 45-10-3, Part 1 of Article 2 of this chapter, except as said part applies to persons employed by or elected to the legislative branch of state government, or both, and any person aggrieved by the final decision of the commission is entitled to judicial review in accordance with Chapter 13 of Title 50; provided, however, that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under Code Section 45-10-3, Part 1 of Article 2 of this chapter, except as said part applies to persons employed by or elected to the legislative branch of state government, or both.

(2) In any preliminary investigation referenced in paragraph (1) of this subsection, until such time as the commission determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(b)(1) The State Ethics Commission shall have the same powers and duties with respect to this Code section, Code Section 45-10-3, and Part 1 of Article 2 of this chapter, except as said part applies to persons employed by or elected to the legislative branch of state government, as the commission has with respect to Chapter 5 of Title 21.

(2) The Attorney General shall have the same powers and duties with respect to this Code section, Code Section 45-10-3, and Part 1 of Article 2 of this chapter as the Attorney General has with respect to Chapter 5 of Title 21. Without limiting the generality of the foregoing, it is specifically provided that the Attorney General may bring civil actions for the enforcement of this Code section, Code Section 45-10-3,

and Part 1 of Article 2 of this chapter in the same general manner as provided in Chapter 5 of Title 21."

#### **SECTION 28.**

Said title is further amended by striking Code Section 45-10-5, relating to authority to enact rules and regulations, and inserting in lieu thereof the following:

"45-10-5.

~~No member of any board, commission, or authority created by general statute shall enact any rules or regulations or publicize such as being general laws and such rules and regulations shall in no way have the effect of law. The provisions of Code Sections 45-10-3 and 45-10-4 or Part 1 of Article 2 of this chapter are in addition to or cumulative of any other criminal penalties imposed by law. Notwithstanding any other provision of law to the contrary, an administrative or civil enforcement action brought pursuant to Code Sections 45-10-3 and 45-10-4 or Part 1 of Article 2 of this chapter shall not bar the prosecution of any violation of any criminal law of this state."~~

#### **SECTION 29.**

Said title is further amended by adding a new part to the end of Article 2 of Chapter 10, relating to conflicts of interest, to read as follows:

"Part 5

45-10-80.

(a) A public officer, as defined in subparagraphs (A) through (E) of paragraph (22) of Code Section 21-5-3, is prohibited from advocating for or causing the advancement, appointment, employment, promotion, or transfer of a member of his or her family, as such term is defined in Code Section 21-5-3, to an office or position to become a public employee, as defined in paragraph (3) of Code Section 45-1-4, that pays an annual salary of \$10,000.00 or more or its equivalent.

(b) Any person advanced, appointed, employed, promoted, or transferred in violation of this Code section shall not be entitled to any payment, salary, or benefits received for any position so illegally obtained; and any person who receives payment, salary, or benefits for a position obtained in violation of this Code section shall be required to reimburse the state for all amounts so received."

#### **SECTION 30.**

Said title is further amended by adding another new part to the end of Article 2 of Chapter 10, relating to conflicts of interest, to read as follows:

"Part 6

45-10-90.

As used in this part, the term:

- (1) 'Committee' means the Legislative Ethics Committee created under Code Section 45-10-91.
- (2) 'Member of the legislative branch of state government' means any person elected to the General Assembly and any person who, pursuant to a written or oral contract, is employed by the legislative branch of state government.
- (3) 'Speaker' means the Speaker of the House of Representatives.

45-10-91.

- (a) There is created the Legislative Ethics Committee, with such duties and powers as are set forth in this part. The committee shall be a part of the legislative branch of state government. The committee shall be governed by eight members appointed as follows:
  - (1) Four members of the Senate, appointed by the President Pro Tempore of the Senate, two of whom shall be from a list of four nominees from the Majority Leader of the Senate and two of whom shall be from a list of four nominees from the Minority Leader of the Senate; and
  - (2) Four members of the House of Representatives, appointed by the Speaker, two of whom shall be from a list of four nominees from the Majority Leader of the House of Representatives and two of whom shall be from a list of four nominees from the Minority Leader of the House of Representatives.

One citizen member shall be appointed by the Majority Leader of the Senate; one citizen member shall be appointed by the Minority Leader of the Senate; one citizen member shall be appointed by the Majority Leader of the House of Representatives; and one citizen member shall be appointed by the Minority Leader of the House of Representatives. Such citizen members shall be Georgia citizens who are not employed by any branch of state government and who are not employed as lobbyists; shall not be serving as an officer of any political party, whether such office is elective or appointive and whether such office exists on a local, state, or national level; and shall not be officers in any political party. The citizen members shall be nonvoting members of the committee except as provided in subsection (e) of this Code section.

- (b) Each legislative member of the committee shall serve for a term of two years concurrent with the term of his or her office. The citizen members of the committee shall serve for terms of three years. If a vacancy occurs in the membership of the committee, a new member shall be appointed by the state official to the unexpired term of office. The new member shall be selected in the same manner as provided in subsection (a) of this Code section.
- (c) The President Pro Tempore of the Senate and Speaker shall each select a cochairperson. The President Pro Tempore of the Senate's selection for cochairperson shall preside in odd-numbered years and the Speaker's selection for cochairperson shall preside in even-numbered years.
- (d) The members shall not be compensated for their services but they shall be reimbursed in an amount equal to the per diem received by the General Assembly for each day or portion thereof spent in serving as members of the committee. They shall

be paid their necessary traveling expenses while engaged in the business of the committee.

(e) Five members of the committee constitute a quorum for the transaction of business. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the committee. If a decision of the committee results in a tie vote, the cochairpersons shall jointly select one of the citizen members of the committee to cast the tie-breaking vote. No vacancy in the membership of the committee impairs the right of a quorum to exercise all rights and perform all duties of the committee.

(f) If a complaint is filed alleging a violation by one of the members of the committee, the committee member shall recuse himself or herself and a temporary replacement member of the committee shall be appointed by the state official who appointed the recused member. The replacement member shall be selected in the same manner as provided for in subsection (a) of this Code section.

(g) Meetings of the members of the committee shall be held at the call of the cochairpersons.

**45-10-92.**

The funds necessary to carry out this part shall come from the funds appropriated to and available to the General Assembly and from any other available funds.

**45-10-93.**

(a) The committee is vested with the following powers:

- (1) To meet at such times and places as it may deem necessary;
- (2) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this part;
- (3) To employ an executive director and such additional staff as the committee deems necessary to carry out the powers delegated to the committee by this part;
- (4) To issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence;
- (5) To institute and prosecute actions in the superior courts, in its own name, seeking to enjoin or restrain any violation or threatened violation of this part;
- (6) To adopt such rules and regulations as are necessary to carry out the purposes of this part; and
- (7) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the powers granted to it.

(b) The committee shall have the following duties:

- (1) To adopt and publish a Code of Ethics for members of the legislative branch of state government;
- (2) To advise and assist the General Assembly in establishing rules and regulations relating to conflicts between the private interests of a member of the legislative branch of state government and the duties as such;

- (3) To receive and investigate all complaints alleging a violation of the Code of Ethics for members of the legislative branch of state government and Part 1 of this article as it relates to the legislative branch of state government;
- (4) To prescribe forms to be used in complying with this part;
- (5) To adopt a retention standard for records of the committee;
- (6) To prepare and publish an annual report for the General Assembly summarizing the activities of the committee and recommending legislation that in its judgment will promote the purposes of this part;
- (7) To make investigations upon receipt of the written complaint of any person with respect to an alleged violation of any provision of this part, the Code of Ethics for members of the legislative branch of state government, or Part 1 of this article as it relates to the legislative branch of state government, provided that nothing in this Code section shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part;
- (8)(A) To conduct a preliminary investigation of the merits of a written complaint by any person who believes that a violation of this part, the Code of Ethics for members of the legislative branch of state government, or Part 1 of this article as it relates to the legislative branch of state government has occurred. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the committee determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The committee may file a complaint charging violations of this part, the Code of Ethics for members of the legislative branch of state government, or Part 1 of this article as it relates to the legislative branch of state government. Nothing in this Code section shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part;
- (B) In any such preliminary investigation referenced in subparagraph (A) of this paragraph, until such time as the committee determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing;
- (9) To report suspected violations of law to the appropriate law enforcement authority;
- (10) With respect to matters involving the legislative branch of state government, to investigate upon a written complaint any illegal use of state employees in a political campaign by any candidate;
- (11) To issue, upon written request, written advisory opinions, based on a real or hypothetical set of circumstances;
- (12) With respect to punishment for violations by employees of the legislative branch of state government other than members of the General Assembly, the committee may

order the violator to cease and desist from committing further violations and may issue employment related sanctions against such employee, including but not limited to reprimand, suspension, demotion, and termination; with respect to members of the General Assembly, the committee may make recommendations to the respective house of the type of punishment to be imposed; and

(13) To petition the superior court within the county where the hearing was or is being conducted for the enforcement of any order issued in connection with such hearing.

(c) The committee shall designate the place where members of the public may file papers or correspond with the committee and receive any form or instruction from the committee. The committee shall preserve all complaints, statements, and other documentation received or generated by the committee.

#### 45-10-94.

The committee shall not initiate any investigation or inquiry into any matter under its jurisdiction based upon the complaint of any person unless that person shall produce the same in writing and verify the same under oath to the best information, knowledge, and belief of such person, the falsification of which shall be punishable as false swearing under Code Section 16-10-71. The person against whom any complaint is made shall be furnished by hand delivery or statutory overnight delivery or mailed by certified mail, return receipt requested, a copy of the complaint by the committee within five business days of the committee's receipt of such complaint. Nothing contained in this Code section, however, shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part."

#### SECTION 31.

Said title is further amended by adding a new Code Section 45-12-61 to follow Code Section 45-12-60 to read as follows:

##### "45-12-61.

(a) As used in this Code section, the terms 'campaign committee,' 'contribution,' and 'expenditure' shall have the meanings set forth in Code Section 21-5-3.

(b) No person shall be eligible for appointment to fill a vacancy on the Supreme Court, the Court of Appeals, the superior courts, or the state courts if such person has made a contribution to or expenditure on behalf of the Governor or the Governor's campaign committee either: (1) in the 30 day period preceding the vacancy, unless the person requests and is provided a refund of such contribution or reimbursement for such expenditure; or (2) on or after the date the vacancy occurs."

#### SECTION 32.

The provisions of this Act shall not apply to any violation occurring prior to January 9, 2006.

**SECTION 33.**

This Act shall become effective on January 9, 2006, except the provisions of Section 30 of this Act shall become effective upon this Act's approval by the Governor or upon its becoming law without such approval for purposes of making the initial appointments to the Legislative Ethics Committee and for purposes of such committee's procedures as necessary for implementing Part 6 of Article 2 of Title 45.

**SECTION 34.**

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

On the adoption of the substitute, the yeas were 39, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 52, nays 0.

HB 48, having received the requisite constitutional majority, was passed by substitute.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 35. By Senators Moody of the 56th, Carter of the 13th, Stephens of the 27th, Starr of the 44th, Hill of the 4th and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 20 of the O.C.G.A., relating to elementary and secondary education, so as to provide for the revision of certain provisions regarding education flexibility; to change certain provisions relating to expenditure controls for the 2005-2006 school year; to change certain provisions regarding program weights; to change certain provisions regarding legislative intent with respect to charter schools; to change certain provisions regarding minimum requirements for charter petitions; to repeal Code Section 20-2-2063.1; to change certain provisions regarding operation, control, and management requirements for charter schools; to amend Code Section 40-5-22; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Mr. President:

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

SB 255. By Senators Douglas of the 17th, Staton of the 18th, Johnson of the 1st, Shafer of the 48th, Balfour of the 9th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, so as to provide for special license plates for families with a member serving in the military; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

- SB 257. By Senators Douglas of the 17th, Staton of the 18th, Johnson of the 1st, Shafer of the 48th, Balfour of the 9th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, so as to provide for special license plates supporting Georgia troops; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Mr. President:

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

- SB 158. By Senators Whitehead, Sr. of the 24th, Chapman of the 3rd, Grant of the 25th, Seabaugh of the 28th, Chance of the 16th and others:

A BILL to be entitled an Act to amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the comprehensive revision of provisions regarding state property; to provide for consolidation and effective management of the rental of administrative space and the acquisition, use, and disposition of real property by the state and state authorities; to repeal Article 2 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, the "State Space Management Act of 1976"; to repeal Article 6 of Chapter 9 of Title 50 of the Official Code of Georgia Annotated, relating to inventory of state buildings; to amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to repeal certain provisions regarding the lease of property; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

- SB 206. By Senator Williams of the 19th:

A BILL to be entitled an Act to provide for deer management; to amend Part 1 of Article 1 of Chapter 3 of Title 27 of the Official Code of Georgia Annotated, relating to general provisions relative to hunting, so as to change certain provisions relating to legal weapons for hunting wildlife generally; to change certain provisions relating to season and bag limits, promulgation of rules and regulations by the board, possession of more than bag limit, and reporting number of deer killed; to change certain provisions

relating to hunting deer with dogs; to repeal conflicting laws; and for other purposes.

The House has adopted, by substitute, by the requisite constitutional majority the following Resolution of the Senate:

SR 80. By Senators Thomas of the 2nd, Schaefer of the 50th, Zamarripa of the 36th, Grant of the 25th, Hamrick of the 30th and others:

A RESOLUTION authorizing the granting of nonexclusive easements for operation and maintenance of facilities, utilities and ingress and egress, in, on, over, under, upon, across, or through property owned by the State of Georgia in Baldwin, Banks, Burke, Chatham, Douglas, Fulton, and Newton counties, Georgia; to repeal conflicting laws; and for other purposes.

Senator Tolleson of the 20th recognized Dr. Brenda Shuman-Riley, commended by SR 539, adopted previously.

Senator Thompson of the 5th asked unanimous consent that Senator Stoner of the 6th be excused. The consent was granted, and Senator Stoner was excused.

Senator Balfour of the 9th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

The Calendar was resumed.

HB 59. By Representatives Ehrhart of the 36th and Lunsford of the 110th:

A BILL to be entitled an Act to amend Chapter 4 of Title 34 of the Official Code of Georgia Annotated, the "Georgia Minimum Wage Law," so as to change provisions relating to the prohibition of local government wage and employment benefit mandates; to provide that no local government entity may through its purchasing or contracting procedures seek to control or affect the wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the local government entity; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

Senator Reed of the 35th offered the following amendment #1:

Amend HB 59 by insert on page 2, line 15 after the word entity the following: "Except for contracts or projects related to security services."

Insert on page 2, line 19 after the word entity the following: "Except for contracts or projects related to security services."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	E Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	N Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Golden	Y Powell	E Walker
N Grant	Y Reed	Y Weber
Hamrick	N Rogers	N Whitehead
E Harbison	N Schaefer	Y Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 28, and the Reed amendment #1 was lost.

Senator Reed of the 35th offered the following amendment #2:

Amend HB 59 by insert on page 2, line 15 after the word entity the following: "Except as required by federal law, rule, or regulation."

Insert on page 2, line 19 after the word entity the following: "Except as required by federal law, rule, or regulation."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens

Y Butler	N Johnson	E Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
E Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 17, nays 32, and the Reed amendment #2 was lost.

Senator Fort of the 39th offered the following amendment #3:

Amend HB 59 (LC 14 8972) by inserting the following phrase between lines 19 and 20 of page 2 “(d) The minimum wage of all employees in Georgia shall be \$6.15 per hour.”

On the adoption of the amendment, Senator Rogers of the 21st, called for the yeas and nays; the call was sustained, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	N Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	E Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	N Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
N Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
E Harbison	N Schaefer	N Wiles

N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 15, nays 35, and the Fort amendment #3 was lost.

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:

N Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	E Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 33, nays 17.

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

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

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

TUESDAY, MARCH 29, 2005

2575

SB 122. By Senators Whitehead, Sr. of the 24th, Grant of the 25th and Cagle of the 49th:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to solid waste management generally, so as to extend the collection of tire disposal fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Miles of the 43rd recognized Justice Leah Ward Sears, commended by SR 416, adopted previously.

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

Mr. President:

The House insists on its position in substituting the following Bill of the Senate:

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House has disagreed to the Senate substitute to the following Bill of the House:

- HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitute, as amended by the House, to the following Bill of the House:

- HB 170. By Representatives Golick of the 34th, Roberts of the 154th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th and others:

A BILL to be entitled an Act to enact the "Criminal Justice Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and appeals in criminal cases; to provide for a short title; to amend Chapter 7 of Title 5 of the Official Code of Georgia Annotated, relating to appeal or certiorari by the state in criminal cases, so as to provide that the state may appeal from an order, decision, or judgment of a superior court granting a motion for new trial or denying a motion by the state to recuse or disqualify a judge; to amend Article 5 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to trial juries, so as to provide the state and the accused with the same number of peremptory challenges in misdemeanor, felony, and death penalty cases and in challenging alternate jurors; to provide the manner in which peremptory challenges are made; to change the size of the jury panel in felony and death penalty cases; to provide the manner in which the number of alternative jurors is determined; to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to provide the state with an equal number of additional peremptory challenges in trials for jointly indicted defendants; to provide that the prosecuting attorney shall always conclude the argument to the jury; to change the provision relating to notice and argument in presentence hearings; to provide that provisions relating to discovery apply to sentencing proceedings; to amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to change the provisions relating to the impeachment of witnesses; to provide

for the admission of evidence of character of a witness; to provide for the impeachment of witnesses through evidence of conviction of a crime; to provide for the admission of specific instances of conduct by a witness; to provide for other matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The following bill was taken up to consider House action thereto:

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new article at the end of Chapter 82, relating to bonds, to be designated Article 11, to read as follows:

**"ARTICLE 11**

36-82-250.

As used in this article, the term:

- (1) 'Counterparty' means the party entering into a qualified interest rate management agreement with the local governmental entity. A counterparty must be a bank, insurance company, or other financial institution duly qualified to do business in the state that either:
  - (A) Has, or whose obligations are guaranteed by an entity that has, at the time of entering into a qualified interest rate management agreement and for the entire term thereof, a long-term unsecured debt rating or financial strength rating in one of the top two ratings categories, without regard to any refinement or gradation of rating category by numerical modifier or otherwise, assigned by any two of the following: Moody's Investors Service, Inc., Standard & Poors Ratings Service, a division of The McGraw-Hill Companies, Inc., Fitch, Inc., or such other nationally recognized ratings service approved by the governing body of the local governmental entity; or
  - (B) Has collateralized its obligations under a qualified interest rate management agreement in a manner approved by the local governmental entity.
- (2) 'Debt' shall include all debt and revenue obligations that a local governmental entity is authorized to incur by law, including without limitation general obligation debt in the form of bonds or other obligations, revenue bonds and other forms of revenue obligations, and all other debt or revenue undertakings, including, but not limited to, bonds, notes, warrants, certificates or other evidences of indebtedness, or other obligations for borrowed money issued or to be issued by any local governmental entity. 'Debt' includes any financing lease or installment purchase contracts of any local public authorities.
- (3) 'Independent financial adviser' means a person or entity experienced in the financial aspects and risks of qualified interest rate management agreements that is retained by the local governmental entity to render advice with respect to a qualified interest rate management agreement. The independent financial adviser may not be the counterparty or an affiliate or agent of the counterparty on a qualified interest rate management agreement with respect to which the independent financial adviser is advising the local governmental entity.
- (4) 'Interest rate management plan' means a written plan prepared or reviewed by an independent financial adviser with respect to qualified interest rate management agreements of the local governmental entity, which plan has been approved by the governing body of the local governmental entity.
- (5) 'Lease or installment purchase contract' means multiyear lease, purchase, installment purchase, or lease purchase contracts within the meaning of Code Sections 20-2-506 and 36-60-13 or substantially similar other or successor Code sections.
- (6) 'Local governmental entity' means any governmental body as defined in paragraph (2) of Code Section 36-82-61, as amended; provided, however, that such term shall only include authorities which are local public authorities included in the definition thereof set forth in subparagraphs (C) and (D) of paragraph (2) of Code Section 36-82-61, as amended.

(7) 'Qualified interest rate management agreement' means an agreement, including a confirmation evidencing a transaction effected under a master agreement entered into by the local governmental entity in accordance with, and fulfilling the requirements of, Code Section 36-82-253, which agreement in the judgment of the local governmental entity is designed to manage interest rate risk or interest cost of the local governmental entity on any debt or lease or installment purchase contract the local governmental entity is authorized to incur, including, but not limited to, interest rate swaps or exchange agreements, interest rate caps, collars, corridors, ceiling, floor, and lock agreements, forward agreements, swaptions, warrants, and other interest rate agreements which, in the judgment of the local governmental entity, will assist the local governmental entity in managing its interest rate risk or interest cost.

36-82-251.

With respect to all or any portion of any debt or lease or installment purchase contract, either issued or anticipated to be issued by the local governmental entity, the local governmental entity may enter into, terminate, amend, or otherwise modify a qualified interest rate management agreement under such terms and conditions as the local governmental entity may determine, including, without limitation, provisions permitting the local governmental entity to pay to or receive from any counterparty any loss of benefits under such agreement upon early termination thereof or default under such agreement.

36-82-252.

(a) Prior to executing and delivering a qualified interest rate management agreement, the local governmental entity shall have adopted an interest rate management plan that includes:

- (1) An analysis of the interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks to the local governmental entity entering into qualified interest rate management agreements;
- (2) The local governmental entity's procedure for approving and executing qualified interest rate management agreements;
- (3) The local governmental entity's plan to monitor interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks;
- (4) The local governmental entity's procedure for maintaining current records of all qualified interest rate management agreements that have been approved and executed; and
- (5) Such other provisions as may from time to time be required by the governing body of the local governmental entity, including but not limited to additional provisions due to changes in market conditions for qualified interest rate management agreements.

(b) The local governmental entity shall conduct an annual review of its interest rate management plan as to the adequacy of the procedures set forth in such plan for the analysis and monitoring requirements set forth in subsection (a) of this Code section. A

report summarizing the results of such review shall be submitted annually to the governing body of the local governmental entity. The requirements of this subsection shall not be construed as to require the review of any existing interest rate management plan by an independent financial adviser.

36-82-253.

(a) Each qualified interest rate management agreement shall meet the following requirements:

- (1) Subject to subsection (b) of this Code section, the maximum term, including any renewal periods, of any qualified interest rate management agreement may not exceed ten years unless such longer term has been approved by the governing body of the local governmental entity; provided, however, that in no case may the term of the qualified interest rate management agreement exceed the latest maturity date of the bonds, notes, or debt or lease or installment purchase contract referenced in the qualified interest rate management agreement;
  - (2) The local governmental entity shall enter into a qualified interest rate management agreement only with a counterparty meeting the requirements set forth in paragraph (1) of Code Section 36-82-250;
  - (3) Prior to the execution and delivery by the local governmental entity of any qualified interest rate management agreement, an interest rate management plan meeting the requirements of Code Section 36-82-252 must have been approved by the governing body of the local governmental entity and the governing body of the local governmental entity shall have been provided evidence that such qualified interest rate management agreement is in compliance with the existing interest rate management plan;
  - (4) Any qualified interest rate management agreement shall be payable only in the currency of the United States of America; and
  - (5) Unless otherwise approved by the governing body of the local governmental entity, the notional amount of any qualified interest rate management agreement shall not exceed the outstanding principal amount of the debt or the aggregate payments due under any lease or installment purchase contract to which such agreement relates.
- (b) A qualified interest rate management agreement may renew from calendar year to calendar year and may provide for the payment of any fee related to a termination or a nonrenewal, so long as the following requirements are satisfied:
- (1) Such qualified interest rate management agreement shall terminate absolutely at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed;
  - (2) Any such qualified interest rate management agreement may provide for automatic renewal unless positive action is taken by the local governmental entity to terminate such contract, or may provide for termination or renewal in some other manner not prohibited by law, which method of renewal or termination, in either case, shall be specified in the qualified interest rate management agreement; and

(3) Such qualified interest rate management agreement shall include a statement of the total obligation of the local governmental entity for the calendar year of execution and, if renewed, for the calendar year of renewal.

A qualified interest rate management agreement meeting the requirements of this subsection may also provide that the local governmental entity's obligations will terminate immediately and absolutely at such time as appropriated and other funds encumbered for payment by the local governmental entity pursuant to the terms of such qualified interest rate management agreement are no longer available to satisfy such obligations. The total obligation of the local governmental entity for the calendar year payable pursuant to a qualified interest rate management agreement may be stated in contingent but objective terms with respect to variable rate payments or termination payments, but in that event a qualified interest rate management agreement must provide that it will terminate immediately and absolutely at such time as appropriated and other funds encumbered for its payment are no longer available to satisfy the obligations of the local governmental entity under such agreement. A qualified interest rate management agreement executed under this subsection shall not be deemed to create a debt of the local governmental entity or otherwise obligate the payment of any sum beyond the calendar year of execution or, in the event of a renewal, beyond the calendar year of such renewal.

(c)(1) Any qualified interest rate management agreement of a local governmental entity may provide that it is an unconditional, limited recourse obligation of such local governmental entity payable from a specified revenue source.

(2) A local governmental entity may, in any qualified interest rate management agreement that constitutes a limited recourse obligation of the local governmental entity, pledge to the punctual payment of amounts due under the qualified interest rate management agreement revenues from a specified revenue source, which shall not include any taxes, including, without limitation, collateral derived from such revenue source or proceeds of the debt, including debt for future delivery, to which such qualified interest rate management agreement relates.

(d) A qualified interest rate management agreement that constitutes a limited recourse obligation shall not be payable from or charged upon any funds other than the revenue identified as the source of payment thereof, nor shall the local governmental entity entering into the same be subject to any pecuniary liability thereon. No counterparty under any such qualified interest rate management agreement shall ever have the right to compel any exercise of the taxing power of the state or the local governmental entity to pay any amount due under any such qualified interest rate management agreement, nor to enforce payment thereof against any property of the state or local governmental entity, other than the specified revenue source; nor shall any such qualified interest rate management agreement constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the state or local governmental entity, other than the specified revenue source. Every such qualified interest rate management agreement shall contain a recital setting forth the substance of this subsection.

(e) Any local governmental entity may enter into credit enhancement or liquidity agreements in connection with any qualified interest rate management agreement containing such terms and conditions as the governing body determines are necessary or desirable, provided that any such agreement has the same source of payment as the related qualified interest rate management agreement.

36-82-254.

The local governmental entity that has entered into a qualified interest rate management agreement shall include in its annual financial statements information with respect to each qualified interest rate management agreement it has authorized or entered into, including any information required pursuant to any statement issued by the Governmental Accounting Standards Board.

36-82-255.

When entering into any qualified interest rate management agreement authorized under this article, the agreement shall be governed by the laws of the State of Georgia, and jurisdiction over the local governmental entity in any matter concerning a qualified interest rate management agreement shall lie exclusively in the courts of the State of Georgia or in the applicable federal court having jurisdiction and located within the State of Georgia."

## **SECTION 2.**

Chapter 17 of Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new article at the end of Chapter 17, relating to state debt, investment, and depositories, to be designated Article 5, to read as follows:

### **"ARTICLE 5**

50-17-100.

As used in this article, the term:

(1) 'Commission' means the Georgia State Financing and Investment Commission as defined in paragraph (1) of Code Section 50-17-21, as amended.

(2) 'Counterparty' means the party entering into a qualified interest rate management agreement with the state party. A counterparty must be a bank, insurance company, or other financial institution duly qualified to do business in the state that either:

(A) Has, or whose obligations are guaranteed by an entity that has, at the time of entering into a qualified interest rate management agreement and for the entire term thereof, a long-term unsecured debt rating or financial strength rating in one of the top two ratings categories, without regard to any refinement or gradation of rating category by numerical modifier or otherwise, assigned by any two of the following: Moody's Investors Service, Inc., Standard & Poors Ratings Service, a division of The McGraw-Hill Companies, Inc., Fitch, Inc., or such other nationally recognized ratings service approved by the commission; or

- (B) Has collateralized its obligations under a qualified interest rate management agreement in a manner approved by the commission.
- (3) 'Debt' shall include all debt and revenue obligations that a state party is authorized to incur by law, including without limitation general obligation debt in the form of bonds or other obligations, guaranteed revenue debt in the form of bonds or other obligations, revenue bonds and other forms of revenue obligations, and all other debt or revenue undertakings, including, but not limited to, bonds, notes, warrants, certificates or other evidences of indebtedness, or other obligations for borrowed money issued or to be issued by any state party. 'Debt' includes any financing lease or installment purchase contracts of any state authority.
- (4) 'Independent financial adviser' means a person or entity experienced in the financial aspects and risks of qualified interest rate management agreements that is retained by the state party to render advice with respect to a qualified interest rate management agreement. The independent financial adviser may not be the counterparty or an affiliate or agent of the counterparty on a qualified interest rate management agreement with respect to which the independent financial adviser is advising the state party.
- (5) 'Interest rate management plan' means a written plan prepared or reviewed by an independent financial adviser with respect to qualified interest rate management agreements of the state party.
- (6) 'Lease or installment purchase contract' means multiyear lease, purchase, installment purchase, or lease purchase contracts within the meaning of Code Sections 50-5-64, 50-5-65, and 50-5-77 or substantially similar other or successor Code sections.
- (7) 'State party' means the state and any state authority.
- (8) 'Qualified interest rate management agreement' means an agreement, including a confirmation evidencing a transaction effected under a master agreement, entered into by the state party in accordance with, and fulfilling the requirements of, Code Section 50-17-101 which agreement in the judgment of the state party is designed to manage interest rate risk or interest cost of the state party on any debt or lease or installment purchase contract the state party is authorized to incur, including, but not limited to, interest rate swaps or exchange agreements, interest rate caps, collars, corridors, ceiling, floor, and lock agreements, forward agreements, swaptions, warrants, and other interest rate agreements which, in the judgment of the state party, will assist the state party in managing the interest rate risk or interest cost of the state or state authority.
- (9) 'State authority' means any state authority as defined in paragraph (9) of Code Section 50-17-21, as amended.

50-17-101.

- (a) The commission is authorized to and shall establish guidelines, rules, or regulations with respect to the procedures for approving interest rate management plans and with respect to any requirements for qualified interest rate management agreements. Such

guidelines, rules, and regulations shall apply to the interest rate management plans and qualified interest rate management agreements of any state party. Such guidelines, rules, and regulations shall not constitute a rule within the meaning of Chapter 13 of this title, the 'Georgia Administrative Procedure Act,' including, without limitation, the term 'rule' as defined in paragraph (6) of Code Section 50-13-2 and used in Code Section 50-13-4.

(b) With respect to all or any portion of any debt or any lease or installment purchase contract, either issued or anticipated to be issued by the state party, the state party may enter into, terminate, amend, or otherwise modify a qualified interest rate management agreement under such terms and conditions as the state party may determine, including, without limitation, provisions permitting the state party to pay to or receive from any counterparty any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(c) Payments received by a state party pursuant to the terms of a qualified interest rate management agreement shall not be deposited into the state general fund but shall be subject to disposition by the state party and applied in accord with the goals of managing interest rate risk and interest cost as set forth in the qualified interest rate management agreement, any authorizing document for the debt or the lease or installment purchase contract to which such qualified interest rate management agreement relates, or such state party's interest rate management plan.

(d)(1) With respect to any qualified interest rate management agreement related to all or any portion of debt of a state party, the obligations of the state party contained in such qualified interest rate management agreement may be incurred as related or additional obligations of such debt and approved in the same manner as required for authorizing, approving, and issuing such debt to the extent not otherwise prohibited, limited, or impractical and consistent with any tax-exempt status of the related debt. If this power is exercised with respect to state debt, the obligations to pay a counterparty shall be subordinate to the obligations to pay holders of general obligation debt, guaranteed revenue debt, and all payments required under contracts entitled to the protection of the second paragraph of Paragraph I(a), Section VI, Article IX of the Constitution of 1976.

(2) When the obligations of the state party are not incurred as related or additional obligations pursuant to paragraph (1) of this subsection and the qualified interest rate management agreement relates to debt of a state authority, the qualified interest rate management agreement shall be on such terms and conditions as the state party and counterparty agree consistent with provisions of this article.

(3) When the obligations of the state party are not incurred as related or additional obligations pursuant to paragraph (1) of this subsection and the qualified interest rate management agreement relates to debt of the state or to a lease or installment purchase contract, the obligations of the state party contained in such qualified interest rate management agreement may renew from fiscal year to fiscal year and may provide for the payment of any fee related to a termination or a nonrenewal, so long as the following requirements are satisfied:

- (A) Such qualified interest rate management agreement shall terminate absolutely at the close of the fiscal year in which it was executed and at the close of each succeeding fiscal year for which it may be renewed;
- (B) Any renewal of such qualified interest rate management agreement shall require positive action taken by the state party or in such other manner not otherwise prohibited by law which method of renewal and termination, in either case, shall be specified in the qualified interest rate management agreement; and
- (C) Such qualified interest rate management agreement shall include a statement of the total obligation of the state party for the fiscal year of execution and, if renewed, for the fiscal year of renewal.

A qualified interest rate management agreement meeting the requirements of this paragraph may also provide that the state's obligations will terminate immediately and absolutely at such time as appropriated and other funds encumbered for payment by the state pursuant to the terms of such qualified interest rate management agreement are no longer available to satisfy such obligations. The total obligation of the state for the fiscal year payable pursuant to a qualified interest rate management agreement may be stated in contingent but objective terms with respect to variable rate payments or termination payments, but in that event a qualified interest rate management agreement must provide that it will terminate immediately and absolutely at such time as appropriated and other funds encumbered for its payment are no longer available to satisfy the obligations of the state under such agreement. A qualified interest rate management agreement executed under this paragraph shall not be deemed to create a debt of the state or otherwise obligate the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal. When a qualified interest rate management agreement is executed under this paragraph or paragraph (1) of this subsection, the obligation of the state may be treated as an operating expense of the commission within the meaning of Paragraph VII of Section IV of Article VII of the Constitution and within the meaning of paragraph (2) of subsection (g) of Code Section 50-17-22 and of subsection (b) of Code Section 50-17-27.

- (e)(1) The obligations of a state party to pay a counterparty under a qualified interest rate management agreement with respect to debt may be paid from any lawful source, to the extent not otherwise prohibited, limited, or impractical and consistent with any tax exempt status of the related debt and in compliance with the Budget Act, including without limitation, as to the state, proceeds of general obligation debt, earnings on investments of proceeds of general obligation debt, appropriations of state and federal funds, and agency funds; and, as to any state authority, any funds of such state authority to the extent not otherwise prohibited, limited, or impractical and consistent with any tax exempt status of the related debt.
- (2) The obligations of a state party to pay a counterparty under a qualified interest rate management agreement with respect to a lease or installment purchase contract may be paid from any lawful source, to the extent not otherwise prohibited, limited, or impractical and consistent with any tax-exempt status of the related lease or

installment purchase agreement and in compliance with the Budget Act, including without limitation appropriations of state and federal funds and agency funds.

(f)(1) With respect to obligations of a state authority to pay a counterparty, any qualified interest rate management agreement of a state authority may provide that it is an unconditional, limited recourse obligation of such state authority payable from a specified revenue source.

(2) A state authority may, in any qualified interest rate management agreement that constitutes a limited recourse obligation of the state authority, pledge to the punctual payment of amounts due under the qualified interest rate management agreement revenues from a specified revenue source, which shall not include any taxes, including without limitation collateral derived from such revenue source or proceeds of the debt, including debt for future delivery, to which such qualified interest rate management agreement relates.

(3) A qualified interest rate management agreement that constitutes a limited recourse obligation shall not be payable from or charged upon any funds other than the revenue identified as the source of payment thereof, nor shall the state authority entering into the same be subject to any pecuniary liability thereon. No counterparty under any such qualified interest rate management agreement shall ever have the right to compel any exercise of the taxing power of the state or the state authority to pay any amount due under any such qualified interest rate management agreement, nor to enforce payment thereof against any property of the state or state authority, other than the specified revenue source; nor shall any such qualified interest rate management agreement constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the state or state authority, other than the specified revenue source. Every such qualified interest rate management agreement shall contain a recital setting forth the substance of this paragraph.

(g)(1) The commission shall act for the state with respect to debt of the state and a qualified interest rate management agreement. However, upon authorization of the Governor, the Office of Treasury and Fiscal Services shall act as fiscal agent or provide other administrative services.

(2) A state authority shall act for itself with respect to an interest rate management plan, a qualified interest rate management agreement, and an independent financial advisor regarding the debt of the state authority subject, however, to the guidelines, rules, and regulations of the commission under subsection (a) of this Code section. Further, the interest rate management plan, a qualified interest rate management agreement, and retention of an independent financial advisor will be treated as financial advisory matters within the exclusive authority and jurisdiction of the commission under paragraph (1) of subsection (f) of Code Section 50-17-22 and will require specific commission approval, unless the commission otherwise directs in either the specific case or in general terms. Upon authorization of the Governor, the Office of Treasury and Fiscal Services shall act as fiscal agent or provide other administrative services for a qualified interest rate management agreement of the state authority.

(3) The agency responsible for payment shall act for the state with respect to a lease or installment purchase contract but only under the supervision and approval of the commission. Upon authorization of the Governor, the Office of Treasury and Fiscal Services shall act as fiscal agent or provide other administrative services.

50-17-102.

(a) Prior to executing and delivering a qualified interest rate management agreement, the state party shall have adopted an interest rate management plan that includes:

- (1) An analysis of the interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks to the state party entering into qualified interest rate management agreements;
- (2) The state party's procedure for approving and executing qualified interest rate management agreements;
- (3) The state party's plan to monitor interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks; and
- (4) Such other provisions as may from time to time be required by the commission, including but not limited to additional provisions due to changes in market conditions for qualified interest rate management agreements.

Any interest rate management plan adopted by the state shall be approved by the commission or by a designated officer of the commission and shall have been reviewed by an independent financial adviser approved by the commission.

(b) The state party shall conduct an annual review of its interest rate management plan as to the adequacy of the procedures set forth in such plan for the analysis and monitoring requirements set forth in subsection (a) of this Code section. A report summarizing the results of such review shall be submitted annually to the commission and, with respect to any interest rate management plan of a state authority, to the governing body of such state authority. The requirements of this subsection shall not be construed as to require the review of any existing interest rate management plan by an independent financial adviser.

50-17-103.

(a) Each qualified interest rate management agreement shall meet the following requirements:

- (1) The maximum term, including any renewal periods, of any qualified interest rate management agreement of the state may not exceed ten years unless such longer term has been approved by the commission. In addition to approval of the commission required by paragraph (2) of subsection (g) of Code Section 50-17-101, the maximum term, including any renewal periods, of any qualified interest rate management agreement of a state authority may not exceed ten years unless such longer term has been approved by the governing body of the state authority. The foregoing provisions of this paragraph notwithstanding, in no case may the term of the qualified interest rate management agreement exceed the latest maturity date of the bonds, notes, debt,

or lease or installment purchase contract referenced in the qualified interest rate management agreement.

(2) The state party shall enter into a qualified interest rate management agreement only with a counterparty meeting the requirements set forth in paragraph (2) of Code Section 50-17-100.

(3) Prior to the execution and delivery by the state of any qualified interest rate management agreement, an interest rate management plan meeting the requirements of Code Section 50-17-102 must have been submitted to the commission and the commission shall have been provided evidence that such qualified interest rate management agreement is in compliance with the existing interest rate management plan. Prior to the execution and delivery by a state authority of any qualified interest rate management agreement, an interest rate management plan meeting the requirements of Code Section 50-17-102 must have been submitted to the governing body of the state authority and the governing body of the state authority shall have been provided evidence that such qualified interest rate management agreement is in compliance with the existing interest rate management plan.

(4) Any qualified interest rate management agreement shall be payable only in the currency of the United States of America.

(5) The notional amount of any qualified interest rate management agreement shall not exceed the outstanding principal amount of the debt or the aggregate payments due under any lease or installment purchase contract to which such agreement relates unless otherwise approved in writing by the commission for any qualified interest rate management agreement executed by the state or by the governing body of the state authority for any qualified interest rate management agreement executed by a state authority, subject to the approval of the commission required by paragraph (2) of subsection (g) of Code Section 50-17-101.

(b) Any state party may enter into credit enhancement or liquidity agreements in connection with any qualified interest rate management agreement containing such terms and conditions as the state party determines are necessary or desirable, provided that any such agreement has the same source of payment as the related qualified interest rate management agreement.

#### 50-17-104.

The state party that has entered into a qualified interest rate management agreement shall include in its annual financial statements information with respect to each qualified interest rate management agreement it has authorized or entered into, including any information required by any accounting or regulatory standard to which the state party is subject.

#### 50-17-105.

When entering into any qualified interest rate management agreement authorized under this article, the agreement shall be governed by the laws of the State of Georgia, and jurisdiction over the state party in any matter concerning a qualified interest rate

management agreement shall lie exclusively in the courts of the State of Georgia or in the applicable federal court having jurisdiction and located within the State of Georgia."

### **SECTION 3.**

Said title is further amended by striking paragraph (2) of subsection (g) of Code Section 50-17-22, relating to the Georgia State Financing and Investment Commission, and inserting in its place a new paragraph (2) to read as follows:

"(2) The executive secretary shall prepare, under the direction and supervision of the commission, any budgets, requests, estimates, records, or other documents deemed necessary or efficient for compliance with Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' to provide for the payment of personnel services, operating expense, and administration and otherwise carry out this article, ~~provided that it is expressly declared by the General Assembly that this subsection is only intended to provide that the, The commission shall may but need not receive an appropriation for personnel, and administrative services, and other operating expenses of the commission.~~ The commission may but need not receive an appropriation for the costs of issuance, validation, and delivery of obligations to be incurred, including, but not limited to, trustee's fees, paying agent fees, printing fees, bond counsel fees, district attorney fees, clerk of the superior court fees, architect fees, and engineering fees, which costs and fees are dependent on the principal amount of the obligations incurred and are determined to be appropriate costs of the project or projects for which such obligations are incurred and are authorized to be paid from bond proceeds. The commission may but need not receive an appropriation for expenditures made for fees and expenses incurred in safeguarding and protecting public health, life, and property in connection with projects for which general obligation debt has been incurred."

### **SECTION 4.**

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

### **SECTION 5.**

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

Senator Cagle of the 49th asked unanimous consent that the Senate disagree to the House substitute to SB 227.

The consent was granted, and the Senate disagreed to the House substitute to SB 227.

The following bill was taken up to consider House action thereto:

SB 206. By Senator Williams of the 19th:

A BILL to be entitled an Act to provide for deer management; to amend Part 1 of Article 1 of Chapter 3 of Title 27 of the Official Code of Georgia Annotated,

relating to general provisions relative to hunting, so as to change certain provisions relating to legal weapons for hunting wildlife generally; to change certain provisions relating to season and bag limits, promulgation of rules and regulations by the board, possession of more than bag limit, and reporting number of deer killed; to change certain provisions relating to hunting deer with dogs; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**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 provide that lands managed by the Department of Natural Resources shall be open to access and use for recreational hunting except as limited by the department for reasons of public safety or homeland security or as otherwise limited by law; to define a term; to change certain provisions relating to hunting deer with dogs; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by adding a new Code section to read as follows:

"27-1-3.1.

- (a) As used in this Code section, the term 'department managed lands' means those lands that the department owns or those lands over which the department holds management authority.
- (b) Subject to valid existing rights, department managed lands shall be open to access and use for recreational hunting except as limited by the department for reasons of public safety or homeland security or as otherwise limited by law.
- (c) The department shall exercise its authority, consistent with subsection (b) of this Code section, in a manner to support, promote, and enhance recreational hunting opportunities to the extent authorized by law. The department shall not be required to give preference to hunting over other uses of department managed lands or over land or water management priorities established by state law.
- (d) To the greatest practical extent, department land management decisions and actions shall not result in any net loss of land acreage available for hunting opportunities on department managed lands that exists on the effective date of this Code section."

**SECTION 2.**

Said title is further amended by striking subsection (c) of Code Section 27-3-17, relating to hunting deer with dogs, and inserting in lieu thereof the following:

"(c) It shall be unlawful for any person to hunt deer with dogs on any tract of real property unless a permit for hunting deer with dogs has been issued by the department for such tract to the owner or owners of such tract or the lessee of deer hunting rights for such tract. A permit for hunting deer with dogs shall not be issued to a lessee of deer hunting rights for any tract of real property that is less than 1,000 contiguous acres or to the property owner or owners for any tract of real property that is less than 250 contiguous acres. Any application for a permit for hunting deer with dogs shall be on such form as prescribed by the department; shall be accompanied by the required application fee; and shall include a written description of the tract boundaries and a map showing key features such as public roads or streams on or bordering the tract and occupied dwellings on adjacent properties. The application must be signed by all persons owning any portion of the tract of real property or an authorized agent thereof. The application fee for such permit shall be \$100.00 for an annual permit or \$25.00 for a two-day permit."

### **SECTION 3.**

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

Senator Williams of the 19th moved that the Senate agree to the House substitute to SB 206 as amended by the following amendment.

Amend the House substitute to SB 206 (LC 25 4123S) by striking lines 1 through 6 of page 1 and inserting in lieu thereof the following:

"To amend Title 27 of the Official Code of Georgia Annotated, relating to game and fish, so as to change certain provisions relating to legislative declarations relative to hunting, fishing, and the taking of wildlife, ownership and custody of wildlife, promotion and right to hunt, trap, or fish, local regulation, and general offenses; to change certain provisions relating to hunting deer with dogs; to repeal conflicting laws; and for other purposes.".

By striking Section 1 and inserting in lieu thereof the following:

### **"SECTION 1.**

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended in subsection (c) of Code Section 27-1-3, relating to legislative declarations relative to hunting, fishing, and the taking of wildlife, ownership and custody of wildlife, promotion and right to hunt, trap, or fish, local regulation, and general offenses, by designating the existing provisions of said subsection as paragraph (2) thereof and adding a new paragraph (1) to read as follows:

'(1) To the greatest practical extent, department land management decisions and actions shall not result in any net loss of land acreage available for hunting opportunities on department managed state owned lands that exists on the effective date of this paragraph.'.

On the motion, the yeas were 39, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 206 as amended by the Senate.

The following bill was taken up to consider House action thereto:

SB 137. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act to create the office of Commissioner of Towns County, approved March 14, 1984 (Ga. L. 1984, p. 4130), as amended, so as to reconstitute the board of commissioners of Towns County and revise and restate the law relating to the board; to provide for continuation in office of the present sole county commissioner; to provide for the establishment of commissioner districts; to provide for the election and terms of office for subsequent members; to provide for filling vacancies; to provide for the powers, duties, and authority of the chairperson and members of the board; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act to create the office of Commissioner of Towns County, approved March 14, 1984 (Ga. L. 1984, p. 4130), as amended, so as to reconstitute the board of commissioners of Towns County and revise and restate the law relating to the board; to provide for continuation in office of the present sole county commissioner; to provide for the establishment of commissioner districts; to provide for the election and terms of office for subsequent members; to provide for filling vacancies; to provide for the powers, duties, and authority of the chairperson and members of the board; to provide for regular and special meetings; to provide for annual audits of county finances and financial records; to provide for a quarterly report for receipts and disbursements of funds; to provide for related matters; to provide for a referendum; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

An Act to create the office of Commissioner of Towns County, approved March 14, 1984 (Ga. L. 1984, p. 4130), as amended, is amended by striking Section 1 and all other

substantive sections of said Act and inserting in place thereof the following revision and restatement of the law relating to the Board of Commissioners of Towns County:

**"SECTION 1.**

- (a) The office of the sole county commissioner of Towns County which exists on January 1, 2005, is continued in existence as the governing authority of Towns County until December 31, 2008, except as otherwise provided in subsections (b) and (c) of this section. On and after January 1, 2009, a board of commissioners shall be constituted as provided in this Act and shall be the ruling authority of Towns County.
- (b) In the event a vacancy in the office of the sole county commissioner of Towns County occurs before the election and qualification of the members of the board of commissioners established by subsection (a) of this section, the vacancy shall be filled for the unexpired term of the sole county commissioner by special election of five members of the board of commissioners, as provided in this Act. Such special election shall be called within 60 days after the date of the vacancy and shall be held and conducted in accordance with the applicable provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'
- (c) In the event a vacancy in the office of the sole county commissioner of Towns County occurs after the election and qualification of the members of the board of commissioners established by subsection (a) of this section but before January 1, 2009, such vacancy shall be filled by the five newly elected members if possible. In this event, the terms of office of the newly elected members of the board of commissioners shall expire as provided in Section 2 of this Act.
- (d) In the event of a vacancy in the office of sole commissioner as set out in subsection (b) or (c) of this section, the judge of the Probate Court of Towns County shall be vested with and exercise the powers and duties of the sole commissioner until the vacancy is filled by the procedure set out in subsection (b) or (c), as appropriate.

**SECTION 2.**

- (a) The Board of Commissioners of Towns County shall be composed of five members.
- (b) The member of the board who is the chairperson of the board may reside anywhere within Towns County and, if elected, must receive the number of votes cast for that office as required by general law in the entire county. The chairperson must continue to reside within the county during that person's term of office, or that office shall become vacant. The chairperson shall devote full time to the duties of such office.
- (c) For purposes of electing members of the board of commissioners, other than the chairperson, Towns County is divided into four commissioner districts. One member of the board shall be elected from each district. The four commissioner districts shall be and correspond to those four numbered districts described in and attached to and made a part of this Act and further identified as Plan Name: TOWNSP1 Plan Type: Local User: staff Administrator: Towns.

- (d) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a 'BG' heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the census for the United States decennial census of 2000 for the State of Georgia. Any part of Towns County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of Towns County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia.
- (e) In order to be elected as a member of the board from a commissioner district, a person must receive the number of votes cast as required by general law for that office in that district only. Only electors who are residents of that commissioner district may vote for a member of the board for that district. At the time of qualifying for election as a member of the board from a commissioner district, each candidate for such office shall specify the commissioner district for which that person is a candidate. A person elected or appointed as a member of the board from a commissioner district must continue to reside in that district during that person's term of office or that office shall become vacant.
- (f) All members of the board who are elected thereto shall be nominated and elected in accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'
- (g) No person shall be a member of the board if that person is ineligible for such office pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law applicable to that office.
- (h) The first members of the board of commissioners elected under this Act shall be elected in the general election of November 2008.
- (i) The terms of office of members elected from Commissioner Districts 1 and 3 shall expire December 31, 2010, when their successors are elected and qualified. The terms of office of members elected from Commissioner Districts 2 and 4 shall expire December 31, 2010, when their successors are elected and qualified. Successors to members so elected shall be elected at the general election next preceding the expiration of such terms of office and shall take office on January 1 following their election for terms of four years and until their successors are elected and qualified.

### SECTION 3.

When a vacancy occurs in the board of commissioners, and the unexpired term of office exceeds six months, it shall be the duty of the judge of the probate court to call a special election to elect a successor and fill the vacancy in not less than 30 nor more than 60

days, as prescribed in Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.' If the unexpired term to be filled is less than six months in duration, the judge of the superior court of the county shall have the power to appoint a successor to fill the unexpired term.

#### SECTION 4.

- (a) The board shall have the power and authority to fix and establish by appropriate resolution, entered on its minutes, policies, rules, and regulations governing all matters reserved to the jurisdiction of the board. Such policies, rules, and regulations, when so adopted with proper entry thereof made on the minutes of the board, shall be conclusive and binding. The board shall exercise only those administrative powers which are necessarily and properly incident to its functions as a policy-making or rule-making body or which are necessary to compel enforcement of its adopted resolutions.
- (b) The board shall exercise all power and authority formerly vested in the sole county commissioner.
- (c) The board shall have such duties, powers, and authority which is or may be vested in the board by the Constitution or general laws of this state, including, but not limited to, the following:
  - (1) To levy taxes;
  - (2) To fix fees;
  - (3) To make appropriations;
  - (4) To fix rates and charges for services provided by the county;
  - (5) To authorize the incurring of indebtedness;
  - (6) To order work done where the cost is to be assessed against benefited property and to fix the basis for such assessment;
  - (7) To authorize and provide for the execution of contracts;
  - (8) To establish, alter, open, close, build, repair, or abolish public roads and bridges, according to law; provided, however, that the chairperson shall have the authority to adopt subdivision plats when the requirement established by the board for subdivisions is met;
  - (9) To accept for the county the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;
  - (10) To regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality, and general welfare of the county and its citizens; and to exercise all other powers, duties, and authority in respect to zoning and planning as authorized by law;
  - (11) To create and change the boundaries of special districts authorized by law;
  - (12) To fix the bonds of county officers where same are not fixed by statute;
  - (13) To enact any ordinances or other legislation which the county may be given authority to enact;
  - (14) To determine the priority of capital improvements;
  - (15) To call elections for the voting of bonds; and

(16) To appoint and retain legal counsel and an independent county auditor and provide for their compensation.

#### SECTION 5.

- (a) The chairperson shall be the official head of the board.
- (b) The chairperson shall cause an agenda to be established for and preside at all meetings of the board unless absent.
- (c) The chairperson shall have all the rights, powers, duties, and responsibilities of a member of the board, including the right and power to make motions and nominations, except that the chairperson shall not vote on matters before the board except to express unanimity or where there is equal division on the question.
- (d) The chairperson may serve as a member of boards, commissions, and committees required by law or requested by the board and shall perform such other duties as may be required by law.
- (e) The board shall elect one of the members to serve as vice chairperson. The vice chairperson shall cause an agenda to be established for and preside at all meetings at which the chairperson is absent. In such event, the vice chairperson shall retain all of his or her rights, duties, powers, and responsibilities as a member of the board, including the right to make motions and to vote on matters before the board.

#### SECTION 6.

- (a) Before entering upon the discharge of their duties, the members shall subscribe to an oath for the true and faithful performance of their duties, and to uphold the laws and constitutions of the State of Georgia and the United States of America.
- (b) The board shall hold a minimum of one regular meeting per month for the transaction of business as may legitimately come before it. Special meetings may be convened. Public notice of the time, place, and dates shall be published and posted in a conspicuous place at least 24 hours in advance of the meeting and such notice shall be provided to the legal organ of the county in which public notices of sheriffs sales are published.
- (c) The board shall cause minutes of its meetings to be kept. A book of resolutions, acts, motions, rulings, and ordinances shall be kept. These records shall be available for public inspection in accordance with the laws of the State of Georgia.
- (d) The public shall at all times be afforded access to meetings declared open to the public and all matter shall be transacted in accordance with Chapter 14 of Title 50 of the O.C.G.A.

#### SECTION 7.

- (a) The board shall adopt and operate under annual budgets.
- (b) The board shall provide for and cause to be made annual audits in accordance with the laws of the State of Georgia.
- (c) The board shall provide for and cause detailed reviews of all receipts and expenditures by each department or cost center on a quarterly basis. Such reviews shall show actual amounts versus the budget and prior years. Significant variances shall be detailed to the board's satisfaction.

**SECTION 8.**

- (a) The chairperson shall receive an annual salary equal to the total compensation, including all supplements and fees, which the highest paid constitutional officer in Towns County would receive if that constitutional officer were elected in the same year as the chairperson, plus 3 percent of such amount.
- (b) The commissioners other than the chairperson shall be compensated in the amount of \$300.00 per month from funds of the county. A district commissioner may elect to serve without compensation, and such election shall be duly noted by resolution passed and recorded in the minutes. The commissioners shall receive reimbursement for actual expenses incurred in the performance of their official duties."

**SECTION 2.**

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of the Towns County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Towns County for approval or rejection. The election superintendent shall conduct that election on the third Tuesday in June, 2005, in accordance with Code Section 21-2-540 of the O.C.G.A. and shall issue the call and conduct that election as provided by general law. The superintendent shall cause the date and purpose of the election to be published once at least 30 days prior to the election in the official county organ of Towns County. The ballot shall have written or printed thereon the words:

" YES Shall the Act be approved which reconstitutes the board of  
 NO commissioners of Towns County and revises and restates the law  
relating to the board?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, then Section 1 of this Act shall become of full force and effect immediately. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Towns County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

**SECTION 3.**

The governing authority of Towns County shall through its legal counsel cause 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 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

**SECTION 4.**

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

Plan Name: TOWNSP1 Plan Type: Local User: staff Administrator: Towns Redistricting Plan Components Report

District 001

Towns County

Tract: 9601

BG: 1

BG: 2

2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011  
2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023  
2024 2025 2026 2027 2030 2031 2032 2033 2034 2035 2036 2037  
2038 2039 2040 2041 2042 2043

BG: 3

3042 3043 3044 3045 3046 3047 3048 3049 3050 3051 3052 3053  
3054

District 002

Towns County

Tract: 9601

BG: 2

2028 2029

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011  
3012 3013 3014 3015 3016 3017 3018 3019 3020 3021 3022 3023  
3024 3025 3026 3027 3028 3029 3030 3031 3032 3033 3034 3035  
3036 3037 3038 3039 3040 3041

Tract: 9602

BG: 1

BG: 2

2010 2011 2013 2014 2015 2016 2017 2018 2020 2023 2024 2025  
2026 2027

Tract: 9603

BG: 3

3077 3078 3079 3080 3081 3082 3083 3084 3085 3086 3087 3089  
3090 3996

District 003

Towns County

Tract: 9602

BG: 2

TUESDAY, MARCH 29, 2005

2599

2079 2084 2997

Tract: 9603

BG: 1

1033 1034 1035 1036 1037 1038 1039 1040 1043 1044 1100 1101  
1996

BG: 2

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011  
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3060 3061 3062 3063 3064 3065 3066 3067 3068 3069 3070 3071  
3072 3073 3074 3075 3076 3088 3997 3998 3999

District 004

Towns County

Tract: 9602

BG: 2

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2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049  
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2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123  
2124 2125 2126 2127 2998 2999

Tract: 9603

BG: 1

1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011  
1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023  
1024 1025 1026 1027 1028 1029 1030 1031 1032 1041 1042 1045  
1046 1047 1048 1049 1050 1051 1052 1053 1054 1055 1056 1057  
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1108 1109 1110 1111 1112 1113 1114 1115 1116 1117 1118 1119  
1120 1121 1122 1123 1124 1997 1998 1999

Senator Schaefer of the 50th moved that the Senate agree to the House substitute to SB 137 as amended by the following amendment.

Amend the House Committee on State Planning and Community Affairs - Local Legislation substitute to SB 137 by striking the year "2010" on line 27 of page 3 and inserting in lieu thereof the year "2012".

On the motion, the yeas were 37, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 137 as amended by the Senate.

The following bill was taken up to consider House action thereto:

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senator Williams of the 19th asked unanimous consent that the Senate adhere to its disagreement to the House substitute to SB 140 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Williams of the 19th, Goggans of the 7th and Unterman of the 45th.

The following bill was taken up to consider House action thereto:

SB 93. By Senators Harp of the 29th, Tolleson of the 20th, Hamrick of the 30th, Heath of the 31st, Goggans of the 7th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of

motor vehicles generally, so as to prohibit the use of plastic or other types of material covering license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and drivers' licenses, so as to prohibit the use of plastic, other types of material, or body parts covering license plates; to provide for administration of the DUI Alcohol or Drug Use Risk Reduction Program; to provide for administration of the Driver Improvement Program; to provide that fees for identification cards for persons who are 65 or over or indigent and need an identification card in order to vote shall be waived under certain circumstances; to create the Commercial Transportation Advisory Committee; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Article 1 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles and drivers' licenses, is amended by inserting immediately following Code Section 40-2-6 a new Code Section 40-2-6.1 to read as follows:

**"40-2-6.1.**

Any person who willfully covers any license plate with plastic, other material, or any part of his or her body in order to prevent or impede the ability of surveillance equipment to clearly photograph or otherwise obtain a clear image of the license plate is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00."

**SECTION 2.**

Said title is further amended by striking Code Section 40-5-63, relating to certain license suspension periods, and inserting in its place a new Code section to read as follows:

**"40-5-63.**

(a) The driver's license of any person convicted of an offense listed in Code Section 40-5-54 or of violating Code Section 40-6-391, unless the driver's license has been previously suspended pursuant to Code Sections 40-5-67.1 and 40-5-67.2, shall by operation of law be suspended and such suspension shall be subject to the following terms and conditions; provided, however, that any person convicted of a drug related offense pursuant to Code Section 40-6-391 shall be governed by the suspension requirements of Code Section 40-5-75:

- (1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for 12 months. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving program approved by the ~~Department of Motor Vehicle Safety~~ department or a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. For purposes of this paragraph, an accepted plea of nolo contendere to an offense listed in Code Section 40-5-54 by a person who is under 18 years of age at the time of arrest shall constitute a conviction. For the purposes of this paragraph only, an accepted plea of nolo contendere by a person 21 years of age or older, with no conviction of and no plea of nolo contendere accepted to a charge of violating Code Section 40-6-391 within the previous five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered a conviction, and the court having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the record of such disposition of the case to the department and the record of such disposition shall be kept on file for the purpose of considering and counting such accepted plea of nolo contendere as a conviction under paragraphs (2) and (3) of this subsection;
- (2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be

reinstated if such person submits proof of completion of either a defensive driving program approved by the department or a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions; or

(3) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person shall be considered a habitual violator, and said license shall be revoked as provided for in paragraph (1) of subsection (a) of Code Section 40-5-62. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere and all prior accepted pleas of nolo contendere to a charge of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions.

(b) The periods of suspension provided for in this Code section shall begin on the date the person is convicted of an offense listed in Code Section 40-5-54 or of violating Code Section 40-6-391.

(c) In all cases in which the department may return a license to a driver prior to the termination of the full period of suspension, the department may require such tests of driving skill and knowledge as it determines to be proper, and the department's discretion shall be guided by the driver's past driving record and performance, and the driver shall pay the applicable restoration fee. In addition to any other requirement the department may impose, a driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid, shall remain suspended, and shall not be returned to such driver or otherwise reinstated until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~.

(d) Any person convicted of violating subsection (a) of Code Section 40-6-393, relating to homicide by vehicle, or Code Section 40-6-394, relating to serious injury by

vehicle, shall have his or her license suspended for a period of three years. Such person shall not be eligible for early reinstatement of said driver's license as provided in this Code section or in Article 4 of this chapter and shall not be eligible for a limited driving permit as provided in Code Section 40-5-64. For purposes of this subsection, an accepted plea of nolo contendere to homicide by vehicle in the first degree or serious injury by vehicle shall constitute a conviction.

(e) The driver's license of any person under 21 years of age who is convicted of unlawful possession of alcoholic beverages in violation of Code Section 3-3-23 while operating a motor vehicle may be suspended for a period of not less than 120 days. At the end of 120 days, the person may apply to the department for reinstatement of said driver's license. Such license shall be reinstated only if the person submits proof of completion of an approved DUI Alcohol or Drug Use Risk Reduction Program ~~prescribed by the Department of Human Resources~~ and pays a restoration fee of \$35.00 or \$25.00 when processed by mail. For purposes of this subsection, a sentence under subsection (c) of Code Section 3-3-23.1 shall not be considered a conviction, and the driver's license of such person shall not be suspended, provided that such person completes a DUI Alcohol or Drug Use Risk Reduction Program within 120 days after sentencing.

(f) The driver's license of any person who is convicted of attempting to purchase an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23 upon the first conviction shall be suspended for a period of six months and upon the second or subsequent conviction shall be suspended for a period of one year. At the end of the period of suspension, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated upon payment of a restoration fee of \$35.00 or \$25.00 when processed by mail. For purposes of this subsection, a sentence under subsection (c) of Code Section 3-3-23.1 shall not be considered a conviction, and the driver's license of such person shall not be suspended."

### SECTION 3.

Said title is further amended in Code Section 40-5-67.2, relating to terms and conditions applicable to certain license suspensions, by striking subsection (a) and inserting in its place a new subsection to read as follows:

"(a) Any driver's license required to be suspended under subsection (c) of Code Section 40-5-67.1 shall be suspended subject to the following terms and conditions:

(1) Upon the first suspension pursuant to subsection (c) of Code Section 40-5-67.1 within the previous five years, as measured from the dates of previous arrests for which a suspension was obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for one year. Not sooner than 30 days following the effective date of suspension, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when processed by mail. A driver's license

suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee.

(2) Upon the second suspension pursuant to subsection (c) of Code Section 40-5-67.1 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for three years. The person shall be eligible to apply to the department for license reinstatement not sooner than 18 months following the effective date of suspension. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays a restoration fee of \$210.00 or \$200.00 when processed by mail. A driver's license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee.

(3) Upon the third or subsequent suspension pursuant to subsection (c) of Code Section 40-5-67.1 within five years, as measured from the dates of previous arrests for which suspensions were obtained to the date of the current arrest for which a suspension is obtained, the period of suspension shall be for five years. A driver's license suspended pursuant to Code Section 40-5-67.1 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays the prescribed restoration fee. The driver may apply for a probationary license pursuant to Code Section 40-5-58 after the expiration of two years from the effective date of suspension."

#### SECTION 4.

Said title is further amended in Code Section 40-5-75, relating to suspension of licenses by operation of law, by striking paragraphs (1) and (2) of subsection (a) and subsection (h) and inserting in their respective places new paragraphs and a new subsection to read as follows:

"(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for not less than 180 days. At the end of 180 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and pays to the Department of ~~Motor Vehicle Safety~~ Driver Services a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.

For purposes of this paragraph, a plea of nolo contendere by a person to a charge of any drug related offense listed in this subsection shall, except as provided in subsection (c) of this Code section, constitute a conviction;

(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years, provided that after one year from the date of the conviction the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ and paying to the Department of Motor Vehicle Safety Driver Services a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. For purposes of this paragraph, a plea of nolo contendere and all previous pleas of nolo contendere within such five-year period of time shall constitute a conviction; and"

"(h) Notwithstanding the provisions of subsection (a) of this Code section, licensed drivers who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by the Department of Human Resources~~ or an assessment and intervention program approved by the juvenile court."

## SECTION 5.

Said title is further amended by striking Code Section 40-5-80, relating to the purpose of the 'Georgia Driver Improvement Act,' and inserting in its place a new Code section to read as follows:

"40-5-80.

The purpose of this article, the 'Georgia Driver Improvement Act,' is to improve and promote greater safety upon the highways and streets of this state; to improve the attitude and driving habits of drivers who accumulate traffic accident and motor vehicle conviction records; and to provide uniform DUI Alcohol or Drug Use Risk Reduction Programs for the rehabilitation of persons identified as reckless or negligent drivers and frequent violators. In carrying out this purpose, the Department of ~~Motor Vehicle Safety and the Department of Human Resources, as applicable, Driver Services~~ shall:

- (1) Charge a fee for the consideration of applications for approval of driver improvement clinics and instructors. The amount of this fee shall be established by the commissioner ~~of motor vehicle safety~~ and shall, as best as the commissioner shall determine, approximate the expense incurred by the ~~Department of Motor Vehicle Safety department~~ in consideration of an application. These licenses and each renewal thereof shall be valid for a period of four years unless suspended or revoked prior to the expiration of that time period; and
- (2) Require, in addition to the criteria established by the commissioner for approval of driver improvement clinics ~~established by the commissioner of motor vehicle safety~~ and DUI Alcohol or Drug Use Risk Reduction Programs ~~established by the~~

~~Department of Human Resources~~, as provided in subsections (a) and (e) of Code Section 40-5-83, respectively, that every driver improvement clinic and DUI Alcohol or Drug Use Risk Reduction Program shall, as a condition of approval, provide a continuous surety company bond for the protection of the contractual rights of students in such form as will meet with the approval of the ~~Department of Motor Vehicle Safety or the Department of Human Resources, as applicable department~~, and written by a company authorized to do business in this state. The principal sum of the bond shall be established by the commissioner ~~of motor vehicle safety or the Board of Human Resources, as applicable~~; however, in no event shall this amount be less than \$2,500.00 \$10,000.00 per location, and a single bond at such rate may be submitted for all locations under the same ownership. If at any time said bond is not valid and in force, the license of the clinic or program shall be deemed suspended by operation of law until a valid surety company bond is again in force."

#### **SECTION 6.**

Said title is further amended in Code Section 40-5-81, relating to selection of driver improvement programs, by striking subsection (c) and inserting in its place a new subsection to read as follows:

"(c) It shall be unlawful for the owner, agent, servant, or employee of any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the ~~Department of Motor Vehicle Safety or the Department of Human Resources department~~ to directly or indirectly solicit business by personal solicitation on public property, by phone, or by mail. A violation of this subsection shall be a misdemeanor. Advertising in any mass media, including, but not limited to, newspapers, radio, television, magazines, or telephone directories by a driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program shall not be considered a violation of this subsection."

#### **SECTION 7.**

Said title is further amended by striking Code Section 40-5-82, relating to administration of the Driver Improvement Program, and inserting in its place a new Code section to read as follows:

##### **"40-5-82.**

- (a) The Driver Improvement Program created by this article shall be administered by the commissioner ~~of motor vehicle safety~~. The commissioner is authorized to promulgate and adopt rules and regulations necessary to carry out this article.
- (b) For the purpose of generating greater interest in highway safety, the commissioner may solicit the assistance of local governmental authorities, associations, societies, clubs, schools, colleges, and other organizations or persons knowledgeable in highway safety driving standards to participate in conjunction with the department in the development of local driver improvement programs and in conducting driver improvement classes.

- (c) The ~~Department of Human Resources~~ department is designated as the agency responsible for the approval and certification of DUI Alcohol or Drug Use Risk Reduction Programs and staff. This responsibility includes selection of the assessment instrument, development of the intervention curricula, training of program staff, and monitoring of all DUI Alcohol or Drug Use Risk Reduction Programs under this article.
- (d) All DUI Alcohol or Drug Use Risk Reduction Program records including, but not limited to, assessment results and other components attended shall be confidential and shall not be released without the written consent of the DUI offender, except that such records shall be made available to the Department of Human Resources and the Department of ~~Motor Vehicle Safety~~, Driver Services. The provision of assessments to the ~~Department of Human Resources~~ shall be according to an interagency agreement between the Department of Driver Services and the Department of Human Resources, and the agreement may provide for assessment fees to be transmitted to the Department of Human Resources.
- (e) The ~~Department of Human Resources~~ department shall conduct a records check for any applicant for certification as an operator or instructor of a DUI Alcohol or Drug Use Risk Reduction Program. Each applicant shall submit two sets of classifiable fingerprints to the department. The department shall transmit both sets of fingerprints to the Georgia Crime Information Center, which shall submit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain one set and promptly conduct a search of state records. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall determine whether the applicant may be certified. No applicant shall be certified who has previously been convicted of a felony. The department shall promulgate rules and regulations regarding certification requirements, including restrictions regarding misdemeanor convictions."

#### SECTION 8.

Said title is further amended in Code Section 40-5-83, relating to establishment, approval, and operation of clinics, by striking paragraph (1) of subsection (a), paragraph (3) of subsection (b), and subsection (e) and inserting in their respective places new paragraphs and a new subsection to read as follows:

"(a)(1) The commissioner of ~~motor vehicle safety~~ shall establish criteria for the approval of driver improvement clinics. To be approved, a clinic shall provide and operate either a defensive driving course, an advanced defensive driving course, or a professional defensive driving course or any combination thereof. Clinics shall be composed of uniform education and training programs consisting of six hours of instruction designed for the rehabilitation of problem drivers. The commissioner shall establish standards and requirements concerning the contents of courses, qualifications of instructors, attendance requirements for students, and examinations. Approved clinics shall charge a fee of \$75.00 for a defensive driving course, an advanced defensive driving course, or a professional defensive driving course; except that such clinics may charge different fees of their own choosing if the person is not

enrolling in such course pursuant to court order or department requirement. No clinic shall be approved unless such clinic agrees in writing to allow the examination and audit of the books, records, and financial statements of such clinic. Clinics may be operated by any individual, partnership, corporation, association, civic group, club, county, municipality, board of education, school, or college."

"(3) Driving under the influence and alcohol and drug programs, clinics, and courses outside of the State of Georgia shall not be required to comply with the provisions of subsection (e) of this Code section; provided, however, that the department shall not accept certificates of completion from any such program, clinic, or course unless said program, clinic, or course has been certified by the ~~Department of Human Resources department~~ as substantially conforming, with respect to course content, with the standards and requirements promulgated by the ~~Department of Human Resources department~~ under subsection (e) of this Code section. Certificates of completion from an out-of-state program, clinic, or course not so certified by the ~~Department of Human Resources department~~ may be accepted only for the purpose of permitting persons who are not residents of the State of Georgia to reinstate nonresident operating privileges."

"(e) The ~~Department of Human Resources department~~ is designated as the agency responsible for establishing criteria for the approval of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant must meet the certification criteria promulgated by the ~~Department of Human Resources department~~ through its standards and must provide the following services: (1) the assessment component and (2) the intervention component. The ~~Department of Human Resources department~~ is designated as the agency responsible for establishing rules and regulations concerning the contents and duration of the components of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of instructors, attendance requirements for students, examinations, and program evaluations. Qualified instructors shall be certified for periods of four years each, which may be renewed. Approved DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of \$75.00 for the assessment component and \$190.00 for the intervention component. An additional fee for required student program materials shall be established by the ~~Department of Human Resources department~~ in such an amount as is reasonable and necessary to cover the cost of such materials. No DUI Alcohol or Drug Use Risk Reduction Program shall be approved unless such clinic agrees in writing to submit reports as required in the rules and regulations of the ~~Department of Human Resources department~~ and to allow the examination and audit of the books, records, and financial statements of such DUI Alcohol or Drug Use Risk Reduction Program by the ~~Department of Human Resources department~~ or its authorized agent. DUI Alcohol or Drug Use Risk Reduction Programs may be operated by any public, private, or governmental entity; provided, however, that, except as otherwise provided in this subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk Reduction Program is operated by a private entity, whether for profit or nonprofit, neither the local county board of health nor any other

governmental entity shall fund any new programs in that area. Programs currently in existence which are operated by local county boards of health or any other governmental entities shall be authorized to continue operation. New programs may be started in areas where no private DUI Alcohol or Drug Use Risk Reduction Programs have been made available to said community. The Department of Corrections is authorized to operate DUI Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not authorized to participate in such programs in the community, provided that such programs meet the certification criteria promulgated by the Department of Human Resources Driver Services. All such programs operated by the Department of Corrections shall be exempt from all fee provisions established in this subsection specifically including the rebate of any fee for the costs of administration. No DUI Alcohol or Drug Use Risk Reduction Program will be approved unless such clinic agrees in writing to pay to the state, for the costs of administration, a fee of \$15.00, for each offender assessed or each offender attending for points reduction, provided that nothing in this Code section shall be construed so as to allow the Department of Human Resources department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; and provided, further, that the Department of Human Resources department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds."

#### **SECTION 9.**

Said title is further amended by adding a new subsection (d) to Code Section 40-5-103, relating to fees for identification cards, to read as follows:

- "(d) The department shall not be authorized to collect a fee for an identification card from any person who:
- (1)(A) Is 65 years of age or older; or
  - (B) Swears under oath that he or she is indigent and cannot pay the fee for an identification card; and
  - (2) Swears under oath that he or she desires an identification card in order to vote in a primary or election in Georgia and that he or she does not have any other form of identification that is acceptable under Code Section 21-2-417 for identification at the polls in order to vote.

This subsection shall not apply to a person who has a valid driver's license issued under this chapter."

#### **SECTION 9.1.**

Said title is further amended by inserting a new Code Section 40-16-8, immediately following Code Section 40-16-7, relating to the budget of the department of motor vehicle safety, to read as follows:

"40-16-8.

- (a) There shall be established, within the department, the Governor's Commercial Transportation Advisory Committee. The purpose of this committee is to advise the

Governor on all laws, regulations, rules, and other matters related to the operation within this state of motor carriers, including private carriers, as defined in Code Section 46-1-1. The committee shall also serve as a forum for representatives of the motor carrier industry to meet with representatives of the various state agencies responsible for the oversight, enforcement, taxation, and regulation of the commercial transportation industry.

(b) The committee shall consist of the following members:

- (1) The commissioner of the Department of Motor Vehicle Safety or his or her designee;
- (2) The commissioner of the Department of Public Safety or his or her designee;
- (3) The commissioner of the Department of Transportation or his or her designee;
- (4) The commissioner of the Department of Revenue or his or her designee;
- (5) The Speaker of the House or his or her designee;
- (6) The chairperson of the House Transportation Committee, who shall chair the committee;
- (7) The President Pro Tempore of the Senate or his or her designee;
- (8) The chairperson of the Senate Transportation Committee;
- (9) The president of the Georgia Motor Trucking Association or his or her designee;
- (10) Five industry representatives appointed by the Governor; and
- (11) The Governor or his or her designee who shall serve ex officio.

(c) Each member of the committee shall serve until replaced. All members of the committee shall have equal voting privileges on all matters brought before the committee. The committee shall meet at least three times per year at a date and time set by the chairperson. The chairperson shall prepare an agenda for each meeting and shall distribute the agenda for each meeting at least 20 days prior to the date of the meeting."

#### **SECTION 10.**

This Act shall become effective on July 1, 2005.

#### **SECTION 11.**

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

Senator Harp of the 29th asked unanimous consent that the Senate disagree to the House substitute to SB 93.

The consent was granted, and the Senate disagreed to the House substitute to SB 93.

The following bill was taken up to consider House action thereto:

HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Hill of the 4th asked unanimous consent that the Senate insist on its substitute to HB 509.

The consent was granted, and the Senate insisted on its substitute to HB 509.

The following bill was taken up to consider House action thereto:

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House amendment was as follows:

Amend the hand-written Rogers Senate floor amendment to HB 366 by striking line 1 of page 1 and inserting in lieu thereof the following:

"by striking all matter following the semicolon on line 5 of page 1 and all matter on line 6 of page 1 and by striking lines 13 through 17 of page 3 and inserting in lieu thereof the following:

'(2) Subject to funds being appropriated by the General Assembly or otherwise available,'".

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Senator Rogers of the 21st asked unanimous consent that the Senate disagree to the House amendment to the Senate amendment to HB 366.

The consent was granted, and the Senate disagreed to the House amendment to the Senate amendment to HB 366.

The following bill was taken up to consider House action thereto:

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

The House substitute was as follows:

A RESOLUTION

Honoring Henry McNeal Turner; recognizing his contributions as worthy of a memorial; creating the Joint Commission for Recognition of Public Servants; and for other purposes.

WHEREAS, Henry McNeal Turner was born near Abbeville, South Carolina, in 1834 and was ordained to preach in 1853; and

WHEREAS, during the Civil War, he became the first African American to hold the position of chaplain in the U.S. Army, and after the war he was active in Georgia state politics and he served in the General Assembly; and

WHEREAS, when African Americans were expelled from the General Assembly in 1868, he delivered a rousing oratory in protest of their treatment; and

WHEREAS, he became the 12th A.M.E. Bishop in 1880, and for 12 years he served as chancellor of Morris Brown College, now Morris Brown University, and he donated land in Atlanta for the construction of a school for African American children; and

WHEREAS, it is only right that this great man in Georgia history be recognized.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body recognize the tremendous achievements and accomplishments of Henry McNeal Turner and honor his memory for his service to this nation.

BE IT FURTHER RESOLVED that it is the sense of the General Assembly that some memorial to the memory of Henry McNeal Turner is appropriate and that further study to determine the best method of honoring his service and that of other public servants is appropriate.

BE IT FURTHER RESOLVED that:

- (1) The General Assembly finds that:
  - (A) Over the years the General Assembly has recognized distinguished and deserving public servants through various means, including the commissioning and placement of statues and paintings; and
  - (B) To date there has not been a consensus as to the best way to honor such persons, and the result has been inconsistent and diverse honors and memorials; and
  - (C) The public would be well served if a commission were established to oversee the process of honoring our state's leaders and heroes in a predictable and dignified way so the public, and in particular our youth, can both remember those so honored and learn and take inspiration from their achievements, contributions, and sacrifices; and
- (2) There is created the Joint Commission for the Recognition of Public Servants to be composed of eight members as follows: one member appointed by the Governor, whose appointee shall be the chairperson; the director of the Georgia Capitol Museum; the director of the Georgia Building Authority; and the director of the Georgia Council for the Arts; additionally, two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the Senate Committee on Assignments, with one member from each designated as co-vice chairperson. The commission shall undertake a study of the need for a permanent commission to establish methods for honoring distinguished and deserving public servants and shall make recommendations to that end. The commission may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The legislative members of the commission shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than six days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the House of Representatives and Senate. The commission shall make a report of its findings and recommendations, with suggestions for proposed legislation, if any, to the Governor, the Speaker of the House of Representatives, and the Senate Committee on Assignments on or before December 1, 2005. The commission shall stand abolished on December 1, 2005.

Senator Fort of the 39th asked unanimous consent that the Senate disagree to the House substitute to SR 88.

The consent was granted, and the Senate disagreed to the House substitute to SR 88.

The following bill was taken up to consider House action thereto:

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 15 and Title 17 of the Official Code of Georgia Annotated, relating respectively to courts and legal defense for indigents, so as to clarify and change provisions relating to fees and collection of fees for indigent defense services; to provide that local victim assistance funds collected by the courts shall be paid directly to the county governing authority or the district attorney; to provide for certain reports; to provide that the Criminal Justice Coordinating Council shall quarterly prepare and publish a report of all courts that have not filed certain reports; to change certain provisions relating to the procedure for reporting and remittance of certain funds collected by any clerk of court or other officer or agent of any court; to provide for an exception to reporting and remitting requirements for probation supervision fees collected by private providers of probation services; to change certain provisions relating to the application fees for free legal services and remittance of funds; to clarify remittance of the \$50.00 application fee to certain entities; to provide for an additional filing fee for notary public applications; to provide that certain persons who do not meet certain requirements for admission to the bar but are members in good standing of the bar of any state of the United States shall be eligible to take the examination for admission to the state bar and, upon successful completion, to be admitted to the practice of law in this state; to remove the penalties for failure to remit funds; to change provisions relating to an additional filing fee on civil actions in the probate courts; to change provisions relating to the system of reporting and accounting relating to the Georgia Superior Court Clerks Cooperative Authority; to authorize certain inquiries and audits; to authorize the recovery of attorney's fees and costs under certain circumstances; to provide for definitions; to provide for clarity regarding which entities may be entitled to collect attorney's fees and the mechanism for such collection; to correct a cross-reference relating to circuit public defender office's contracts with local governments; to provide for provisions relating to work release programs in felony sentences; to provide for revocation of work release status; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking Code Section 15-21-132, relating to assessment and collection of local victim assistance funds, and inserting in lieu thereof the following:

"15-21-132.

(a) The sums provided for in Code Section 15-21-131 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid ~~over to the Georgia Superior Court Clerks' Cooperative Authority by the end of the month after the collection. The net proceeds shall be distributed by such authority as follows monthly:~~

(1) If the county where the fine was imposed operates or participates in any victim assistance program certified by the Criminal Justice Coordinating Council, ~~then the moneys shall be paid over to the governing authority of the county for disbursement to those victim assistance programs; or~~

(2) If the county where the fine was imposed does not operate or participate in any victim assistance program certified by the Criminal Justice Coordinating Council, ~~then the moneys shall be paid over to the district attorney of the judicial circuit in which the county is located for the purpose of defraying the costs of victim assistance activities carried out by the district attorney's office. Such funds shall be paid over in the same manner as other county funds paid for operations of the district attorney's office and shall be in addition to rather than in lieu of any other such funds.~~

All such funds shall be paid to the recipients by the last day of the month in which the funds are received; provided, however, that the governing authority of the county shall be authorized to hold as reserve funds an amount not to exceed 5 percent of the funds received by the governing authority in the preceding calendar year.

(b) ~~The Georgia Superior Court Clerks' Cooperative Authority The court officer charged with the duty of collecting moneys arising from fines as provided for in Code Section 15-21-131 shall receive and distribute the funds collected pursuant to this Code section to the county governing authorities authority or district attorney, as appropriate, and shall submit a monthly report of the collection and distribution of such funds to the Georgia Superior Court Clerks' Cooperative Authority, and the Georgia Superior Court Clerks' Cooperative Authority shall submit a financial report to the Criminal Justice Coordinating Council each month stating the amount collected and the amount disbursed to each county governing authority no later than the last day of the month following the month in which the funds were collected.~~

(c) The county governing authority receiving funds shall submit a financial report to the Criminal Justice Coordinating Council semiannually stating the recipients that directly received funds during such reporting period no later than the last day of the month following the reporting period in which the funds were collected in order to allow coordination of local, state, and federal funding sources for similar services. The Criminal Justice Coordinating Council shall report annually to the General Assembly

the county governing authorities that failed to submit semiannual reports during the previous calendar year.

(d) All recipients of funds pursuant to this Code section, except county governing authorities, shall submit an annual report to the Criminal Justice Coordinating Council. Such report shall include, but not be limited to, the total amount of funds received from each county governing authority pursuant to this Code section, the purposes for which the funds were expended, and the total number of victims served in each county for which the funds were received. A copy of each recipient's annual report shall also be submitted to each county governing authority from which funds were received pursuant to this Code section.

(e) The Criminal Justice Coordinating Council shall promulgate rules governing the certification of victim assistance programs. The rules shall provide for the certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.

(f) The Criminal Justice Coordinating Council shall promulgate rules governing the revocation of certification of victim assistance programs. Such rules shall provide for the decertification of programs previously certified by the Criminal Justice Coordinating Council that are no longer in compliance with the rules promulgated by the Criminal Justice Coordinating Council pursuant to this Code section.

(g) Moneys arising from fines imposed pursuant to Code Section 15-21-131 shall not be paid to any victim assistance program that has not been certified by the Criminal Justice Coordinating Council or to any program that has been decertified by such council.

(h) Each calendar quarter, the Criminal Justice Coordinating Council shall prepare and publish, by document and posting on its website, a report that shall list each court which has not filed the reports required by subsection (b) of this Code section."

## SECTION 2.

Said title is further amended by striking Code Section 15-21A-4, relating to the procedure for reporting and remittance of certain funds collected by any clerk of court or other officer or agent of any court, and inserting in lieu thereof the following:

### "15-21A-4.

(a)(1) Each clerk of any court or any other officer or agent of any court receiving any funds subject to required to be remitted to the authority under this chapter on or after July 1, 2004, shall remit all such funds to the authority by the end of the month following the month in which such funds are received. Each clerk of any court or other officer or agent of any court receiving any funds required to be reported to the authority by this chapter or the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7 shall report such funds to the authority no later than 60 days after the last day of the month in which such funds are received.

- (2) The chief judge of superior court for each county shall have the authority to require compliance with paragraph (1) of this subsection by this chapter and with the rules and regulations of the authority promulgated by the authority in accordance with Code Section 15-21A-7 by any clerk, officer, or agent of any court within the county. If any court is more than 60 days delinquent or is habitually delinquent in remitting any funds or reports required under this ~~Code section or Code Section 15-21A-6, chapter or by the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7~~, the authority shall notify the chief judge of superior court of the county in which the court is located.
- (b) The authority shall prescribe uniform procedures and forms for the reporting and remittance of all funds subject to ~~Code Section 15-21A-3 this chapter or the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7~~; and all clerks or other officers or agents remitting or reporting such funds shall use the prescribed procedures and forms in reporting and remitting funds to the authority.
- (c) The authority shall prescribe uniform rules, procedures, and forms relative to the partial or installment collection and remittance of funds subject to ~~Code Section 15-21A-3 reporting or remittance to the authority under this chapter or rules and regulations promulgated by the authority in accordance with Code Section 15-21A-7~~. Any funds held by any court or unit of local government on July 1, 2004, consisting of previously collected partial or installment payments shall be subject to the rules, procedures, and forms so prescribed and shall be remitted to the authority to the extent provided for in such rules and procedures. ~~Funds collected that are partial or installment payments of costs, fees, and surcharges that are required by this chapter to be remitted to the authority shall be remitted to the authority by the end of the month following the month in which they were collected; provided, however, that the authority is authorized to provide by rules and regulations for a longer period of time for remitting such funds not to exceed six months.~~
- (d) ~~Probation supervision fees collected by private corporations, enterprises, or agencies contracting for probation services in accordance with Article 6 of Chapter 8 of Title 42 shall not be subject to requirements for reporting or remittance to the authority.~~
- (e) The authority shall remit all funds collected to the designated receiving entities or general fund of the state treasury within 60 days of receiving such funds."

### SECTION 3.

Said title is further amended by striking in its entirety Code Section 15-21A-6, relating to additional filing fees, application fee for legal assistance, and remittance of funds, and inserting in lieu thereof the following:

"15-21A-6.

- (a) In addition to all other legal costs there shall be charged to the filing party and collected by the clerk an additional filing fee of \$15.00 in each civil action or case filed in the superior, state, ~~probate~~, recorder's, mayor's, and magistrate courts except that municipalities, counties, and political subdivisions shall be exempt from such fee. Without limiting the generality of the foregoing, such fee shall apply to all adoptions,

~~certiorari, applications by personal representatives for leave to sell or reinvest, trade name registrations, notary public applications, applications for change of name, and all other proceedings of a civil nature. Any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned shall be subject to such fee, whether such matter is contested or not.~~

(b)(1) As used in this subsection, the term 'civil action' means:

- (A) With regard to decedents' estates, the following proceedings: petition for letters of administration; petition to probate a will in solemn form; petition for an order declaring no administration necessary; petition to probate a will in solemn form and for letters of administration with will annexed; and petition for year's support;
- (B) With regard to a minor guardianship matter as set forth in paragraph (1) of subsection (f) of Code Section 15-9-60, the proceeding by which the jurisdiction of the probate court is first invoked;
- (C) With regard to an adult guardianship matter as set forth in paragraph (1) of subsection (g) of Code Section 15-9-60, the proceeding by which the jurisdiction of the probate court is first invoked; and
- (D) An application for writ of habeas corpus.

(2) In addition to all other legal costs there shall charged to the filing party and collected by the clerk an additional fee of \$15.00 in each civil action filed in the probate court. For the purposes of the imposition of the civil filing fee required by this subsection, the probate court shall collect the civil filing fee on each proceeding listed in subparagraph (A) of paragraph (1) of this subsection involving a decedent but once only in a guardianship matter involving the same ward or an application for writ of habeas corpus involving the same applicant.

(c) Any person who applies for or receives legal defense services under Chapter 12 of Title 17 shall pay the entity providing the services a single fee of \$50.00 for the application for, receipt of, or application for and receipt of such services. The application fee may not be imposed if the payment of the fee is waived by the court. The court shall waive the fee if it finds that the applicant is unable to pay the fee or that hardship will result if the fee is charged.

(e)(d) Each clerk of court, each indigent defense program, or any other officer or agent of any court receiving any funds subject to this Code section shall collect the additional fees provided in this Code section and shall pay such moneys over to the authority by the last day of the month after the month of collection, to be deposited by the authority into the general fund of the state treasury.

(e)(e) It is the intent of the General Assembly that all funds derived under this Code section shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.

(e)(f) A public entity other than an entity providing legal defense services under Chapter 12 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a \$50.00 application fee unless waived by the court for inability to pay or hardship. Any such fee shall be retained by the entity providing the services or used as

otherwise provided by law and shall not be subject to payment to the authority or deposit into the state treasury.

(g) For the purposes of this Code section, a county or municipality that provides indigent defense services or that contracts with a circuit public defender office for the provision of indigent defense services in courts other than the superior and juvenile court is deemed to be the entity providing the legal defense services and is entitled to impose and collect the application fee authorized by subsection (f) of this Code section."

#### SECTION 4.

Said title is further amended by striking subsection (b) of Code Section 15-21A-7, relating to the definition of court and the system for reporting and accounting, and inserting in lieu thereof the following:

"(b) The authority shall develop promulgate rules and regulations for the administration of this chapter. Such rules and regulations shall include but not be limited to a reporting and accounting system for all court fines and fees and all surcharges on and deductions from any court fines and fees that are authorized to be collected or disbursed in any court. The authority shall develop a system that employs controls necessary to determine the accuracy of the fine and fee collections and disbursement by each clerk of court or other officer or agent of any court receiving any fines and fees. No later than 60 days after the end of the last day of each month, each such clerk of court and, if there is no clerk of court, any court officer, judge, or other agent of the court shall report to the authority on a reporting system prescribed by the authority. Any entity doing business with such clerk or agents any court and all agencies and instrumentalities of the state shall cooperate in providing on a timely basis provide any information or data requested by the authority in a format prescribed by the authority by rule or regulation. The authority is authorized to make inquiries to clerks of court, court officers, judges, or agents of any court and agencies or instrumentalities of the state as well as any other parties for the purpose of determining the accuracy of any fines and fees collected or disbursed by a court and is authorized where it determines appropriate to conduct audits of any parties to assist in ensuring the accuracy of the system developed by the authority."

#### SECTION 4.1.

Chapter 21A of Title 15 of the Official Code of Georgia Annotated, relating to judicial accounting, is amended by repealing Code Section 15-21A-8, relating to penalties for failure to remit funds, which reads as follows:

"15-21A-8.

Any clerk of court or any other officer or agent receiving any funds subject to this chapter who knowingly fails to pay over any such funds to the authority as required by this chapter, after receiving notice from the authority that such funds are delinquent, shall be guilty of a misdemeanor, except that if the amount of funds knowingly not paid over is \$10,000.00 or more then such person shall be guilty of a felony and punished by

imprisonment for not less than one nor more than ten years. The offense created by this Code section shall not merge with any other offense."

#### **SECTION 5.**

Said title is further amended in Code Section 15-2-8, relating to the powers of the Georgia Supreme Court, by striking paragraph (5) and inserting in lieu thereof a new paragraph (5) to read as follows:

- "(5) To establish, amend, and alter its own rules of practice and to regulate the admission of attorneys to the practice of law: provided, however, that any person shall be allowed to take the examination for admission to the State Bar of Georgia and, upon successful completion, shall be admitted to the practice of law in this state if such person:
- (A) Is a member in good standing of the bar of any other state of the United States; and
- (B) Meets all requirements other than educational requirements for eligibility to take such examination and be admitted to the State Bar of Georgia;"

#### **SECTION 6.**

Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by striking subsection (d) of Code Section 17-12-23, relating to contracts with local governments, and inserting in lieu thereof the following:

- "(d) A city, or county, or consolidated government may contract with the circuit public defender office for the provision of criminal defense for indigent persons accused of violating city, or county, or consolidated government ordinances or state laws. If a city, or county, or consolidated government does not contract with the circuit public defender office, the city, or county, or consolidated government shall be subject to all applicable standards adopted by the council for representation of indigent persons in this state."

#### **SECTION 7.**

Said title is further amended by inserting a new Article 2A of Chapter 12 to read as follows:

#### **"ARTICLE 2A**

17-12-50.

As used in this article, the term:

- (1) 'Paid in part' means payment by a county or municipality for a part of the cost of the provision of indigent defense services pursuant to a contract with a circuit public defender office as set forth in subsection (d) of Code Section 17-12-23. The term does not include payment by a county or municipality for office space and other supplies as set forth in Code Section 17-12-34.
- (2) 'Public defender' means an attorney employed by a circuit public defender office, an attorney who is a conflict defender, or any other attorney who is paid from public funds to represent an indigent person in a criminal case.

## 17-12-51.

- (a) When a defendant who is represented by a public defender, who is paid in part or in whole by a county, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other expenses of the defense if the payment does not impose a financial hardship upon the defendant or the defendant's dependent or dependents. The defendant shall make the payment through the probation department to the county.
- (b) When a defendant who is represented by a public defender, who is paid in part or in whole by a municipality, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other expenses of the defense if the payment does not impose a financial hardship upon the defendant or the defendant's dependents or dependents. The defendant shall make the payment through the probation department to the municipality.
- (c) If a defendant who is represented by a public defender, who is paid for entirely by the state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other costs of the defense if the payment does not impose a financial hardship upon defendant or the defendant's dependent or dependents. The defendant shall make the payment through the probation department to Georgia Public Defender Standards Council for payment to the general fund of the state treasury. It is the intent of the General Assembly that all funds collected under this subsection shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.
- (d) In determining whether or not a payment imposed under this Code section imposes a financial hardship upon a defendant or defendant's dependent or dependents and in determining the amount of the payment to impose, the court shall consider the factors set forth in Code Section 17-14-10. The public defender may provide the court with an estimate of the cost for providing to the defendant the legal representation and other expenses of the defense. If requested by the defendant, the court shall hold a hearing to determine the amount to be paid.
- (e) This Code section shall not apply to a disposition involving a child pursuant to Chapter 11 of Title 15, relating to juvenile proceedings.

## 17-12-52.

- (a) A county or municipality may recover payment or reimbursement from a person who has received legal assistance from a public defender paid in part or in whole by the county or municipality:
  - (1) If the person was not eligible to receive such legal assistance; or

- (2) If the person has been ordered to pay for the legal representation and other expenses of the defense pursuant to Code Section 17-12-51 and has not paid for the legal services.
- (b) An action shall be brought within four years after the date on which the legal services were received.
- (c) In determining the amount of the payment imposed under this Code section, the court shall consider the factors set forth in Code Section 17-14-10. The public defender may provide the court with an estimate of the cost for providing to the defendant the legal representation and other expenses of the defense.
- (d) This Code section shall not apply to proceedings involving a child pursuant to Chapter 11 of Title 15, relating to juvenile proceedings."

#### **SECTION 8.**

Said title is further amended in Code Section 17-10-1, relating to fixing of sentence in criminal cases, by adding at its end a new subsection (g) to read as follows:

- "(g)(1)(A) In sentencing a defendant convicted of a felony to probated confinement, the sentencing judge may make the defendant's participation in a work release program operated by a county a condition of probation, provided that such program is available and the administrator of such program accepts the inmate.
- (B) Any defendant accepted into a county work release program shall thereby be transferred into the legal custody of the administrator of said program; likewise, any defendant not accepted shall remain in the legal custody of the Department of Corrections.
- (2) Work release status granted by the court may be revoked for cause by the sentencing court in its discretion or may be revoked by the state or local authority operating the work release program for any reason for which work release status would otherwise be revoked.
- (3) The provisions of this subsection shall not limit the authority of the commissioner to authorize work release status pursuant to Code Section 42-5-59 or apply to or affect the authority to authorize work release of county prisoners, which shall be as provided for in Code Sections 42-1-4 and 42-1-9 or as otherwise provided by law.
- (4) This subsection shall not apply with respect to any violent felony or any offense for which the work release status is specifically prohibited by law, including but not limited to serious violent felonies as specified in Code Section 17-10-6.1."

#### **SECTION 9.**

This Act shall become effective on July 1, 2005.

#### **SECTION 10.**

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

Senator Wiles of the 37th asked unanimous consent that the Senate disagree to the House substitute to SB 203.

The consent was granted, and the Senate disagreed to the House substitute to SB 203.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 127. By Senators Staton of the 18th, Shafer of the 48th, Rogers of the 21st, Williams of the 19th, Douglas of the 17th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 16 of the O.C.G.A., relating to forgery and fraudulent practices, so as to enact the "Georgia Computer Security Act of 2005"; to provide a short title; to provide definitions; to prohibit certain deceptive acts and practices with regard to computers; to require certain notices be given prior to certain software or programs being loaded onto certain computers; to require certain functions be available in certain software; to provide for certain exceptions; to provide for civil and criminal penalties; to provide for recovery of certain damages; to provide for applicability; to provide for related matters; to amend Code Section 16-14-3 of the O.C.G.A.; to provide for related matters; to repeal conflicting laws; and for other purposes.

Mr. President:

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

SB 51. By Senators Hamrick of the 30th, Heath of the 31st and Thomas of the 54th:

A BILL to be entitled an Act to amend Code Section 31-22-1 of the Official Code of Georgia Annotated, relating to definitions relative to clinical laboratories, so as to provide for the degree of supervision of technicians in clinical laboratories; to provide for related matters; to repeal conflicting laws; and for other purposes.

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SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Calendar was resumed.

HB 444. By Representatives Graves of the 137th, Rogers of the 26th, Harbin of the 118th and Hembree of the 67th:

A BILL to be entitled an Act to amend Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional engineers and land surveyors, so as to change the requirements for eligibility for certification as an engineer-in-training and eligibility for a certificate of registration as a professional engineer; to change requirements for eligibility for certification as a land surveyor-in-training and for a certificate of registration as a land surveyor; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Pearson of the 51st.

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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	E Walker
Y Grant	Y Reed	Y Weber

Y Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 1.

HB 444, having received the requisite constitutional majority, was passed.

HB 452. By Representatives Maddox of the 172nd, Smith of the 131st, Buckner of the 130th, England of the 108th, Crawford of the 127th and others:

A BILL to be entitled an Act to amend Code Section 4-15-1 of the Office Code of Georgia Annotated, relating to the establishment of the dog and cat reproductive sterilization support program, so as to provide for donations to the Dog and Cat Sterilization Fund by taxpayers through voluntary contributions on each taxpayer's state income tax return; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Smith of the 52nd.

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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles

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Y Harp  
Y Heath  
Henson

Y Seabaugh  
Seay  
Y Shafer,D

Williams  
Y Zamarripa

On the passage of the bill, the yeas were 46, nays 0.

HB 452, having received the requisite constitutional majority, was passed.

Senator Douglas of the 17th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

Senator Stephens of the 27th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Wiles of the 37th.

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 244:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to amend certain definitions; to provide for the enforcement of the chapter by the State Election Board; to provide that vacancies in party nomination caused by the withdrawal of the candidate shall not be filled under certain circumstances; to revise the forms of identification that are acceptable in order to register and to vote in this state; to provide for the voting of absentee ballots by mail without a

reason; to remove certain limitations on the distribution of absentee ballot applications by certain organizations; to provide for the processing of such absentee ballot applications; to provide that the political affiliation of candidates in special elections shall be shown on the ballot; to provide that a candidate must receive a majority of the votes cast to be elected to office; to provide that nonpartisan elections shall be held in conjunction with the November general election; to provide for qualifying for such nonpartisan election; to provide for certain procedures concerning write-in candidates; to provide for a state write-in absentee ballot for certain electors; to provide procedures for use of such ballot; to provide when absentee ballots must be available; to provide that no absentee ballot shall be issued on the day prior to a primary or election; to provide that certain absentee ballots that are postmarked by the date of the runoff may be received by the registrars up to three days after the runoff; to change the date of certain runoff primaries and elections; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the time of giving notice to be a write-in candidate in special elections; to delete the requirement that the Secretary of State receive all voter registration cards after a system of digitization of voter registration signatures is operational; to provide for the time for challenging the right of an elector to vote who votes by absentee ballot in person; to provide for the sending of certain notices concerning voter registration; to provide that the individual names of candidates for the office of presidential elector shall not be listed on the ballot; to remove the authorization for counties to use lever-type voting machines; to remove the requirement that optical scanning ballots have a name stub; to provide for notice of preparation of certain voting equipment prior to runoffs; to remove the elector's place of birth from the absentee ballot oath form; to provide that absentee electors whose vote has been challenged must vote by paper or optical scanning ballot; to provide for the posting of certain information at polling places; to provide for additional state-wide poll watchers; to provide for poll watchers for advance voting sites; to limit the number of state-wide poll watchers at individual polling places simultaneously; to prohibit certain activities within close proximity to the locations where advance voting is taking place; to change the forms of identification that are acceptable for voter registration, for absentee voting, and for voting at the polls; to require the Secretary of State to ensure that certain information is contained on the lists of electors used at polling places; to provide for the confidentiality of certain information; to delete the requirement that poll officers ascertain whether someone timely registered to vote prior to allowing such person to vote a provisional ballot; to limit the requirement that all voters vote provisional ballots when poll hours are extended by court order to elections in which federal candidates are on the ballot; to provide for the use of provisional ballots by electors when voting machines or DRE units malfunction or an emergency exists which prevents the use of such devices; to

provide for the call of special elections when held in conjunction with state-wide primaries and elections; to provide for the offense of conspiracy to commit election fraud; to amend Code Section 40-5-103 of the Official Code of Georgia Annotated, relating to fee for identification cards, so as to provide that fees for identification cards for persons who are indigent and need an identification card in order to vote shall be waived under certain circumstances; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by striking paragraphs (5), (9), (22), and (37) of Code Section 21-2-2, relating to definitions, and inserting in lieu thereof new paragraphs (5), (9), (22), and (37) to read as follows:

"(5) 'Election' ordinarily means any general or special election and shall not include a primary or special primary unless the context in which the term is used clearly requires that a primary or special primary is included."

"(9) 'Governing authority' means the governing authority of a municipality Reserved."

"(22) 'Plurality' means the receiving by one candidate alone of the highest number of votes cast for eligible candidates in an election among the candidates for the same office, provided that such number of votes exceeds 45 percent of the total number of votes cast in such election for such office. In the case where two or more persons tie in receiving the highest number of votes or no candidate receives more than 45 percent of the total votes cast for eligible candidates in the election for the office sought there is no plurality Reserved."

"(37) Reserved 'Violator' means any individual, partnership, committee, association, corporation, limited liability company, limited liability partnership, professional corporation, trust, enterprise, franchise, joint venture, political party, political body, candidate, campaign committee, political action committee or any other political committee or business entity, or any governing authority that violates any provision of this chapter."

**SECTION 2.**

Said chapter is further amended by striking subsection (d) of Code Section 21-2-4, relating to distribution of summaries of constitutional amendments, and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) The Secretary of State is authorized to provide for the preparation of a supply of audio tapes, compact discs, or other media or an Internet website which shall contain the summary of each proposed general amendment to the Constitution as provided in subsection (a) of this Code section, together with a listing of the candidates for each of the state representatives to the United States Congress and the candidates for every public office elected by the electors of the entire state. A sufficient number of the audio

tapes, compact discs, or other media may be prepared as will permit the distribution of at least one tape, disc, or other media form to each of the public libraries within the state for the purpose of providing voting information and assistance to any interested citizen. The Secretary of State may cause a supply of the tapes, discs, or other media to be prepared and distributed as soon as practicable after the summary has been prepared and the names of the candidates for each of the public offices to be included are known to be candidates. If the Secretary of State provides such information through an Internet website, it shall not be necessary to provide such information by audio tape, compact disc, or other media."

### SECTION 3.

Said chapter is further amended by striking Code Section 21-2-8, relating to eligibility for nomination, election, and performance of certain acts, and inserting in lieu thereof a new Code Section 21-2-8 to read as follows:

"21-2-8.

No person shall be eligible for party nomination for or election to public office, nor shall he or she perform any official acts or duties as a superintendent, registrar, deputy registrar, poll officer, or party officer, as set forth in this chapter, in connection with any election or primary held under this chapter, if under the laws of this state, any other state, or the United States he or she has been convicted and sentenced, in any court of competent jurisdiction, for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude. Additionally, the person shall not be holding illegally any public funds. In the event of the disqualification of the superintendent as described in this Code section, the clerk of the superior court shall act in his or her stead. Notwithstanding the above, the governing authority of a municipality shall appoint an individual to serve as superintendent for municipal elections or municipal primaries in the event of the disqualification of the municipal superintendent, unless the municipality has contracted with a county government for the provision of election services, in which event the clerk of the superior court shall act in place of a disqualified superintendent."

### SECTION 4.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-9, relating to date of election for offices, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) All general municipal elections to fill municipal offices shall be held on the Tuesday next following the first Monday in November in each odd-numbered year. Public notice of such elections shall be published by the governing authority of the municipality in a newspaper of general circulation in the municipality at least 30 days prior to the elections."

**SECTION 5.**

Said chapter is further amended by striking Code Section 21-2-33.1, relating to the enforcement of the chapter, and inserting in lieu thereof a new Code Section 21-2-33.1 to read as follows:

**"21-2-33.1.**

- (a) The State Election Board is vested with the power to issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or prohibiting the actual or threatened commission of any conduct constituting a violation, which order may include a provision requiring the violator:
- (1) To cease and desist from committing further violations;
  - (2) To pay a civil penalty not to exceed \$5,000.00 for each violation of this chapter or for each failure to comply with any provision of this chapter or of any rule or regulation promulgated under this chapter. Such penalty may be assessed against ~~an individual, a governing authority which employs or compensates an individual, or both, any violator~~ as the State Election Board deems appropriate;
  - (3) To publicly reprimand ~~an individual or governing authority any violator~~ found to have committed a violation;
  - (4) To require that restitution be paid by any violator to a state, county, or city governing authority when it has suffered a monetary loss or damage as the result of a violation;
  - (5) To require individuals violators to attend training as specified by the board; and
  - (6) To assess investigative costs incurred by the board against ~~an individual or the governing authority which employs or compensates an individual any violator~~ found to have committed a violation.
- (b) A civil penalty shall not be assessed against any person violator except after notice and hearing as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In addition to the State Election Board, any contested case may be held before any representative of such board who has been selected and appointed by such board for such purpose. The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the State Election Board. All moneys recovered pursuant to this Code section shall be deposited in the state treasury.
- (c) The Attorney General of this state shall, upon complaint by the State Election Board, ~~or may, upon the Attorney General's own initiative if after examination of the complaint and evidence the Attorney General believes a violation has occurred,~~ bring an action in the superior court in the name of the State Election Board for a temporary restraining order or other injunctive relief or for civil penalties assessed against any person violating violator of any provision of this chapter or any rule or regulation duly issued by the State Election Board.
- (d) Any action brought by the Attorney General to enforce civil penalties assessed against any ~~person for violating the provisions any violator~~ of this chapter or any rule or regulation duly issued by the State Election Board or any order issued by the State Election Board ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county of the residence of the party against

whom relief is sought. Service of process shall lie in any jurisdiction within the state. In such actions, the superior court inquiry will be limited to whether notice was given by the State Election Board to the violator in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the superior court shall enforce the orders of the State Election Board and the civil penalties assessed under this chapter and the superior court shall not make independent inquiry as to whether the violations have occurred.

(e) In any action brought by the Attorney General to enforce any of the provisions of this chapter or of any rule or regulation issued by the State Election Board, the judgment, if in favor of the State Election Board, shall provide that the defendant pay to the State Election Board the costs, including reasonable attorneys' fees, incurred by the State Election Board in the prosecution of such action."

#### **SECTION 6.**

Said chapter is further amended by striking paragraph (15) of subsection (a) of Code Section 21-2-50, relating to powers and duties of the Secretary of State, and inserting in lieu thereof a new paragraph (15) to read as follows:

"(15) To develop, program, and build, and review ballots for use by counties and municipalities on direct recording electronic (DRE) voting systems in use in the state."

#### **SECTION 7.**

Said chapter is further amended by striking Code Section 21-2-72, relating to primary and election records to be open to the public, and inserting in lieu thereof a new Code Section 21-2-72 to read as follows:

"21-2-72.

Except when otherwise provided by law or court order, the primary and election records of each governing authority, superintendent, registrar, municipal governing authority, and committee of a political party or body, including registration statements, nomination petitions, affidavits, certificates, tally papers, returns, accounts, contracts, reports, and other documents in official custody, except the contents of voting machines, shall be open to public inspection and may be inspected and copied by any elector of the county or municipality during usual business hours at any time when they are not necessarily being used by the custodian or his or her employees having duties to perform in reference thereto; provided, however, that such public inspection shall only be in the presence of the custodian or his or her employee and shall be subject to proper regulation for the safekeeping of such documents and subject to the further provisions of this chapter. The custodian shall also, upon request, if photocopying equipment is available in the building in which the records are housed, make and furnish to any member of the public copies of any of such records upon payment of the actual cost of copying the records requested."

**SECTION 8.**

Said chapter is further amended by striking Code Section 21-2-73, relating to preservation of primary and election records, and inserting in lieu thereof a new Code Section 21-2-73 to read as follows:

"21-2-73.

All primary and election documents on file in the office of the election superintendent of each county, municipal governing authority, superintendent, registrar, committee of a political party or body, or other officer shall be preserved therein for a period of at least 24 months and then the same may be destroyed unless otherwise provided by law."

**SECTION 9.**

Said chapter is further amended by striking Code Section 21-2-90, relating to the appointment of a chief manager and assistant managers, and inserting in lieu thereof a new Code Section 21-2-90 to read as follows:

"21-2-90.

All elections and primaries shall be conducted in each precinct by a board consisting of a chief manager, who shall be chairperson of such board, and two assistant managers assisted by clerks. The managers of each precinct shall be appointed by the superintendent or, in the case of municipal elections, by the municipal governing authority. If the political parties involved elect to do so, they may submit to the superintendent or municipal governing authority, for consideration in making such appointment, a list of qualified persons. When such lists are submitted to the appropriate office, the superintendent or municipal governing authority, insofar as practicable, shall make appointments so that there shall be equal representation on such boards for the political parties involved in such elections or primaries. The superintendent or municipal governing authority shall make each appointment by entering an order which shall remain of record in the appropriate office and shall transmit a copy of such order to the appointee. The order shall include the name and address of the appointee, his or her title, and a designation of the precinct and primary or election in which he or she is to serve."

**SECTION 10.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-99, relating to instruction of poll officers and workers in election procedures, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The election superintendent shall provide adequate training to all poll officers and poll workers regarding the use of voting equipment, voting procedures, all aspects of state and federal law applicable to conducting elections, and the poll officers' or poll workers' duties in connection therewith before the first election in each election cycle prior to each general primary and general election and each special primary and special election; provided, however, such training shall not be required for a special election held between the date of the general primary and the general election. Upon successful

completion of such instruction, the superintendent shall give to each poll officer and poll worker a certificate to the effect that such person has been found qualified to conduct such primary or election with the particular type of voting equipment in use in that jurisdiction. Additionally, the superintendent shall notify the Secretary of State on forms to be provided by the Secretary of State of the date when such instruction was held and the number of persons attending and completing such instruction. For the purpose of giving such instructions, the superintendent shall call such meeting or meetings of poll officers and poll workers as shall be necessary. Each poll officer shall, upon notice, attend such meeting or meetings called for his or her instruction."

#### **SECTION 11.**

Said chapter is further amended by striking subsection (e) of Code Section 21-2-100, relating to training of local election officials, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) A superintendent or registrar and the county or municipal governing authority which employs the superintendent or registrar may be fined by the State Election Board for failure to attend the training required in this Code section."

#### **SECTION 12.**

Said chapter is further amended by striking subsection (c) of Code Section 21-2-101, relating to certification program for election superintendents or election board designee, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) A superintendent and the county or municipal governing authority which employs the superintendent may be fined by the State Election Board for failure to attain the certification required in this Code section."

#### **SECTION 13.**

Said chapter is further amended by striking paragraph (3) of subsection (d) of Code Section 21-2-132, relating to filing notice of candidacy, nomination petition, and affidavit, and inserting in lieu thereof a new paragraph (3) to read as follows:

"(3) Each candidate for municipal office or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall ~~comply with the following:~~

(A) ~~In the case of a general election held in an odd numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday;~~

(B) ~~In the case of a general election held in an even numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the last Monday in~~

August immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday; and,

(C) ~~In~~ in the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election.

The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour allowed for the lunch break; provided, however, that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period."

#### SECTION 14.

Said chapter is further amended by striking subsections (c), (d), (f), and (i) of Code Section 21-2-132, relating to filing notice of candidacy, nomination petition, and affidavit, and inserting in lieu thereof new subsections (c), (d), (f), and (i) to read as follows:

"(c) Except as provided in subsection (i) of this Code section, all candidates seeking election in a nonpartisan election shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have their names placed on the nonpartisan election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(1) Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy, giving his or her name, residence address, and the office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in ~~April June~~ immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in ~~April June~~, notwithstanding the fact that any such days may be legal holidays; and

(2) Each candidate for a county judicial office, a local school board office, or an office of a consolidated government, ~~except those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on the fourth Monday in ~~April June~~ immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in ~~April June~~, notwithstanding the fact that any such days may be legal holidays.

(d) Except as provided in subsection (i) of this Code section, all political body and independent candidates shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have

their names placed on the election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

- (1) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election;
- (2) Each candidate for a county office, ~~including those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or his or her agent, desiring to have his or her name placed on the election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election;
- (3) Each candidate for municipal office or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall comply with the following:
  - (A) In the case of a general election held in an odd-numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday;
  - (B) In the case of a general election held in an even-numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday; and
  - (C) In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election.

The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour allowed for the lunch break; provided, however, that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period."

- "(f) Each candidate required by this Code section to file a notice of candidacy shall accompany his or her notice of candidacy with an affidavit stating:
- (1) His or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is submitted to the Secretary of State or the election superintendent, the form of such name shall not be changed during the election for which such notice of candidacy is submitted;
  - (2) His or her residence, with street and number, if any, and his or her post office address;
  - (3) His or her profession, business, or occupation, if any;
  - (4) The name of his or her precinct;
  - (5) That he or she is an elector of the county or municipality of his or her residence eligible to vote in the election in which he or she is a candidate;
  - (6) The name of the office he or she is seeking;
  - (7) That he or she is eligible to hold such office;
  - (8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude or conviction of domestic violence under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude;
  - (9) That he or she will not knowingly violate this chapter or rules and regulations adopted under this chapter; and
  - (10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law.

The affidavit shall contain such other information as may be prescribed by the officer with whom the candidate files his or her notice of candidacy."

"(i) Notwithstanding any other provision of this chapter to the contrary, for general elections held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, candidates in such elections shall qualify as provided in this subsection:

- (1) All candidates seeking election in a nonpartisan election shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be eligible to have their names placed on the nonpartisan election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

- (A) Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy, giving his or her name, residence address, and the office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on the third Wednesday in

~~June last Monday in July~~ immediately prior to the election and no later than 12:00 Noon on the Friday following the ~~third Wednesday in June last Monday in July~~, notwithstanding the fact that any such days may be legal holidays; and

(B) Each candidate for a county judicial office, a local school board office, or an office of a consolidated government, ~~except those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on the ~~third Wednesday in June last Monday in July~~ immediately prior to the election and no later than 12:00 Noon on the Friday following the ~~third Wednesday in June last Monday in July~~, notwithstanding the fact that any such days may be legal holidays;

(2) All political body and independent candidates shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be eligible to have their names placed on the general election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(A) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the general election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the last Monday in July immediately prior to the election and no later than 12:00 Noon on the Friday following the last Monday in July; and

(B) Each candidate for a county office, ~~including those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or his or her agent, desiring to have his or her name placed on the general election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the last Monday in July immediately prior to the election and no later than 12:00 Noon on the Friday following the last Monday in July; and

(3) Candidates required to file nomination petitions under subsection (e) of this Code section shall file such petitions not earlier than 9:00 A.M. on the fourth Monday in July immediately prior to the general election and not later than 12:00 Noon on the first Monday in August immediately prior to the general election."

#### SECTION 15.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-133, relating to write-in candidacy, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and

no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections; no later than seven days after the close of the municipal qualifying period for municipal elections in the case of a general election; ~~no earlier than January 1 and no later than the Tuesday after the first Monday in June in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary; no later than the third Monday in July in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary held in the even numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives; or at least 20 or more days prior to no later than seven days after the close of the special election qualifying period for~~ a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:

- (1) In a state general or special election, notice shall be filed with the Secretary of State and published in a newspaper of general circulation in the state;
- (2) In a general or special election of county officers, notice shall be filed with the superintendent of elections in the county in which he or she is to be a candidate and published in the official organ of the same county; or
- (3) In a municipal general or special election, notice shall be filed with the superintendent and published in the official gazette of the municipality holding the election."

#### **SECTION 16.**

Said chapter is further amended by striking paragraph (1) of subsection (a) and paragraph (3) of subsection (b) of Code Section 21-2-134, relating to withdrawal, death, or disqualification of candidate for office, and inserting in lieu thereof a new paragraph (1) of subsection (a) and paragraph (3) of subsection (b) to read as follows:

- "(1) A candidate nominated at any primary election or nominated by means other than a primary may withdraw as a candidate at the ensuing general election by filing a notarized affidavit of withdrawal with the Secretary of State, if nominated for a state office; the county superintendent, if nominated for a county office; or the municipal superintendent, if nominated for a municipal office. The qualifying fee shall not be returned to the candidate. If the ballots have been printed, the Secretary of State or the county or municipal superintendent may reprint the ballots to omit the name of the withdrawn candidate. All votes cast for the withdrawn candidate shall be void and shall not be counted. Prominent notices shall be posted in all polling places in which the name of the withdrawn candidate appears on the ballot stating that the candidate has withdrawn and that all votes cast for such withdrawn candidate shall be void and shall not be counted. No vacancy on the ballot for a general election or for a nonpartisan election shall be filled except by reason of the withdrawal, death, or

disqualification of a candidate or the withdrawal of a candidate as provided in paragraph (2) of subsection (b) of this Code section."

"(3) Any vacancy which occurs in any party nomination filled by a primary and which is created by reason of the withdrawal of a candidate less than 60 days prior to the date of the election shall not be filled in the same manner as provided in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection, as appropriate. The qualifying fee shall not be returned to the candidate. If the ballots have been printed, the Secretary of State or the county or municipal superintendent may reprint the ballots to omit the name of the withdrawn candidate. All votes cast for the withdrawn candidate shall be void and shall not be counted. Prominent notices shall be posted in all polling places in which the name of the withdrawn candidate appears on the ballot stating that the candidate has withdrawn and that all votes cast for such withdrawn candidate shall be void and shall not be counted."

#### SECTION 17.

Said chapter is further amended by striking Code Section 21-2-138, relating to nonpartisan elections for judicial offices, and inserting in lieu thereof a new Code Section 21-2-138 to read as follows:

"21-2-138.

The names of all candidates who have qualified with the Secretary of State for the office of judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court of this state and the names of all candidates who have qualified with the election superintendent for the office of judge of a state court shall be placed on the ballot in a nonpartisan election to be held and conducted jointly with the general primary election in each even-numbered year; provided that nonpartisan elections for the office of judge of the state court which was covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary shall be held and conducted jointly with the general election in even numbered years. No candidates for any such office shall be nominated by a political party or by a petition as a candidate of a political body or as an independent candidate. Candidates for any such office, except offices which were covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary, shall have their names placed on the nonpartisan portion of each political party ballot by complying with the requirements prescribed in Code Section 21-2-132 specifically related to such nonpartisan candidates and by paying the requisite qualifying fees as prescribed in Code Section 21-2-131. The Secretary of State may provide for the printing of independent ballots containing the names of the nonpartisan candidates for those voters not affiliated with a political party. Candidates shall be listed on the official ballot in a nonpartisan election as provided in Code Sections 21-2-284.1 and 21-2-285.1, respectively. Except as otherwise specified in this chapter, the procedures to be employed in conducting the nonpartisan election of judges of state courts, judges of

superior courts, Judges of the Court of Appeals, and Justices of the Supreme Court shall conform as nearly as practicable to the procedures governing general primaries and general elections; and such general primary and general election procedures as are necessary to complete this nonpartisan election process shall be adopted in a manner consistent with such nonpartisan elections."

#### **SECTION 18.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-139, relating to nonpartisan elections authorized, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Notwithstanding any other provisions of this chapter to the contrary, the General Assembly may provide by local Act for the election in nonpartisan elections of candidates to fill county judicial offices, offices of local school boards, and offices of consolidated governments which are filled by the vote of the electors of said county or political subdivision. Except as otherwise provided in this Code section, the procedures to be employed in such nonpartisan elections shall conform as nearly as practicable to the procedures governing nonpartisan elections as provided in this chapter. Except as otherwise provided in this Code section, the election procedures established by any existing local law which provides for the nonpartisan election of candidates to fill county offices shall conform to the general procedures governing nonpartisan elections as provided in this chapter, and such nonpartisan elections shall be conducted in accordance with the applicable provisions of this chapter, notwithstanding the provisions of any existing local law. For those offices for which the General Assembly as of July 1, 2001, pursuant to this Code section, provided by local Act for election in nonpartisan primaries and elections, such offices shall no longer require nonpartisan primaries. Such officers shall be elected in nonpartisan elections held and conducted in conjunction with the November general primary election in accordance with this chapter without a prior nonpartisan primary. ~~For those offices for which the General Assembly as of July 1, 2001, provided by local Act for election in a nonpartisan election without a prior nonpartisan primary, such offices shall be elected in nonpartisan elections held and conducted in conjunction with the November general election without a prior nonpartisan primary.~~ Nonpartisan elections for municipal offices shall be conducted on the dates provided in the municipal charter."

#### **SECTION 19.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-151, relating to authorization for political party primaries, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The primary held for such purposes shall be conducted by the superintendent in the same manner as prescribed by law and by rules and regulations of the State Election Board and the superintendent for general elections. Primaries of all political parties and all nonpartisan elections for nonpartisan offices other than those offices which were

~~covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary shall be conducted jointly."~~

#### **SECTION 20.**

Said chapter is further amended by striking subsection (e) of Code Section 21-2-153, relating to qualification of candidates for party nomination in a state or county primary, and inserting in lieu thereof a new subsection (e) to read as follows:

- "(e) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:
- (1) His or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is certified by the political party to the Secretary of State or the election superintendent, the form of such name shall not be changed during the primary and election for which such affidavit is submitted;
  - (2) His or her residence, with street and number, if any, and his or her post office address;
  - (3) His or her profession, business, or occupation, if any;
  - (4) The name of his or her precinct;
  - (5) That he or she is an elector of the county of his or her residence eligible to vote in the primary election in which he or she is a candidate for nomination;
  - (6) The name of the office he or she is seeking;
  - (7) That he or she is eligible to hold such office;
  - (8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude;
  - (9) That he or she will not knowingly violate this chapter or rules or regulations adopted under this chapter; and
  - (10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law."

#### **SECTION 21.**

Said chapter is further amended by striking subsection (d) of Code Section 21-2-153.1, relating to qualification of candidates for party nomination in a municipal primary, and inserting in lieu thereof a new subsection (d) to read as follows:

- "(d) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:

- (1) His or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is submitted by the candidate to the political party, the form of such name shall not be changed during the primary and election for which such affidavit is submitted;
- (+) (2) His or her residence, with street and number, if any, and his or her post office address;
- (+) (3) His or her profession, business, or occupation, if any;
- (+) (4) The name of his or her precinct;
- (+) (5) That he or she is an elector of the municipality of his or her residence and is eligible to vote in the primary election in which he or she is a candidate for nomination;
- (+) (6) The name of the office he or she is seeking;
- (+) (7) That he or she is eligible to hold such office;
- (+) (8) That he or she has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that his or her civil rights have been restored; and
- (+) (9) That he or she will not knowingly violate this chapter or any rules and regulations adopted under this chapter."

## SECTION 22.

Said chapter is further amended by striking subsections (c) and (e) of Code Section 21-2-212, relating to county registrars, and inserting in lieu thereof new subsections (c) and (e) to read as follows:

"(c) The governing authority of each municipality shall appoint registrars as necessary, and the appointments shall be entered on the minutes of the such governing authority. The municipal governing authority shall designate one of the registrars as chief registrar. The chief registrar will serve as such during such registrar's term of office, and such designation shall likewise be entered on the minutes of the such governing authority. Such registrars shall serve at the pleasure of the municipal governing authority, and compensation of the registrars shall be fixed by the such governing authority. Any registrar shall have the right to resign at any time by submitting a resignation to such governing authority. In the event of any such removal or resignation of a registrar, such registrar's duties and authority as such shall terminate instantly. Successors to resigned registrars shall be appointed by the municipal governing authority. Each appointment or change in designation shall be entered on the minutes of the such governing authority and certified by the governing authority. The municipal governing authority may furnish such employees and facilities as it deems necessary for the operation of the office and the affairs of the registrars."

"(e) Any other provision of this Code section to the contrary notwithstanding, in any county of this state having a population of more than 600,000 according to the United States decennial census of 1990 or any future such census, the governing authority of the county shall appoint the county registrars in lieu of the judge of the superior court. The appointments shall be entered on the minutes of the county governing authority. The county governing authority shall designate one of the registrars as chief registrar, who shall serve as such during such registrar's term of office. Such designation shall likewise be entered on the minutes of the the such governing authority. It shall be the duty of the county governing authority to certify the appointments and designation to the Secretary of State within 30 days after such appointments and designation. In certifying such names to the Secretary of State, the county governing authority shall also list the addresses of the registrars. Such registrars shall serve at the pleasure of the governing authority of the county, and the compensation of the registrars shall be fixed by the governing authority of the county. Any registrar shall have the right to resign at any time by submitting a resignation to the such governing authority. In the event of the death, resignation, or removal of any registrar, such registrar's duties and authority as such shall terminate instantly. Successors shall be appointed by the county governing authority. Each appointment or change in designation shall be entered on the minutes of the such governing authority and certified as provided in this Code section. The first appointments in any such county under this article shall be made in the year 1965, and the persons appointed shall assume office July 1, 1965. The governing authorities of such counties may furnish such employees and facilities as they deem necessary for the operation of the office and affairs of the registrars."

#### SECTION 23.

Said chapter is further amended by repealing subsection (j) of Code Section 21-2-215, relating to registrars, registration, and the digitization of signatures from voter registration cards, which reads as follows:

"(j) At such time as the Secretary of State certifies that a system for the digitization of all or a portion of the completed registration cards is operational, the board of registrars shall expeditiously transmit the registration card for each elector whose registration has been approved to the Secretary of State. The Secretary of State shall retain such cards after processing for the period of time set forth in this article."

#### SECTION 24.

Said chapter is further amended by striking subsections (c) and (d) of Code Section 21-2-220, relating to application for registration, and inserting in lieu thereof new subsections (c) and (d) to read as follows:

"(c) Except as otherwise provided in this subsection, electors who register to vote for the first time in this state by mail must present current and valid identification either when registering to vote by mail or when voting for the first time after registering to vote by mail. The current and valid identification shall be one or more of those forms

of identification provided in subsection (c) of Code Section 21-2-417 or a legible copy thereof. The registrars shall make copies of any original forms of identification submitted by applicants and return the originals to the applicants. The requirement to submit identification shall not apply to:

- (1) Persons who submit identifying information with their applications that the registrars are able to match to information contained on a state database available to such registrars containing the same number, name, and date of birth as contained in the application;
  - (2) Persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq.; or
  - (3) Persons who are entitled to vote otherwise than in person under any other federal law.
- (d) If an applicant fails to provide all of the required information on the application for voter registration with the exception of current and valid identification, the board of registrars shall notify the registrant in writing of the missing information. The board of registrars shall not determine the eligibility of the applicant until and unless all required information is supplied by the applicant. If the initial application is received prior to the close of voter registration prior to an election, if the applicant supplies the necessary information on or prior to the date of the election, and if the applicant is found eligible to vote, the applicant shall be added to the list of electors and shall be permitted to vote in the election and any run-off elections resulting therefrom and subsequent elections; provided, however, that voters who registered to vote for the first time in this state by mail must supply current and valid identification when voting for the first time as required in subsection (c) of this Code section. In the event the elector does not respond to the request for the missing information within 30 days, the application shall be rejected."

#### **SECTION 25.**

Said chapter is further amended by striking subsection (g) of Code Section 21-2-224, relating to official list of electors, and inserting in lieu thereof a new subsection (g) to read as follows:

"(g) The official list of electors and the official list of inactive electors prepared and distributed to the poll officers of each precinct shall include only the elector's name, address, ZIP Code, date of birth, voter identification number, a designation of whether the elector registered for the first time in this state by mail and is required to comply with Code Sections 21-2-220 and 21-2-417, congressional district, state Senate district, state House district, county commission district, if any, county or independent board of education district, if any, and municipal governing authority district designations, if any, and such other voting districts, if any. The official list of electors and the official list of inactive electors prepared and distributed to the poll officers of each precinct may also include codes designating that an elector has voted by absentee ballot, has been challenged, or has been sent mail by the registrars which has been returned marked undeliverable. No person whose name does not appear on the official list of electors shall vote or be allowed to vote at any election, except as otherwise provided in this

article. The Secretary of State shall ensure that the information required to notify poll officers that an elector registered to vote for the first time in this state by mail and must comply with subsection (c) of Code Section 21-2-220 and subsection (c) of Code Section 21-2-417 is placed on each list of electors to be used at a polling place."

### **SECTION 26.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-225, relating to confidentiality of original registration applications, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) All data collected and maintained on electors whose names appear on the list of electors maintained by the Secretary of State pursuant to this article shall be available for public inspection with the exception of bank statements submitted pursuant to subsection ~~(b)~~ (c) of Code Section 21-2-220 and subsection (c) of Code Section 21-2-417 and the social security numbers of the electors and the locations at which the electors applied to register to vote which shall remain confidential and be used only for voter registration purposes; provided, however, that social security numbers of electors may be made available to other state agencies if the agency is authorized to maintain information by social security number and the information is used only to identify the elector on the receiving agency's data base and is not disseminated further and remains confidential."

### **SECTION 27.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-230, relating to challenge of persons on list of electors by other electors, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Any elector of the county or municipality may challenge the right of any other elector of the county or municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector's polling place or, if such elector cast an absentee ballot, prior to 5:00 p.m. P.M. on the day before the election; provided, however, that challenges to persons voting by absentee ballot in person at the office of the registrars or the absentee ballot clerk during the period of advance voting specified in subsection (b) of Code Section 21-2-380 whose vote is cast on a DRE unit must be made prior to such person's voting."

### **SECTION 28.**

Said chapter is further amended by striking subsection (f) of Code Section 21-2-231, relating to lists of persons convicted of felonies, persons declared mentally incompetent, and deceased persons provided to Secretary of State, and inserting in lieu thereof a new subsection (f) to read as follows:

"(f) County registrars shall initiate appropriate action regarding the right of an elector to remain on the list of qualified registered voters within 60 days after receipt of the

information described in this Code section. Failure to take such action may subject the registrars or the county governing authority for whom the registrars are acting to a fine by the State Election Board."

#### **SECTION 29.**

Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-233, relating to comparison of change of address information supplied by United States Postal Service, and inserting in lieu thereof new subsections (b) and (c) to read as follows:

"(b) If it appears from the change of address information supplied by the licensees of the United States Postal Service that an elector whose name appears on the official list of electors has moved to a different address in the county in which the elector is presently registered, the list of electors shall be changed to reflect the new address and the elector shall be sent a notice of the change by forwardable mail at ~~both~~ the elector's old address ~~and the new address~~ with a postage prepaid, preaddressed return form by which the elector may verify or correct the address information. The registrars may also send a notice of the change by forwardable mail to the elector's new address with a postage prepaid, preaddressed return form by which the elector may verify or correct the address information.

(c) If it appears from the change of address information supplied by the licensees of the United States Postal Service that an elector whose name appears on the official list of electors has moved to a different address outside of the boundaries of the county or municipality in which the elector is presently registered, such elector shall be sent a confirmation notice as provided in Code Section 21-2-234 at ~~both~~ the old ~~and new addresses~~ address of the elector. The registrars may also send a confirmation notice to the elector's new address. If the elector confirms the change of address to an address outside of the boundaries of the county or municipality in which the elector is presently registered, the elector's name shall be removed from the appropriate list of electors. If the elector responds to the notice and affirms that the elector has not moved, the elector shall remain on the list of electors at the elector's current address. If the elector fails to respond to the notice within 30 days after the date of the notice, the elector shall be transferred to the inactive list provided for in Code Section 21-2-235."

#### **SECTION 30.**

Said chapter is further amended by striking Code Section 21-2-264, relating to reimbursement of counties for costs incurred pursuant to alteration of precinct boundaries, and inserting in lieu thereof a new Code Section 21-2-264 to read as follows:

"21-2-264.

In all cases of the division, redivision, alteration, formation, or consolidation of precincts, the costs of the proceedings shall be paid by the county or municipal governing authority, as appropriate. There may be appropriated to the Secretary of State funds to be granted to counties or municipalities for purposes of meeting the requirements of Code Section 21-2-261.1. Upon the filing of a written request by the

election officials of any qualified county or municipality, a qualified county or municipality shall be reimbursed for all reasonable expenses incurred by such county or municipality which are directly related to the redrawing of voting precinct boundaries, verification of voting precinct residency, notification of voter precinct and polling place changes, and compilation and preparation of the electors list as necessitated by Code Section 21-2-261.1; provided, however, that such reimbursement of costs shall not exceed 25¢ per registered voter whose name appeared on such county's or municipality's electors list as of January 1, 1982. Any qualified county or municipality seeking reimbursement of such costs shall present an itemized description of such costs to the Secretary of State. If the Secretary of State, after a review of the report of such costs incurred by a county or municipality, shall find that all or portions of such costs were reasonable and were directly related to the preparation of such descriptions and lists, he or she shall approve all of those parts of the costs deemed reasonable and shall reimburse the counties or municipalities for such expenses. Any state funds necessary to carry out the provisions of this subsection shall come only from those funds appropriated to the Secretary of State specifically for the purpose of implementing the provisions of Code Section 21-2-261.1. If such funds are not sufficient to bear completely the cost of fully implementing the provisions of Code Section 21-2-261.1, payment to the counties or municipalities seeking assistance shall be made on a pro rata basis subject to the availability of appropriated funds."

### SECTION 31.

Said chapter is further amended by striking Code Section 21-2-267, relating to equipment, arrangement, and storage relating to polling places, and inserting in lieu thereof a new Code Section 21-2-267 to read as follows:

"21-2-267.

(a) The governing authority of each county and municipality shall provide and the superintendent shall cause all rooms used as polling places to be provided with suitable heat and light and, in precincts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies in which the electors may conveniently mark their ballots, with a curtain, screen, or door in the upper part of the front of each compartment or booth so that in the marking thereof they may be screened from the observation of others. A curtain, screen, or door shall not be required, however, for the self-contained units used as voting booths in which direct recording electronic (DRE) voting units are located if such booths have been designed so as to ensure the privacy of the elector. When practicable, every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein and shall be furnished with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier shall be so constructed and placed that only such persons as are inside such rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the

guardrail or barrier. The voting machine or machines shall be placed in the voting rooms within the enclosed space so that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the poll officers when the machine is not occupied by an elector. In the case of direct recording electronic (DRE) voting units, the units shall be arranged in such a manner as to ensure the privacy of the elector while voting on such units, to allow monitoring of the units by the poll officers while the polls are open, and to permit the public to observe the voting without affecting the privacy of the electors as they vote.

(b) The superintendent, unless otherwise provided by law, may make such arrangements as he or she deems proper for the storage of election equipment in the various precincts of the county or municipality at such times of the year that it will not be used for election purposes and may fix reasonable compensation therefor."

### **SECTION 32.**

Said chapter is further amended by striking Code Section 21-2-268, relating to compensation for rent, heat, light, and janitorial services for the use of public buildings, and inserting in lieu thereof a new Code Section 21-2-268 to read as follows:

"21-2-268.

The superintendent or county or municipal governing authority shall fix the compensation for rent, heat, light, and janitorial services to be paid for the use of polling places for primaries and elections; provided, however, that no compensation for rent, heat, or light shall be paid in the case of schoolhouses, municipal buildings or rooms, or other public buildings used as polling places."

### **SECTION 33.**

Said chapter is further amended by striking Code Section 21-2-280, relating to requirement as to conduct of primaries and elections by ballot, and inserting in lieu thereof a new Code Section 21-2-280 to read as follows:

"21-2-280.

All primaries and elections in this state shall be conducted by ballot, except when voting machines are used as provided by law. A ballot may be electronic or printed on paper. All ballots used in any primary or election shall be provided by the superintendent or municipal governing authority in accordance with this article, and only official ballots furnished by the superintendent or governing authority shall be cast or counted in any primary or election in any precinct in which ballots are used."

### **SECTION 34.**

Said chapter is further amended by striking Code Section 21-2-283, relating to printing and safekeeping of ballots and labels by superintendent, and inserting in lieu thereof a new Code Section 21-2-283 to read as follows:

"21-2-283.

In any primary or election, the superintendent or municipal governing authority shall cause all the ballots and ballot labels to be printed accurately and in the form prescribed by this chapter, and the superintendent or municipal governing authority shall be responsible for the safekeeping of the same while in his or her or its possession or that of his or her or its agent. The superintendent or municipal governing authority shall keep a record of the number of official ballots printed and furnished to each precinct at each primary and election, and the number of stubs, unused ballots, and canceled ballots subsequently returned therefrom."

### SECTION 35.

Said chapter is further amended by striking Code Section 21-2-284.1, relating to the form of the ballot in nonpartisan elections, and inserting in lieu thereof a new Code Section 21-2-284.1 to read as follows:

"21-2-284.1.

(a) ~~The names of all candidates seeking election in a nonpartisan election conducted in conjunction with a partisan primary shall be printed on the ballot of each political party; and insofar as practicable such offices to be filled in a nonpartisan election shall be separated from the names of political party candidates by being listed last on each political party ballot, with the top of that portion of the ballot relating to the nonpartisan election to have printed in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how to write in a candidate, and how to obtain a new ballot after one is spoiled shall appear immediately under the caption as specified by rules and regulations of the State Election Board. Immediately under the directions, the names of the nonpartisan candidates shall in all cases be arranged under the title of the office for which they are candidates and be printed thereunder in alphabetical order. No party designation or affiliation shall appear beside the name of any candidate for nonpartisan office. An appropriate space shall also be placed on the ballot for the casting of write in votes for such offices. The incumbency of a nonpartisan candidate seeking election to the public office he or she then holds shall be indicated on the ballots by printing the word 'Incumbent' beside his or her name. Under the title of each office shall be placed a direction as to the number of nonpartisan candidates to be voted for. The votes cast for each nonpartisan candidate listed on all political party ballots shall be combined to determine the total number of votes received by each candidate in the nonpartisan election. In the event that a candidate in such nonpartisan election does not receive a plurality of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes for such office; and the names of such candidates shall be placed on each political party ballot at the general primary runoff in the same nonpartisan portion as prescribed in this Code section. If no political party runoff is required, the form of the ballot for the nonpartisan election runoff shall be prescribed by the Secretary of State or election superintendent in essentially the same format prescribed for nonpartisan elections. The candidate receiving the highest~~

~~number of votes cast in the nonpartisan election runoff shall be declared duly elected to such office.~~

(b) In the case of nonpartisan municipal primaries, the form of the official nonpartisan primary ballot shall conform insofar as practicable to the form of the official primary ballot as detailed in Code Section 21-2-284, except that:

- (1) The following shall be printed at the top of each ballot in prominent type:

'OFFICIAL NONPARTISAN PRIMARY BALLOT OF

\_\_\_\_\_  
(Name of Municipality);

(2) There shall be no name or designation of any political organization nor any words, designation, or emblems descriptive of a candidate's political affiliation printed under or after any candidate's name which is printed on the ballot; and

(3) The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot."

### SECTION 36.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-285, relating to the form of the official election ballot, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) When presidential electors are to be elected, the ballot shall not list the individual names of the nominees candidates for presidential electors but shall list the names of each political party or body for such offices shall be arranged alphabetically under or body and the names of the candidates of the party or body for the offices of President and Vice President of the United States. The individual names or the nominees of each political party or body for such offices shall be posted at each polling place arranged alphabetically under the names of the candidates of the party or body for President and Vice President of the United States. A vote for the candidates for President and Vice President of a political party or body shall be deemed to be a vote for each of the candidates for presidential electors of such political party or body."

### SECTION 37.

Said chapter is further amended by striking Code Section 21-2-285.1, relating to the form of the ballot in nonpartisan elections, and inserting in lieu thereof a new Code Section 21-2-285.1 to read as follows:

"21-2-285.1.

The names of all candidates for offices which ~~were covered on July 1, 2001, by a local Act of the General Assembly which has by local Act~~ provided for election in a nonpartisan election ~~without a prior nonpartisan primary~~ shall be printed on each official election ballot; and insofar as practicable such offices to be filled in the nonpartisan election shall be separated from the names of candidates for other offices by being listed last on each ballot, with the top of that portion of each official election ballot relating to the nonpartisan election to have printed in prominent type the words

'OFFICIAL NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how to write in a candidate, and how to obtain a new ballot after the elector spoils his or her ballot shall appear immediately under the caption, as specified by rule or regulation of the State Election Board. Immediately under the directions, the name of each such nonpartisan candidate shall be arranged alphabetically by last name under the title of the office for which they are candidates and be printed thereunder. The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot. No party designation or affiliation shall appear beside the name of any candidate for nonpartisan office. An appropriate space shall also be placed on the ballot for the casting of write-in votes for such offices. In the event that no candidate in such nonpartisan election receives a plurality majority of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes; and the names of such candidates shall be placed on the official ballot at the general election runoff in the same manner as prescribed in this Code section for the nonpartisan election. In the event that only nonpartisan candidates are to be placed on a run-off ballot, the form of the ballot shall be as prescribed by the Secretary of State or election superintendent in essentially the same format as prescribed for the nonpartisan election. The candidate having a plurality majority of the votes cast in the nonpartisan election or the candidate receiving the highest number of votes cast in the nonpartisan election runoff shall be declared duly elected to such office."

### **SECTION 38.**

Said chapter is further amended by striking Code Section 21-2-320, relating to power of governing authority to authorize use of and to procure voting machines, and inserting in lieu thereof a new Code Section 21-2-230 to read as follows:

"21-2-320.

The governing authority of any ~~county or~~ municipality may at any regular meeting or at a special meeting called for the purpose, by a majority vote, authorize and direct the use of voting machines for recording and computing the vote at all elections held in the ~~county or~~ municipality; and thereupon the governing authority shall purchase, lease, rent, or otherwise procure voting machines conforming to the requirements of this part."

### **SECTION 39.**

Said chapter is further amended by striking Code Section 21-2-321, relating to referendum on question of use of voting machines, and inserting in lieu thereof a new Code Section 21-2-321 to read as follows:

"21-2-321.

(a) The governing authority of any ~~county or~~ municipality which conducts elections by paper ballot may, upon its own motion, submit to the electors of the ~~county or~~ municipality, at any election, the question: 'Shall voting machines be used in \_\_\_\_\_?'

- (b) The governing authority of any ~~county or~~ municipality which conducts elections by paper ballot, ~~upon the filing of a petition with it signed by electors of the county equal in number to at least 1 percent of the total number of electors who voted in such county at the preceding general election or~~ upon the receipt of a petition signed by at least 10 percent of the electors who voted in such municipality at the preceding general election, shall, at the next election occurring at least 45 days thereafter, submit to the electors of such ~~county or~~ municipality the question: 'Shall voting machines be used in \_\_\_\_\_?'  
(c) The governing authority shall cause such question to be printed upon the ballots to be used at the election in the form and manner provided by the laws governing general elections.  
(d) The election on such question shall be held at the places, during the hours, and under the regulations provided by law for holding general elections and shall be conducted by the poll officers provided by law to conduct such elections. The poll officers shall count the votes cast at the election on such question and shall make return thereof to the superintendent of such ~~county or~~ municipality as required by law. The returns shall be computed by the superintendent and, when so computed, a certificate of the total number of electors voting 'Yes' and of the total number of electors voting 'No' on such question shall be filed in the office of the municipal governing authority and in the office of the Secretary of State.  
(e) Whenever, under this Code section, the question of the adoption of voting machines is about to be submitted to the electors of any ~~county or~~ municipality, it shall be the duty of the governing authority of such ~~county or~~ municipality to ascertain whether current funds will be available to pay for such machines, if adopted and purchased, or whether it has power to increase the indebtedness of the ~~county or~~ municipality in an amount sufficient to pay for the machines without the consent of the electors; and, if such current funds will not be available and the power to increase the indebtedness of the ~~county or~~ municipality in a sufficient amount without the consent of the electors is lacking, it shall be the duty of the governing authority to submit to the electors of the ~~county or~~ municipality, in the manner provided by law, at the same election at which the adoption of voting machines is to be voted on, the question of whether the indebtedness of such ~~county or~~ municipality shall be increased, in an amount specified by them, sufficient to pay for such voting machines, if adopted.  
(f) If a majority of the electors voting on such question or questions shall vote in the affirmative, the governing authority of such ~~county or~~ municipality shall purchase, lease, or rent voting machines, conforming to the requirements of this part, for recording and computing the vote at all elections held in such ~~county or~~ municipality."

#### SECTION 40.

Said chapter is further amended by striking Code Section 21-2-323, relating to installation of voting machines, and inserting in lieu thereof a new Code Section 21-2-323 to read as follows:

"21-2-323.

- (a) When the use of voting machines has been authorized in the manner prescribed by Code Section 21-2-320 or 21-2-321, such voting machines shall be installed, either simultaneously or gradually, within the ~~county or~~ municipality. Upon the installation of voting machines in any precinct, the use of paper ballots therein shall be discontinued, except as otherwise provided by this chapter.
- (b) In each precinct in which voting machines are used, the municipal governing authority shall provide at least one voting machine for each 500 electors, or major fraction thereof, except that at least one voting machine shall be provided in each such precinct in any case.
- (c) Voting machines of different kinds may be used for different precincts in the same ~~county or~~ municipality.
- (d) The municipal governing authority shall provide voting machines in good working order and of sufficient capacity to accommodate the names of a reasonable number of candidates for all party offices and nominations and public offices, which, under existing laws and party rules, are likely to be voted for at any future primary or election."

#### **SECTION 41.**

Said chapter is further amended by striking subsection (g) of Code Section 21-2-324, relating to examination and approval of voting machines by Secretary of State, and inserting in lieu thereof a new subsection (g) to read as follows:

- "(g) Neither the Secretary of State, nor any examiner appointed by him or her for the purpose prescribed by this Code section, nor any superintendent, nor the governing authority of any ~~county or~~ municipality or a member of such authority, nor any other person involved in the examination process shall have any pecuniary interest in any voting machine or in the manufacture or sale thereof."

#### **SECTION 42.**

Said chapter is further amended by striking Code Section 21-2-327, relating to preparation of voting machines, and inserting in lieu thereof a new Code Section 21-2-327 to read as follows:

"21-2-327.

- (a) The superintendent of each ~~county or~~ municipality shall cause the proper ballot labels to be placed on each voting machine which is to be used in any precinct within such ~~county or~~ municipality, cause each machine to be placed in proper order for voting, examine each machine before it is sent out to a polling place, see that each registering counter on each machine is set at zero, lock each machine so that the counting machinery cannot be operated, and seal each machine with a numbered seal. The superintendent or his or her agent shall adjust each machine to be used at a primary, so that the poll officers may lock it on primary day, in such a way that each elector can vote only for the candidates seeking nomination by the political party in whose primary he or she is then voting and so that no elector can vote for the

candidates seeking nomination by any political party in whose primary he or she is not then voting.

(b) The superintendent shall appoint one custodian of voting machines and such deputy custodians as may be necessary, whose duty it shall be to prepare the machines to be used ~~in the county~~ at the primaries and elections to be held therein. Each custodian and deputy custodian shall receive from the ~~county or~~ municipality such compensation as shall be fixed by the governing authority of the ~~county or~~ municipality. Such custodian shall, under the direction of the superintendent, have charge of and represent the superintendent during the preparation of the voting machines as required by this chapter, and he or she and the deputy custodians, whose duty it shall be to assist him or her in the discharge of his or her duties, shall serve at the pleasure of the superintendent. Each custodian shall take an oath of office framed by the Secretary of State, which shall be filed with the superintendent.

(c) On or before the twelfth day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall mail to the foreperson of the grand jury, the chairperson of the county executive committee of each political party which shall be entitled under existing laws to participate in primaries within the county, and to the chairperson or presiding officer of any organization of citizens within the county having as its purpose or among its purposes the investigation or prosecution of primary and election frauds, which has registered its name and address and the names of its principal officers with the superintendent at least 30 days before such primary or election, and, in the case of an election, to the appropriate committee of each political body which shall be entitled to have the names of its candidates entered on the voting machines, and to each independent candidate who shall be entitled to have his or her name printed on the voting machines, a written notice stating the times when and the place or places where preparation of the machines for use in the several precincts ~~in the county~~ will be started. The grand jury shall appoint a committee, consisting of three of its members, which shall inspect the machines and see that the machines are properly prepared and are placed in proper condition and order for use. In the event the committee of the grand jury fails to be present, the superintendent shall immediately appoint a panel consisting of three electors to perform the duties of the committee of the grand jury set forth in this Code section. Further, one representative of each political party or body, certified by the chairperson of such political party or body, and one representative of each aforementioned organization of citizens, certified by the chairperson or presiding officer of such organization, and any such independent candidate or his or her certified agent shall be entitled to be present during the preparation of the machines and to see that the machines are properly prepared and are placed in proper condition and order for use. Such committee of the grand jury, representatives, or candidates shall not, however, interfere with the preparation of the machines; and the superintendent may make such reasonable rules and regulations concerning the conduct of such representatives and candidates.

- (d) The custodian and deputy custodians of voting machines and the members of the committee of the grand jury, if any, shall make an affidavit, which each shall sign, and request each representative of a party, body, or a citizens' organization, or candidate or his or her agent present at the preparation of the machine to attest, and which shall be filed with ~~the superintendent, or in the case of a municipal election or primary,~~ the city clerk, stating:
- (1) The identifying number or other designation of the voting machine;
  - (2) That each registering counter on the machine was set at zero;
  - (3) The number registered on the protective counter or other device of the machine; and
  - (4) The number on the seal with which the machine is sealed.
- (e) No superintendent nor custodian nor other employee of the superintendent shall, in any way, prevent free access to and examination of all voting machines which are to be used at the primary or election by any of the duly appointed representatives or candidates aforesaid; and the superintendent and his or her employees shall afford to each such representative or candidate every facility for the examination of all registering counters, protective counters, and public counters of each and every voting machine.
- (f) In every primary or election, the superintendent shall furnish, at the expense of the ~~county or~~ municipality, all ballot labels, forms of certificates, and other papers and supplies which are required under this chapter and which are not furnished by the Secretary of State, all of which shall be in the form and according to the specifications prescribed from time to time by the Secretary of State. ~~In the case of~~ a municipal primary, ballot labels and other materials necessary for the preparation of the voting machines shall be furnished free of charge to the municipal superintendent by the political party conducting such primary."

#### SECTION 43.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-330, relating to public exhibition of and instruction on sample voting machine, and inserting in lieu thereof a new subsection (a) to read as follows:

- "(a) During ~~the 30 days next preceding a general primary or election or during the ten days next preceding a special primary or election, other than in the case of municipal primaries and elections, and during~~ the five days preceding a municipal general primary or election or during the three days preceding a municipal special primary or election, the superintendent shall place on public exhibition, in such public places and at such times as he or she may deem most suitable for the information and instruction of the electors, one or more voting machines containing the ballot labels and showing the offices and questions to be voted upon, the names and arrangements of parties and bodies, and, so far as practicable, the names and arrangements of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine which is to be assigned for

use in a primary or election shall be used for such public exhibition and instruction after having been prepared and sealed for the primary or election."

#### **SECTION 44.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-331, relating to designation and compensation of custodians of voting machines and keys, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The ~~superintendent, or in the case of municipal primaries or elections, the~~ governing authority, shall designate a person or persons who shall have the custody of the voting machines of the ~~county or~~ municipality and the keys therefor when the machines are not in use at a primary or election and shall provide for his or her compensation and for the safe storage and care of the machines and keys."

#### **SECTION 45.**

Said chapter is further amended by striking Code Section 21-2-333, relating to responsibility of county or municipal governing authority to provide for payment for voting machines, and inserting in lieu thereof a new Code Section 21-2-333 to read as follows:

"21-2-333.

The governing authority of any ~~county or~~ municipality which adopts voting machines in a manner provided for by this article shall, upon the purchase of voting machines, provide for their payment by the ~~county or~~ municipality. Bonds or other evidence of indebtedness may be issued in accordance with the provisions of law relating to the increase of indebtedness of ~~counties or~~ municipalities to meet all or any part of the cost of the voting machines."

#### **SECTION 46.**

Said chapter is further amended by striking subsections (b) and (d) of Code Section 21-2-367, relating to installation of optical scanning voting systems, and inserting in lieu thereof new subsections (b) and (d) to read as follows:

"(b) In each precinct in which optical scanning voting systems are used, the ~~county or municipal~~ governing authority, as appropriate, shall provide at least one voting booth or enclosure for each 200 electors therein, or fraction thereof."

"(d) The ~~county or municipal~~ governing authority, as appropriate, shall provide optical scanning voting systems in good working order and of sufficient capacity to accommodate the names of a reasonable number of candidates for all party offices and nominations and public offices which, under the provisions of existing laws and party rules, are likely to be voted for at any future primary or election."

#### **SECTION 47.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-369, relating to printing of optical scanning ballots, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The arrangement of offices, names of candidates, and questions upon the ballots shall conform as nearly as practicable to this chapter for the arrangement of same on paper ballots; provided, however, that such form may be varied in order to present a clear presentation of candidates and questions to the electors and that the ballots shall not be required to have a name stub."

#### **SECTION 48.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-374, relating to proper programming of optical scanning systems, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have the optical scanning tabulators tested to ascertain that they will correctly count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, candidates, news media, and the public shall be permitted to observe such tests. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and shall include for each office one or more ballots which are improperly marked and one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the optical scanning tabulator to reject such votes. The optical scanning tabulator shall not be approved unless it produces an errorless count. If any error is detected, the cause therefor shall be ascertained and corrected; and an errorless count shall be made before the tabulator is approved. The superintendent shall cause the pretested tabulators to be placed at the various polling places to be used in the primary or election. The superintendent shall require that each optical scanning tabulator be thoroughly tested and inspected prior to each primary and election in which it is used and shall keep such tested material as certification of an errorless count on each tabulator. In counties using central count optical scanning tabulators, the same test shall be repeated immediately before the start of the official count of the ballots and at the conclusion of such count. Precinct tabulators shall produce a zero tape prior to any ballots being inserted on the day of any primary or election."

#### **SECTION 49.**

Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-379.6, relating to maintenance of DRE voting systems and supplies, and inserting in lieu thereof new subsections (b) and (c) to read as follows:

"(b) The superintendent may appoint, with the approval of the county or municipal governing authority, as appropriate, a custodian of the DRE units, and deputy custodians as may be necessary, whose duty shall be to prepare the units to be used in the county or municipality at the primaries and elections to be held therein. Each

custodian and deputy custodian shall receive from the county or municipality such compensation as shall be fixed by the governing authority of the county or municipality. Such custodian shall, under the direction of the superintendent, have charge of and represent the superintendent during the preparation of the units as required by this chapter. The custodian and deputy custodians shall serve at the pleasure of the superintendent. Each custodian shall take an oath of office prepared by the Secretary of State before each primary or election which shall be filed with the superintendent.

(c) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have each DRE unit tested to ascertain that it will correctly count the votes cast for all offices and on all questions in a manner that the State Election Board shall prescribe by rule or regulation. On or before the third day preceding a primary runoff or election runoff, including special primary runoffs and special election runoffs, the superintendent shall test a number of DRE units at random to ascertain that the units will correctly count the votes cast for all offices. If the total number of DRE units in the county or municipality is 30 units or less, all of the units shall be tested. If the total number of DRE units in the county or municipality is more than 30 but not more than 100, then at least one-half of the units shall be tested at random. If there are more than 100 DRE units in the county or municipality, the superintendent shall test at least 15 percent of the units at random. In no event shall the superintendent test less than one DRE unit per precinct. All memory cards to be used in the runoff shall be tested. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, news media, and the public shall be permitted to observe such tests."

#### SECTION 50.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-380, relating to definition of absentee elector, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) An elector who requests an absentee ballot by mail or who, during the period of Monday through Friday of the week immediately preceding the date of a primary, election, or run-off primary or election, casts an absentee ballot in person at the registrar's office or absentee ballot clerk's office during the period of Monday through Friday of the week immediately preceding the date of a primary, election, or run-off primary or election shall not be required to provide a reason as identified in subsection (a) of this Code section in order to cast an absentee ballot in such primary, election, or run-off primary or election."

#### SECTION 51.

Said chapter is further amended by striking Code Section 21-2-381, relating to making of application for absentee ballot, and inserting in lieu thereof a new Code Section 21-2-381 to read as follows:

"21-2-381.

(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's or absentee ballot clerk's office, an application for an official ballot of the elector's precinct to be voted at such primary, election, or runoff.

(B) In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over.

(C) The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot, if applicable; and the name and relationship of the person requesting the ballot if other than the elector.

(D) Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out-of-county or out-of-municipality address.

(E) Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true.

(F) If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness.

(G) One timely and proper application for an absentee ballot for use in a primary or election shall be sufficient to require the mailing of the absentee ballot for such primary or election as well as for any runoffs resulting therefrom and for all primaries and elections for federal offices and any runoffs therefrom, including presidential preference primaries, held during the period beginning upon the receipt of such absentee ballot application and extending through the second regularly scheduled general election in which federal candidates are on the ballot occurring thereafter to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen.

(H) Any elector meeting criteria of advanced age or disability specified by rule or regulation of the ~~Secretary of State~~ State Election Board may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Except as otherwise provided in this paragraph, a separate and distinct application for an absentee ballot shall always be required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary.

(2) A properly executed registration card submitted under the provisions of subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or election in which the registrant is entitled to vote, shall be considered to be an application for an absentee ballot under this Code section, or for a special absentee ballot under Code Section 21-2-381.1, as appropriate.

(3) All applications for an official absentee ballot that are distributed by a person, entity, or organization shall list thereon all of the legally acceptable categories of absentee electors contained in Code Section 21-2-380 and shall require the elector to select the category which qualifies the elector to vote by absentee ballot, if applicable. ~~No application for an official absentee ballot that is physically attached to a publication that advocates for or against a particular candidate, issue, political party, or political body shall be distributed by any person, entity, or organization. Such applications, if properly completed by the elector or other authorized person and returned to the registrar or absentee ballot clerk, as appropriate, shall be processed by the registrar or absentee ballot clerk and, if the elector is found to be qualified, an absentee ballot shall be mailed or delivered in the office of the registrar or absentee ballot clerk to such elector.~~

(b)(1) Upon receipt of a timely application, a registrar or absentee ballot clerk shall enter thereon the date received and shall determine if the applicant is eligible to vote in the primary or election involved. In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417.

(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and shall either mail the ballot as provided in this Code section or issue the ballot to the elector to be voted within the confines of the registrar's or absentee ballot clerk's office or deliver the ballot in person to the elector if such elector is confined to a hospital.

(3) If found ineligible, the clerk or the board of registrars shall deny the application by writing the reason for rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of ineligibility, a copy of which notification should be retained on file in the office of the board of registrars or absentee ballot clerk for at least one year.

(4) If the registrar or clerk is unable to determine the identity of the elector from information given on the application, the registrar or clerk should promptly write to request additional information.

(5) In the case of an unregistered applicant who is eligible to register to vote, the clerk or the board shall immediately mail a blank registration card as provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by absentee ballot in such primary or election, if the registration card, properly completed, is returned to the clerk or the board on or before the last day for registering to vote in such primary or election. If the closing date for registration in the primary or election concerned has not passed, the clerk or registrar shall also mail a ballot to the applicant, as soon as it is prepared and available; and the ballot shall be cast in such primary or election if returned to the clerk or board not later than the close of the polls on the day of the primary or election concerned.

(c) In those counties or municipalities in which the absentee ballot clerk or board of registrars provides application forms for absentee ballots, the clerk or board shall provide such quantity of the application form to the dean of each college or university located in that county as said dean determines necessary for the students of such college or university.

(d)(1) A citizen of the United States permanently residing outside the United States is entitled to make application for an absentee ballot from Georgia and to vote by absentee ballot in any election for presidential electors and United States senator or representative in Congress:

(A) If such citizen was last domiciled in Georgia immediately before his or her departure from the United States; and

(B) If such citizen could have met all qualifications, except any qualification relating to minimum voting age, to vote in federal elections even though, while residing outside the United States, he or she does not have a place of abode or other address in Georgia.

(2) An individual is entitled to make application for an absentee ballot under paragraph (1) of this subsection even if such individual's intent to return to Georgia may be uncertain, as long as:

(A) He or she has complied with all applicable Georgia qualifications and requirements which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for and voting by absentee ballots;

(B) He or she does not maintain a domicile, is not registered to vote, and is not voting in any other state or election district of a state or territory or in any territory or possession of the United States; and

(C) He or she has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States or, in lieu thereof, an alternative form of identification consistent with 42 U.S.C. Section 1973ff and applicable state requirements, if a citizen does not possess a valid passport or card of identity and registration.

(e) The ~~Secretary of State~~ State Election Board is authorized to promulgate reasonable rules and regulations for the implementation of paragraph (1) of subsection (a) of this Code section. Said rules and regulations may include provisions for the limitation of opportunities for fraudulent application, including, but not limited to, comparison of voter registration records with death certificates."

## **SECTION 52.**

Said chapter is further amended by adding a new Code Section 21-2-381.2 to read as follows:

"21-2-381.2.

(a) The Secretary of State shall design a state write-in absentee ballot for federal offices and state offices that are voted upon on a state-wide basis for use in a primary runoff or election runoff by an eligible absentee elector who lives outside the county or municipality in which the election is held and who is:

(1) A member of the armed forces of the United States, a member of the merchant marine of the United States, a member of the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration, or a spouse or dependent of such member residing with or accompanying said member; or

(2) A citizen of the United States residing outside the United States.

(b) Such state write-in absentee ballot shall be automatically included with any absentee ballot sent to such eligible absentee electors for any general primary or general election. No special request for such state write-in absentee ballot shall be required.

(c) The state write-in absentee ballot shall contain instructions for completing and returning such ballot.

(d) The Secretary of State shall establish a website which such eligible absentee electors may access to determine if there is a primary runoff or election runoff for a federal office or a state office that is voted upon on a state-wide basis. The address of such website shall be included in the instructions for voting such state write-in absentee ballot.

(e) The State Election Board may provide by rule or regulation for additional means of transmitting the state write-in absentee ballot to eligible absentee electors including, but not limited to, the use of facsimile transmissions and portable document format electronic versions.

(f) The registrars shall send a regular absentee ballot to such eligible absentee electors in accordance with Code Section 21-2-381. In the event that both the regular absentee ballot and the state write-in absentee ballot are received by the registrars within the time period for receiving absentee ballots, the regular absentee ballot shall be counted and the state write-in absentee ballot shall be kept unopened in the same manner as absentee ballots that are returned too late to be counted. Ballots for primary runoffs and election runoffs that are postmarked by the date of the primary runoff or election runoff, if proper in all other respects, shall be counted if received by the registrars within the three day period following such primary runoff or election runoff."

**SECTION 53.**

Said chapter is further amended by striking subsections (a), (c), and (d) of Code Section 21-2-384, relating to preparation and delivery of absentee ballot supplies, and inserting in lieu thereof new subsections (a), (c), and (d) to read as follows:

"(a)(1) The superintendent shall, as soon as practicable prior to each primary or election, but must, at least 45 days prior to any general primary or general election other than a municipal general primary or general election, and at least 21 days prior to any municipal general primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election. Envelopes and other supplies as required by this article may be ordered by the superintendent, the board of registrars, or the absentee ballot clerk for use in the primary or election.

(2) The board of registrars or absentee ballot clerk shall, within two days after the receipt of such ballots and supplies, mail or issue official absentee ballots to all eligible applicants; and, as, As additional applicants are determined to be eligible, the board or clerk shall mail or issue official absentee ballots to such additional applicants immediately upon determining their eligibility; provided, however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk on the day prior to a primary or election and provided, further, that no absentee ballot shall be issued on the day prior to a primary or election.

(3) The date a ballot is voted in the registrars' or absentee ballot clerk's office or the date a ballot is mailed to an elector and the date it is returned shall be entered on the application record therefor.

(4) The delivery of an absentee ballot to a person confined in a hospital may be made by the registrar or clerk on the day of a primary or election or during a five-day period immediately preceding the day of such primary or election.

(5) In the event an absentee ballot which has been mailed by the board of registrars or absentee ballot clerk is not received by the applicant, the applicant may notify the board of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot has not been received. The board of registrars or absentee ballot clerk shall then issue a second absentee ballot to the applicant and cancel the original ballot issued. The affidavit shall be attached to the original application. A second application for an absentee ballot shall not be required."

"(c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is \_\_\_\_\_ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions

accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

Elector's Residence  
Address

~~Elector's Place of Birth~~

Month and Day of  
Elector's Birth

Signature or Mark of Elector

Oath of Person Assisting Elector (if any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me; that I am satisfied that such elector presently possesses the disability noted below; and that by reason of such disability such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-2-409.

This, the \_\_\_\_\_ day of \_\_\_\_\_.

Signature of Person Assisting  
Elector -- Relationship

Reason for assistance (Check appropriate square):

- ( ) Elector is unable to read the English language.  
( ) Elector has following physical disability \_\_\_\_\_.

The forms upon which such oaths are printed shall contain the following information:  
Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary or election.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568, 21-2-573, or 21-2-579, shall be guilty of a misdemeanor.

(2) In the case of absent uniformed services or overseas voters, if the ~~President~~ ~~presidential~~ designee under Section 705(b) of the federal Help America Vote Act promulgates a standard oath for use by such voters, the Secretary of State shall be required to use such oath on absentee ballot materials for such voters and such oath shall be accepted in lieu of the oath set forth in paragraph (1) of this subsection.

(d) Each board of registrars or absentee ballot clerk shall maintain for public inspection a master list, arranged by precincts, setting forth the name and residence of every elector to whom an official absentee ballot has been sent. Absentee electors whose names appear on the master list may be challenged by any elector prior to ~~12:00 Noon~~  
~~5:00 P.M.~~ on the day of ~~before~~ the primary or election."

#### SECTION 54.

Said chapter is further amended by striking paragraph (1) of subsection (a) and subsection (e) of Code Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots, and inserting in lieu thereof a new paragraph (1) and subsection (e) to read as follows:

"(a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely and unopened all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection.

(B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark on the absentee elector's application for absentee ballot or a facsimile of said signature or mark taken from said application, and shall, if the information and signature appear to be valid, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

(C) If the elector has failed to sign the oath, or if the signature does not appear to be valid, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least one year.

(D) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state by absentee ballot shall include with his or her application for an absentee ballot or in the outer oath envelope of his or her absentee ballot either one of the forms of identification listed in subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not provide any of the forms of identification listed in this subparagraph with his or her application for an absentee ballot or with the absentee ballot, such absentee ballot shall be deemed to be a provisional ballot and such ballot shall only be counted if the registrars are able to verify current and valid

identification of the elector as provided in this subparagraph within the time period for verifying provisional ballots pursuant to Code Section 21-2-419.

(E) Three copies of the numbered list of voters shall also be prepared for such rejected absentee electors, giving the name of the elector and the reason for the rejection in each case. Three copies of the numbered list of certified absentee voters and three copies of the numbered list of rejected absentee voters for each precinct shall be turned over to the poll manager in charge of counting the absentee ballots and shall be distributed as required by law for numbered lists of voters.

(F) All absentee ballots returned to the board or absentee ballot clerk after the closing of the polls on the day of the primary or election shall be safely kept unopened by the board or absentee ballot clerk and then transferred to the appropriate clerk for storage for the period of time required for the preservation of ballots used at the primary or election and shall then, without being opened, be destroyed in like manner as the used ballots of the primary or election. The board of registrars or absentee ballot clerk shall promptly notify the elector by first-class mail that the elector's ballot was returned too late to be counted and that the elector will not receive credit for voting in the primary or election. All such late absentee ballots shall be delivered to the appropriate clerk and stored as provided in Code Section 21-2-390.

(G) Notwithstanding any provision of this chapter to the contrary, until the United States Department of Defense notifies the Secretary of State that the Department of Defense has implemented a system of expedited absentee voting for those electors covered by this subparagraph, absentee ballots cast in a primary, election, or runoff by eligible absentee electors who reside outside the county or municipality in which the primary runoff or election runoff is held and are members of the armed forces of the United States, members of the merchant marine of the United States, spouses or dependents of members of the armed forces or merchant marine residing with or accompanying such members, or overseas citizens that are postmarked by the date of such primary, election, or runoff and are received within the three day period following such primary, election, or runoff, if proper in all other respects, shall be valid ballots and shall be counted and included in the certified election results."

"(e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall open the envelopes and write 'Challenged,' the elector's name, and the alleged cause of challenge on the back of the ballot, without disclosing the markings on the face thereof, and shall deposit the ballot in the box; and it shall be counted as other challenged ballots are counted. In the case of absentee votes cast on direct recording electronic voting systems, the ballots shall be coded in such a way that the ballot of a challenged voter can be separated from other valid ballots at the time of tabulation and the challenged ballots shall be counted or rejected in accordance with Code Section 21-2-230. Where direct recording electronic voting systems are used for absentee balloting and a challenge to an elector's right to vote is made prior to the time that the elector votes, the elector shall vote on a paper or optical scanning ballot and such ballot shall

be handled as provided in this subsection. The board of registrars or absentee ballot clerk shall promptly notify the elector of such challenge."

#### **SECTION 55.**

Said chapter is further amended by striking Code Section 21-2-387, relating to procedure as to ballots of deceased electors, and inserting in lieu thereof a new Code Section 21-2-387 to read as follows:

"21-2-387.

~~Whenever it shall be made to appear by due proof to the managers that an absentee elector who has marked and forwarded or delivered his or her ballot as provided in this article has died prior to the opening of the polls on the day of the primary or election, the ballot of such deceased elector shall be returned by the managers in the same manner as provided for rejected ballots~~ Reserved."

#### **SECTION 56.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-400, relating to duty of superintendent to obtain cards of instruction, blank forms of oaths, and other forms and supplies, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Prior to each primary and election, the superintendent shall obtain from the Secretary of State a sufficient number of cards of instruction for guidance of electors. Such cards of instruction shall include such portions of this chapter as deemed necessary by the Secretary of State and shall be printed for the type of voting equipment or ballots used in the county or municipality. The superintendent shall also obtain from the Secretary of State a sufficient number of blank forms of oaths of poll officers, voter's certificates, voting rights posters, notices of penalties, oaths of assisted electors, numbered list of voters, tally sheets, return sheets, and such other forms and supplies required by this chapter, in each precinct of the county or municipality."

#### **SECTION 57.**

Said chapter is further amended by striking subsections (a) and (b) of Code Section 21-2-408, relating to poll watchers, and inserting in lieu thereof new subsections (a) and (b) to read as follows:

"(a)(1) In a primary or run-off primary, each candidate entitled to have his or her name placed on the primary or run-off primary ballot may submit the name of one poll watcher for each precinct in which he or she wishes to have an observer to the chairperson or secretary of the appropriate party executive committee at least 21 days prior to such primary or 14 days prior to such run-off primary. The appropriate party executive committee shall designate at least seven days prior to such primary or run-off primary no more than two poll watchers for each precinct, such poll watchers to be selected by the committee from the list submitted by party candidates. Official poll watchers shall be given a letter signed by the party chairperson and secretary, if

designated by a political party, containing the following information: name of official poll watcher, address, precinct in which he or she shall serve, and name and date of primary or run-off primary. At least three days prior to the primary, a copy of the letter shall be delivered to the superintendent of the county or municipality in which the poll watcher is to serve.

(2) In a primary or run-off primary, each candidate entitled to have his or her name placed on the primary or run-off primary ballot may submit the name of one poll watcher for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380 in which he or she wishes to have an observer to the chairperson or secretary of the appropriate party executive committee at least 21 days prior to the beginning of the advance voting period for a primary or 14 days prior to such period in a run-off primary. The appropriate party executive committee shall designate at least seven days prior to such advance voting period for a primary or run-off primary no more than two poll watchers for each advance voting location, such poll watchers to be selected by the committee from the list submitted by party candidates. Official poll watchers shall be given a letter signed by the party chairperson and secretary, if designated by a political party, containing the following information: name of official poll watcher, address, precinct in which he or she shall serve, and name and date of primary or run-off primary. At least three days prior to the beginning of the advance voting period, a copy of the letter shall be delivered to the superintendent and the chief registrar of the county or municipality in which the poll watcher is to serve.

(b)(1) In an election or run-off election, each political party and political body shall each be entitled to designate, at least seven days prior to such election or run-off election, no more than two official poll watchers in each precinct to be selected by the appropriate party or body executive committee. Each independent candidate shall be entitled to designate one poll watcher in each precinct. In addition, candidates running in a nonpartisan election shall be entitled to designate one poll watcher in each precinct. Each poll watcher shall be given a letter signed by the appropriate political party or body chairperson and secretary, if a party or body designates same, or by the independent or nonpartisan candidate, if named by the independent or nonpartisan candidate. Such letter shall contain the following information: name of official poll watcher, address, precinct in which he or she shall serve, and date of election or run-off election. At least three days prior to the election, a copy of the letter shall be delivered to the superintendent of the county or municipality in which the poll watcher is to serve.

(2) In an election or run-off election, each political party and political body, which body is registered pursuant to Code Section 21-2-110 and has nominated a candidate for state-wide office, shall additionally be entitled to designate, at least 14 days prior to such election or run-off election, no more than ~~five~~ 25 official state-wide poll watchers to be selected by the appropriate party or body executive committee. Each independent candidate shall also be entitled to designate ~~five~~ no more than ~~25~~ official state-wide poll watchers. In addition, candidates running in a state-wide nonpartisan

election shall be entitled to designate five no more than 25 official state-wide poll watchers. All such designations of state-wide poll watchers shall be in writing and made and submitted to the State Election Board. A state-wide poll watcher shall have the same powers and duties as poll watchers and shall be entitled to watch the polls in any precinct in the state but shall otherwise be subject to all limitations and prohibitions placed on poll watchers; provided, however, that no more than two state-wide poll watchers of a political party or body, of an independent candidate, or of a nonpartisan candidate shall be in the same polling place simultaneously. Each state-wide poll watcher shall be given a letter signed by the chairperson of the State Election Board. Such letter shall contain the following information: name of official state-wide poll watcher, address, a statement that such poll watcher is a state-wide poll watcher, and date of election or run-off election. At least three days prior to the election, a copy of the letter shall be delivered to the superintendent of each county in which the poll watcher might serve.

(3)(A) In an election or run-off election, each political party and political body shall each be entitled to designate, at least seven days prior to the beginning of the advance voting period for such election or run-off election, no more than two official poll watchers for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380 to be selected by the appropriate party or body executive committee. Each independent candidate shall be entitled to designate one poll watcher for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380. In addition, candidates running in a nonpartisan election shall be entitled to designate one poll watcher for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380. Each poll watcher shall be given a letter signed by the appropriate political party or body chairperson and secretary, if a party or body designates same, or by the independent or nonpartisan candidate, if named by the independent or nonpartisan candidate. Such letter shall contain the following information: name of official poll watcher, address, precinct in which he or she shall serve, and date of election or run-off election. At least three days prior to the beginning of the advance voting period for such election, a copy of the letter shall be delivered to the superintendent and the chief registrar of the county or municipality in which the poll watcher is to serve.

(B) In an election or run-off election, each political party and political body, which body is registered pursuant to Code Section 21-2-110 and has nominated a candidate for state-wide office, shall additionally be entitled to designate, at least 14 days prior to the beginning of the advance voting period for such election or run-off election, no more than 25 official state-wide poll watchers for such advance voting period to be selected by the appropriate party or body executive committee. Each independent candidate shall also be entitled to designate no more than 25 official state-wide poll watchers for such advance voting period. In addition, candidates running in a state-wide nonpartisan election shall be entitled to designate no more than 25 official state-wide poll watchers for such advance voting period. All such

designations of state-wide poll watchers shall be in writing and made and submitted to the State Election Board. A state-wide poll watcher shall have the same powers and duties as poll watchers and shall be entitled to watch any advance voting location in the state but shall otherwise be subject to all limitations and prohibitions placed on poll watchers; provided, however, that no more than two state-wide poll watchers of a political party or body, of an independent candidate, or of a nonpartisan candidate shall be in an advance voting location simultaneously. Each state-wide poll watcher shall be given a letter signed by the chairperson of the State Election Board. Such letter shall contain the following information: name of official state-wide poll watcher, address, a statement that such poll watcher is a state-wide poll watcher for advance voting, and date of election or run-off election. At least three days prior to the beginning of the advance voting period for such election, a copy of the letter shall be delivered to the superintendent and chief registrar of each county in which the poll watcher might serve."

#### **SECTION 58.**

Said chapter is further amended by striking subsections (c) and (d) of Code Section 21-2-414, relating to restrictions on campaign activities and public opinion polling within the vicinity of a polling place, and inserting in lieu thereof new subsections (c), (d), and (d.1) to read as follows:

- (c) No person shall solicit votes in any manner or by any means or method, nor shall any person distribute any campaign literature, newspaper, booklet, pamphlet, card, sign, or any other written or printed matter of any kind, nor shall any person conduct any exit poll or public opinion poll with voters within a room under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are being cast on any day or within 150 feet of any elector waiting to cast an absentee ballot pursuant to subsection (b) of Code Section 21-2-380. No campaign literature, booklet, pamphlet, card, sign, or other written or printed matter shall be displayed in any building containing a room under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are cast during the period when absentee ballots are available for voting. These restrictions shall not apply to conduct occurring in private offices or areas which cannot be seen or heard by such electors.
- (d) No person shall solicit signatures for any petition within a room under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are being cast on any day.
- (d.1) Rooms under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are cast shall be considered polling places."

#### **SECTION 59.**

Said chapter is further amended by striking Code Section 21-2-417, relating to form of proper identification at polls, and inserting in lieu thereof a new Code Section 21-2-417 to read as follows:

"21-2-417.

(a) ~~Each~~ Except as provided in subsection (c) of this Code section, each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:

- (1) A valid Georgia driver's license;
- (2) A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
- (3) A valid United States passport;
- (4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;
- ~~(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;~~
- ~~(6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;~~
- ~~(7) A valid Georgia license to carry a pistol or revolver;~~
- ~~(8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;~~
- ~~(9)(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector; or~~
- ~~(10)(6) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector.~~
- ~~(11) A valid social security card;~~
- ~~(12) Certified naturalization documentation;~~
- ~~(13) A certified copy of court records showing adoption, name, or sex change;~~
- ~~(14) A current utility bill, or a legible copy thereof, showing the name and address of the elector;~~
- ~~(15) A bank statement, or a legible copy thereof, showing the name and address of the elector;~~
- ~~(16) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector; or~~
- ~~(17) A government document, or a legible copy thereof, showing the name and address of the elector.~~

(b) If Except as provided in subsection (c) of this Code section, if an elector is unable to produce any of the items of identification listed in subsection (a) of this Code section, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming

~~that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay; provided, however, that an elector who registered for the first time in this state by mail and did not provide one of the forms of identification set forth in subsection (a) of this Code section at the time of registration and who is voting for the first time may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in subsection (a) of this Code section within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.~~

(c) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state shall present to the poll workers either one of the forms of identification listed in subsection (a) of this Code section or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not have any of the forms of identification listed in this subsection, such elector may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subsection within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement."

## SECTION 60.

Said chapter is further amended by striking Code Section 21-2-418, relating to provisional ballots, and inserting in lieu thereof a new Code Section 21-2-418 to read as follows:

"21-2-418.

(a) If a person presents himself or herself at a polling place, absentee polling place, or registration office for the purpose of casting a ballot in a primary or election believing that he or she has timely registered to vote in such primary or election and the person's name does not appear on the list of registered electors ~~and it cannot be immediately determined that the person did timely register to vote in such primary or election~~, the person shall be entitled to cast a provisional ballot as provided in this Code section.

(b) Such person voting a provisional ballot shall complete an official voter registration form and a provisional ballot voting certificate which shall include information about the place, manner, and approximate date on which the person registered to vote. The person shall swear or affirm in writing that he or she previously registered to vote in such primary or election, is eligible to vote in such primary or election, has not voted previously in such primary or election, and meets the criteria for registering to vote in

such primary or election. The form of the provisional ballot voting certificate shall be prescribed by the Secretary of State. The person shall also present the identification required by Code Section 21-2-417.

(c) When the person has provided the information as required by this Code section, the person shall be issued a provisional ballot and allowed to cast such ballot as any other duly registered elector subject to the provisions of Code Section 21-2-419.

(d) Notwithstanding any provision of this chapter to the contrary, in primaries and elections in which there is a federal candidate on the ballot, in the event that the time for closing the polls at a polling place or places is extended by court order, all electors who vote during such extended time period shall vote by provisional ballot only. Such ballots shall be separated and held apart from other provisional ballots cast by electors during normal poll hours. Primaries and elections in which there is no federal candidate on the ballot shall not be subject to the provisions of this subsection.

(e) The registrars shall establish a free access system, such as a toll-free telephone number or Internet website, by which any elector who casts a provisional ballot in a primary or election, or runoff of either, in which federal candidates are on the ballot may ascertain whether such ballot was counted and, if such ballot was not counted, the reason why such ballot was not counted. The registrars shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by such free access system. Access to such information about an individual provisional ballot shall be restricted to the elector who cast such ballot.

(f) At the time an elector casts a provisional ballot, the poll officers shall give the elector written information that informs the elector of the existence of the free access system required by subsection (e) of this Code section by which the elector will be able to ascertain if his or her ballot was counted and, if such ballot was not counted, the reason why such ballot was not counted.

(g) Failure to establish such free access system shall subject the registrars and the county by which the registrars are employed to sanctions by the State Election Board.

(h) Notwithstanding any other provision of this chapter to the contrary, in the event that the voting machines or DRE units at a polling place malfunction and cannot be used to cast ballots or some other emergency situation exists which prevents the use of such equipment to cast votes, provisional ballots may be used by the electors at the polling place to cast their ballots. In such event, the ballots cast by electors whose names appear on the electors list for such polling place shall not be considered provisional ballots and shall not require verification as provided by Code Section 21-2-419; provided, however, that persons whose names do not appear on the electors list for such polling place shall vote provisional ballots which shall be subject to verification under Code Section 21-2-419."

## SECTION 61.

Said chapter is further amended by striking Code Section 21-2-430, relating to opening of ballot boxes and posting of instruction cards and notices of penalties, and inserting in lieu thereof a new Code Section 21-2-430 to read as follows:

"21-2-430.

In precincts in which ballots are used, the poll officers shall, after taking the oath, publicly open the ballot boxes which have been furnished to them and shall, prior to opening of the polls, totally destroy any ballots and other papers which they may find therein which are not intended for use in such primary or election. When the polling place is opened, the ballot box shall be securely locked and shall not be opened until the close of the polls, as provided in Code Section 21-2-436. At the opening of the polls, the seals of the packages furnished by the superintendent shall be publicly broken and such packages shall be opened by the chief manager. The cards of instruction shall be immediately posted in each voting compartment. ~~Not less than three such cards and notices of penalties~~ One card of instruction, one notice of penalties, and one voting rights poster shall be immediately posted in or about the voting room outside the enclosed space; and such ~~cards~~ card of instruction, ~~and notices~~ notice of penalties, ~~and voting rights poster~~ shall be given to any elector at his or her request so long as there are any on hand."

#### SECTION 62.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-450, relating to opening of the polls, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a)(1) In the precincts in which voting machines are used, the seals of the package furnished by the superintendent shall be publicly broken at the opening of the polls and such package shall be opened by the chief manager. ~~Not less than three cards of instruction and notices of penalties, One card of instructions, one notice of penalties, one voting rights poster,~~ and not less than two diagrams of the face of the machine shall be immediately posted in or about the voting room outside the enclosed space; and such ~~cards, and notices of penalties, and voting rights posters~~ shall be given to any elector at his or her request, so long as there are any on hand.

(2) The managers, before opening the envelope containing the keys which unlock the operating mechanism and registering counters or counter compartment of the voting machine, shall examine the number of the seal on the machine and the number registered on the protective counter or device and shall see whether they are the same as the numbers written on the envelope containing the keys. If either number shall be found not to agree, the envelope shall remain unopened until the poll officers shall have notified the proper custodian of voting machines; or the superintendent and until the custodian or some other person authorized by the superintendent shall have presented himself or herself at the polling place for the purpose of reexamining the machine and shall have certified that it is properly arranged. But, if the numbers on the seal and the protective counter or device shall both be found to agree with the numbers on the envelope, the envelope shall be opened, and where the voting machine provided is not equipped with a mechanism for printing paper proof sheets, the poll officers shall examine the registering counters and, for that purpose, shall open the doors concealing such counter, if the construction of the voting machine shall so require; and, before the polls are opened, each manager shall carefully

examine every counter and shall see that it registers zero. When the voting machine provided is equipped with a mechanism for printing paper proof sheets and requires the simultaneous use of three keys to unlock the registering counters or counter compartment, the chief manager shall deliver one of the two keys to an assistant manager, to be retained by him or her, and shall then print at least two proof sheets, one of which each manager shall carefully examine to ascertain whether every counter registers zero and shall then preserve such proof sheets to be signed by them and returned to the superintendent, with the duplicate return sheet, and shall sign and post the other proof sheet upon the wall of the polling place, where it shall remain until the polls are closed. The key delivered by the chief manager to such assistant manager, as provided in this subsection, shall be retained by him or her until the polls have been closed; and the voting and counting mechanism of the machine shall have been locked and sealed against voting and shall then be returned to the chief manager, for return by him or her to the superintendent, as provided in this part."

### SECTION 63.

Said chapter is further amended by striking Code Section 21-2-501, relating to number of votes required for election, and inserting in lieu thereof a new Code Section 21-2-501 to read as follows:

"21-2-501.

(a) Except as otherwise provided in this Code section, no candidate shall be nominated for public office in any primary or special primary or elected to public office in any election or special election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office. In instances where no candidate receives a majority of the votes cast, a run-off primary, special primary runoff, run-off election, or special election runoff between the candidates receiving the two highest numbers of votes shall be held. Unless such date is postponed by a court order, such run-off primary, or special primary runoff, or special election runoff shall be held on the twenty-first day after the day of holding the preceding primary or special primary or special election, provided that, unless postponed by court order, a runoff in the case of a special primary an election or special election shall be held no sooner than the fourteenth day and no later than the twenty-first on the twenty-eighth day after the day of holding the preceding special primary election or special election, which run off day shall be determined by the Secretary of State in a runoff to fill a federal or state office or by the superintendent in a runoff to fill a county or militia district office. If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in the runoff. The candidate receiving the highest number of the votes cast in such runoff primary, special primary runoff, run-off election, or special election runoff to fill the nomination or public office sought shall be declared the winner. The name of a write-in candidate eligible for election in a runoff shall be printed on the election or special election run-off ballot in the independent column. The run-off primary, special primary runoff, run-off election, or special election runoff shall be a continuation of the primary,

special primary, election, or special election for the particular office concerned. Only the electors who were duly registered to vote and not subsequently deemed disqualified to vote in the primary, special primary, election, or special election for candidates for that particular office shall be entitled to vote therein, and only those votes cast for the persons designated as candidates in such run-off primary, special primary runoff, run-off election, or special election runoff shall be counted in the tabulation and canvass of the votes cast. No elector shall vote in a run-off primary or special primary runoff in violation of Code Section 21-2-224.

(b) For the purposes of this subsection ~~and notwithstanding the provisions of paragraph (22) of Code Section 21-2-2~~, the word 'plurality' shall mean the receiving by one candidate alone of the highest number of votes cast. If the municipal charter or ordinances of a municipality as now existing or as amended subsequent to September 1, 1968, provide that a candidate may be nominated or elected by a plurality of the votes cast to fill such nomination or public office, such provision shall prevail. Otherwise, no municipal candidate shall be nominated for public office in any primary or elected to public office in any election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office.

(c) In instances in which no municipal candidate receives a majority of the votes cast and the municipal charter or ordinances do not provide for nomination or election by a plurality vote, a run-off primary or election shall be held between the candidates receiving the two highest numbers of votes. Such runoff shall be held on the twenty-first day after the day of holding the first primary or election, unless such run-off date is postponed by court order. Only the electors entitled to vote in the first primary or election shall be entitled to vote in any run-off primary or election resulting therefrom; provided, however, that no elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off primary or election shall be a continuation of the first primary or election, and only those votes cast for the candidates receiving the two highest numbers of votes in the first primary or election shall be counted. No write-in votes may be cast in such a primary, run-off primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in such runoff. The municipal candidate receiving the highest number of the votes cast in such run-off primary or run-off election to fill the nomination or public office sought shall be declared the winner.

(d) The name of a municipal write-in candidate eligible for election in a municipal runoff shall be printed on the municipal run-off election ballot in the independent column.

(e) In all cities having a population in excess of 100,000 according to the United States decennial census of 1980 or any future such census, in order for a municipal candidate to be nominated for public office in any primary or elected to public office in any municipal election, he or she must receive a majority of the votes cast.

(f) Except for presidential electors, to be elected to public office in a general election, a candidate must receive a plurality majority of the votes cast in an election to fill such

public office. To be elected to the office of presidential electors, no slate of candidates shall be required to receive a plurality majority of the votes cast, but that slate of candidates shall be elected to such office which receives the highest number of votes cast.

(g) ~~In the event that no candidate receives a plurality of the votes cast in a general election, a runoff of the general election between the candidates receiving the two highest numbers of votes shall be held. If more than one candidate in a general election receives a plurality of the votes cast, the candidate receiving the highest number of votes cast shall be declared the winner. Unless such date is postponed by a court order, such runoff shall be held on the twenty first day after the day of holding the preceding general election. If any candidate eligible to be in such runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in the runoff. The candidate receiving the highest number of the votes cast in such runoff to fill the public office such candidate seeks shall be declared the winner. The name of a write in candidate eligible for election in a runoff shall be printed on the run off election ballot in the independent column. The run off election of a general election shall be a continuation of the general election for the particular office concerned. Only the electors who were duly registered to vote and not subsequently deemed disqualified to vote for that particular office in such general election shall be entitled to vote therein, and only those votes cast for the persons designated as candidates in such runoff shall be counted in the tabulation and canvass of the votes cast."~~

#### SECTION 64.

Said chapter is further amended by striking subsections (b) and (e) of Code Section 21-2-540, relating to conduct of special elections generally, and inserting in lieu thereof new subsections (b) and (e) to read as follows:

"(b) At least 29 days shall intervene between the call of a special primary and the holding of same, and at least 29 days shall intervene between the call of a special election and the holding of same. The period during which candidates may qualify to run in a special primary or a special election shall remain open for a minimum of two and one-half days. Municipal special Special elections which are to be held in conjunction with a state-wide general primary or state-wide general election shall be called at least 60 days prior to the date of such state-wide general primary or state-wide general election; provided, however, that this requirement shall not apply to special elections held on the same date as such state-wide general primary or state-wide general election but conducted completely separate and apart from such state-wide general primary or state-wide general election using different ballots or voting equipment, facilities, poll workers, and paperwork."

"(e) Candidates in special elections for partisan offices shall not be listed on the ballot according to party affiliation unless a candidate has been nominated in a special primary, in which event such a candidate shall have his or her name placed in a column

~~under the name of his or her party. The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot.~~

#### **SECTION 65.**

Said chapter is further amended by adding a new Code Section 21-2-603 to read as follows:

"21-2-603.

A person commits the offense of conspiracy to commit election fraud when he or she conspires or agrees with another to commit a violation of this chapter. The crime shall be complete when the conspiracy or agreement is effected and an overt act in furtherance thereof has been committed, regardless of whether the violation of this chapter is consummated. A person convicted of the offense of conspiracy to commit election fraud involving a violation of this chapter which is a felony shall be punished by imprisonment for not less than one year nor more than one-half the maximum period of time for which he or she could have been sentenced if he or she had been convicted of the crime conspired to have been committed, by one-half the maximum fine to which he or she could have been subjected if he or she had been convicted of such crime, or both. A person convicted of the offense of conspiracy to commit election fraud involving a violation of this chapter which is a misdemeanor shall be punished as for a misdemeanor."

#### **SECTION 66.**

Code Section 40-5-103 of the O.C.G.A., relating to fee for identification cards, is amended by adding a new subsection (d) to read as follows:

"(d) The department shall not be authorized to collect a fee for an identification card from any person:

- (1) Who swears under oath that he or she is indigent and cannot pay the fee for an identification card, that he or she desires an identification card in order to vote in a primary or election in Georgia, and that he or she does not have any other form of identification that is acceptable under Code Section 21-2-417 for identification at the polls in order to vote; and
- (2) Who produces evidence that he or she is registered to vote in Georgia.

This subsection shall not apply to a person who has been issued a driver's license in this state."

#### **SECTION 67.**

In the event any Code section, subsection, paragraph, subparagraph, item, sentence, clause, phrase, or word of this Act is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Act, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional were not originally a part of this Act. The General Assembly declares that it would have enacted the remaining parts of this Act if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional.

**SECTION 68.**

Except for Section 13, this Act shall become effective on July 1, 2005. Section 13 shall become effective on January 1, 2006.

**SECTION 69.**

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

Senator Jones of the 10th offered the following amendment #1:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking lines 16 through 19 on page 51 and inserting in lieu thereof:

- "(9)(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector;  
(10)(6) A certified copy of the elector's birth certificate; or  
(7) A valid tribal identification card containing a photograph of the elector."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	Y Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	Y Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 22, nays 28, and the Jones amendment #1 was lost.

Senator Jones of the 10th offered the following amendment #2:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking lines 8 through 19 on page 51 and inserting in lieu thereof:

- ~~(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;~~
- ~~(6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;~~
- ~~(7) A valid Georgia license to carry a pistol or revolver;~~
- ~~(8) (5) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;~~
- ~~(9)(6) A valid United States military identification card; provided that such identification card contains a photograph of the elector; or~~
- ~~(10)(7) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector."~~

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 31, and the Jones amendment #2 was lost.

Senator Jones of the 10th offered the following amendment #3:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking lines 16 through 21 on page 51 and inserting in lieu thereof:

- ~~(9)(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector;~~  
~~(10)(6) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector; or~~  
~~(11) A valid social security card;~~  
~~(12) (7) Certified naturalization documentation;"~~

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 31, and the Jones amendment #3 was lost.

Senator Jones of the 10th offered the following amendment #4:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking lines 16 through 28 on page 51 and inserting in lieu thereof:

- ~~(9)(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector;~~
- ~~(10)(6) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector; or~~
- ~~(11) A valid social security card;~~
- ~~(12) Certified naturalization documentation;~~
- ~~(13) A certified copy of court records showing adoption, name, or sex change;~~
- ~~(14) A current utility bill, or a legible copy thereof, showing the name and address of the elector;~~
- ~~(15) A bank statement, or a legible copy thereof, showing the name and address of the elector;~~
- ~~(16) (7) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector; or,~~

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	N Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 18, nays 32, and the Jones amendment #4 was lost.

Senators Henson of the 41st and Brown of the 26th offered the following amendment #5:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking lines 16 through 26 on page 51 and inserting in lieu thereof:

- ~~(9)(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector;~~
- ~~(10)(6) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector; or~~
- ~~(11) A valid social security card;~~
- ~~(12) Certified naturalization documentation;~~
- ~~(13) A certified copy of court records showing adoption, name, or sex change;~~
- ~~(14) A current utility bill, or a legible copy thereof, showing the name and address of the elector;~~
- ~~(15) (7) A bank statement, or a legible copy thereof, showing the name and address of the elector;"~~

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 31, and the Henson, Brown amendment #5 was lost.

Senators Henson of the 41st and Brown of the 26th offered the following amendment #6:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking "to provide that no absentee ballot shall be issued on the day prior to a primary or election;" on lines 15 and 16 on page 1.

By striking "and provided, further, that no absentee ballot shall be issued on the day prior to a primary or election" on lines 10 and 11 on page 42.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	Y Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	N Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	Y Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 30, and the Henson, Brown amendment #6 was lost.

Senator Miles of the 43rd offered the following amendment #7:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 244 by striking lines 8 through 19 on page 51 and inserting in lieu thereof the following:

- (5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;
- (6) ~~A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;~~

- (7) A valid Georgia license to carry a pistol or revolver;
- (8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;
- (9)(6) A valid United States military identification card; provided that such identification card contains a photograph of the elector; or
- (10)(7) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
Y Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 21, nays 30, and the Miles amendment #7 was lost.

Senators Reed of the 35th, Brown of the 26th and Adelman of the 42nd offered the following amendment #8 to the substitute to HB 244:

By striking lines 8 through 9 of page 51 and inserting in lieu thereof the following:

- "(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;"

and renumbering the following paragraphs accordingly.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 31, and the Reed et al. amendment #8 was lost.

Senators Reed of the 35th, Brown of the 26th and Adelman of the 42nd offered the following amendment #9 to the substitute to HB 244:

By striking line 20 of page 51 and inserting in lieu thereof the following:

~~"(1) (7)~~ A valid social security card;"

and renumbering the following paragraphs accordingly.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton

N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 31, and the Reed et al. amendment #9 was lost.

Senators Reed of the 35th, Brown of the 26th and Adelman of the 42nd offered the following amendment #10 to the substitute to HB 244:

By inserting immediately following line 19 of page 51 the following:

“(7) A valid voter registration card;”

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker

N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 31, and the Reed et al. amendment #10 was lost.

Senators Reed of the 35th, Brown of the 26th and Adelman of the 42nd offered the following amendment #11 to the substitute to HB 244:

By striking line 35 of page 50 and inserting in lieu thereof the following:

"(1) A ~~valid~~ Georgia driver's license which was properly issued by the appropriate state agency;"

On the adoption of the amendment, the yeas were 49, nays 0, and the Reed et al. amendment #11 was adopted.

Senator Reed of the 35th offered the following amendment #12:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 244 by striking lines 26 and 27 on page 59 and inserting in lieu thereof the following:

"Except for Sections 13, 24, 25, 26, and 59, this Act shall become effective on July 1, 2005. Section 13 shall become effective on January 1, 2006. Sections 24, 25, 26, and 59 shall become effective only upon the effective date of an appropriation of funds for the purposes of providing a voter education program that provides notification by mail to each elector in this state concerning the proper types of identification for voting and registering to vote authorized under such sections as expressed in a line item making specific reference to the full funding of such voter education program in an appropriations Act enacted by the General Assembly."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate

N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 21, nays 30, and the Reed amendment #12 was lost.

Senator Goggans of the 7th asked unanimous consent that Senator Miles of the 43rd be excused. The consent was granted, and Senator Miles was excused.

Senators Wiles of the 37th, Stephens of the 27th and Johnson of the 1st offered the following amendment #13:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 244 by striking "Secretary of State" on line 13 on page 2 and inserting in lieu thereof "county registrars" and by striking "Secretary of State" on line 23 on page 21 and inserting in lieu thereof "county registrars".

By striking "during the period of advance voting specified in subsection (b) of Code Section 21-2-380" on lines 18 and 19 on page 22.

By striking "twenty-first" on line 37 on page 56 and inserting in lieu thereof "twenty first twenty-eighth".

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate

Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	E Miles	Y Thompson,C
Y Douglas	E Moody	N Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 46, nays 4, and the Wiles et al. amendment #13 was adopted.

Senators Stoner of the 6th and Golden of the 8th offered the following amendment #14:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 244 by striking "to change the date of certain runoff primaries and elections;" on lines 17 and 18 on page 1 and by striking "~~no sooner than the fourteenth day and no later than the twenty-first on the twenty-eighth~~" on lines 5 and 6 on page 56 and inserting in lieu thereof "no sooner than the fourteenth day and no later than the twenty-first".

Senator Stoner of the 6th asked unanimous consent that his amendment #14 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Zamarripa of the 36th offered the following amendment #15:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 244 by inserting immediately following "registration;" on line 1 of page 2 the following: "to provide for election day registration;".

By inserting between lines 27 and 28 on page 21 a new Section 25A to read as follows:

#### **"SECTION 25A.**

Said chapter is further amended by inserting at the end of Code Section 21-2-224, relating to official list of electors, a new subsection (j) to read as follows:

'(j) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the Secretary of State, and providing proof of residence. An individual may prove residence

for purposes of registering by presenting any of the proper identification items authorized by Code Section 21-2-417. The governing authority of a county, school district, or municipality may require that a poll officer responsible for election day registration initial each completed registration application."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	E Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 31, and the Zamarripa amendment #15 was lost.

Senator Powell of the 23rd offered the following amendment #16:

Amend HB 244 by striking the word and symbol on line 17 of page 51

by striking the symbol on line 19 on page 51 and inserting the following words and symbols in lieu thereof. Or 7 A valid military discharge form, or a legible copy thereof, showing the name and address of the elector.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
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N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 31, and the Powell amendment #16 was lost.

Senator Brown of the 26th offered the following amendment #17 to HB 244:

Amend HB 244 (LC 28 2485S) by striking the phrase ‘State Election Board’ on line 18 of page 38 and inserting ‘Secretary of State’ in lieu thereof.

By striking the phrase ‘State Election Board’ on line 24 of page 40 and inserting ‘Secretary of State’ in lieu thereof.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R

N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 31, and the Brown amendment #17 was lost.

Senator Adelman of the 42nd offered the following amendment #18:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking "to change the date of certain runoff primaries and elections;" on lines 17 and 18 on page 1.

By striking lines 5 through 9 on page 56 and inserting in lieu thereof the following:

"or special election shall be held no sooner than the fourteenth day and no later than the twenty-first day after the day of holding the preceding special primary election or special election, which run-off day shall be determined by the Secretary of State in a runoff to fill a federal or state office or by the superintendent in a runoff to fill a county or militia district office. If any candidate eligible to be in a runoff withdraws, dies, or is"

Senator Adelman of the 42nd asked unanimous consent that his amendment #18 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Adelman of the 42nd offered the following amendment #19:

Amend the State and Local Governmental Operations Committee substitute to HB 244 by striking lines 8 through 19 on page 51 and inserting in lieu thereof:

- ~~(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;~~
- ~~(6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;~~
- ~~(7) (5) A valid Georgia license to carry a pistol or revolver;~~

- (8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;
- (9)(6) A valid United States military identification card; provided that such identification card contains a photograph of the elector; or
- (10)(7) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
Y Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 21, nays 30, and the Adelman amendment #19 was lost.

Senator Thompson of the 33rd offered the following amendment #20 to HB 244:

Amend HB 244 (LC 28 2485S) by striking: lines 8 thru 36 of page 37, the entirety of page 38, the entirety of page 39, and lines 1 thru 28 of page 40.

By striking line 29 of page 40 and inserting 'Section 51' in lieu thereof.

By striking line 28 of page 41 and inserting 'Section 52' in lieu thereof.

By striking line 9 of page 44 and inserting 'Section 53' in lieu thereof.

By striking line 16 of page 46 and inserting ‘Section 54’ in lieu thereof.

By striking line 26 of page 46 and inserting ‘Section 55’ in lieu thereof.

By striking line 4 of page 47 and inserting ‘Section 56’ in lieu thereof.

By striking line 4 of page 50 and inserting ‘Section 57’ in lieu thereof.

By striking line 26 of page 50 and inserting ‘Section 58’ in lieu thereof.

By striking line 22 of page 52 and inserting ‘Section 59’ in lieu thereof.

By striking line 3 of page 54 and inserting ‘Section 60’ in lieu thereof.

By striking line 21 of page 54 and inserting ‘Section 61’ in lieu thereof.

By striking line 26 of page 55 and inserting ‘Section 62’ in lieu thereof.

By striking line 4 of page 58 and inserting ‘Section 63’ in lieu thereof.

By striking line 24 of page 58 and inserting ‘Section 64’ in lieu thereof.

By striking line 4 of page 59 and inserting ‘Section 65’ in lieu thereof.

By striking line 17 of page 59 and inserting ‘Section 66’ in lieu thereof.

By striking line 25 of page 59 and inserting ‘Section 67’ in lieu thereof.

By striking line 28 of page 59 and inserting ‘Section 68’ in lieu thereof.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	E Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C

N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 31, and the Thompson of the 33rd amendment #20 was lost.

Senator Meyer von Bremen of the 12th offered the following amendment #21:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 244 by adding after the word "card" on page 11, line 30, the following language:  
Unless the candidate provides proof that his or her surname as it appears on the candidate's registration card is incorrect in which event the correct name shall be listed.

On the adoption of the amendment, the yeas were 50, nays 0, and the Meyer von Bremen amendment #21 was adopted.

On the adoption of the substitute, the yeas were 36, nays 9, and the committee substitute was adopted as amended.

Senator Reed of the 35th presented the minority report on HB 244, which can be found in the Senate Journal on March 22, 2005.

Senator Adelman of the 42nd moved to Table HB 244.

The President ruled the motion to table out of order.

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	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens

N Butler	E Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 31, nays 20.

HB 244, having received the requisite constitutional majority, was passed by substitute.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 224. By Senators Balfour of the 9th and Henson of the 41st:

A BILL to be entitled an Act to amend Chapter 4B of Title 43 of the O.C.G.A., relating to the Georgia Athletic and Entertainment Commission, so as to revise and clarify definitions relative to the commission; to change a provision relating to the applicability of the chapter; to change a provision relating to the term of appointment for members of the commission; to provide that restrictions on members and employees of the commission apply to martial arts and wrestling in addition to boxing; to provide for the offense of promotion of unarmed combat; to provide for penalties; to revise provisions relating to taxation of promoters' gross receipts; to change a provision relating to service charges for tickets sold by an authorized ticket agent; to repeal conflicting laws; and for other purposes.

Mr. President:

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

SB 204. By Senators Kemp of the 46th, Thomas of the 54th, Zamarripa of the 36th, Goggans of the 7th, Unterman of the 45th and others:

A BILL to be entitled an Act to amend Chapter 33 of Title 31 of the Official Code of Georgia Annotated, relating to health records, so as to provide that any health care provider, health care facility, or health care professional may create, maintain, transmit, receive, and store medical records in an electronic format; to provide conditions; to provide for legal rights and responsibilities; to provide for tangible copies of records; to provide for costs; to repeal conflicting laws; and for other purposes.

SB 269. By Senators Rogers of the 21st, Smith of the 52nd and Hill of the 32nd:

A BILL to be entitled an Act to amend Code Section 16-11-64.1 of the Official Code of Georgia Annotated, relating to application and issuance of order authorizing installation and use of pen register or trap and trace device, so as to provide that the district attorney having jurisdiction over the prosecution of the crime under investigation may apply for or extend an order authorizing the installation and use of a pen register or trap and trace device; to provide that any superior court judge may authorize such use; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 270. By Senators Williams of the 19th, Whitehead, Sr. of the 24th and Kemp of the 46th:

A BILL to be entitled an Act to amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the general contracting powers of the Department of Transportation, so as to permit the acceptance of solicited as well as unsolicited proposals for public-private initiatives; to allow for the disclosure of nonproprietary matters from the unsolicited and solicited proposals in order to encourage competition; to provide for a payment and performance bond sufficient to protect the interest of the

public; to extend the time for submission of competing proposals; to amend Part 1 of Article 1 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the Georgia Highway Authority generally, to provide for additional definitions and powers of the authority; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has disagreed to the Senate substitute to the following Bill of the House:

HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government; local government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

Mr. President:

The House insists on its position in disagreeing to the Senate amendments, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a

cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Knox of the 24th, Murphy of the 23rd and Hill of the 21st.

Mr. President:

The House has disagreed to the Senate substitute to the following Bill of the House:

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House insists on its position in disagreeing to the Senate substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Harbin of the 118th, Golick of the 34th and Graves of the 12th.

The House insists on its substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the Senate:

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Brown of the 69th, Erhart of the 36th and Stephens of the 164th.

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 174. By Senators Staton of the 18th, Seabaugh of the 28th, Hudgens of the 47th, Hill of the 32nd, Johnson of the 1st 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 enact the "Georgia Consumer Choice of Benefits Health Insurance Plan Act"; to provide for a short title; to provide for legislative findings; to provide definitions; to authorize insurers to offer a choice of benefits health insurance plan in addition to other health insurance plans; to provide for certain notices; to authorize the Commissioner of Insurance to adopt certain rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 339. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act creating the State Court of Clayton County, approved January 28, 1964 (Ga. L. 1964, p. 2032), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4327), so as to provide for an increase in the compensation of the clerk of the state court; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

HB 876. By Representative Davis of the 109th:

A BILL to be entitled an Act to create the Henry County Governmental Services Authority; to provide for a short title; to provide for the appointment of members of the authority; to confer powers upon the authority including the power to acquire, lease, construct, install, maintain, and equip certain public service facilities within the limits of Henry County, Georgia; to authorize the issuance of revenue bonds of the authority from the revenues, tolls, fees, charges and earnings, of the authority, contract payments to the authority and from other moneys pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, earnings, and contract payments of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; to repeal conflicting laws; and for other purposes.

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

HB 876. By Representative Davis of the 109th:

A BILL to be entitled an Act to create the Henry County Governmental Services Authority; to provide for a short title; to provide for the appointment of members of the authority; to confer powers upon the authority including the power to acquire, lease, construct, install, maintain, and equip certain public service facilities within the limits of Henry County, Georgia; to authorize the

issuance of revenue bonds of the authority from the revenues, tolls, fees, charges and earnings, of the authority, contract payments to the authority and from other moneys pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, earnings, and contract payments of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

At 7:35 p.m. the President announced that the Senate would stand in recess until 8:30 p.m.

At 8:30 p.m. the President called the Senate to order.

The following bill was taken up to consider House action thereto:

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Schaefer of the 50th asked unanimous consent that the Senate insist on its substitute to HB 374.

The consent was granted, and the Senate insisted on its substitute to HB 374.

The following bill was taken up to consider House action thereto:

HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government; local

government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

Senator Unterman of the 45th asked unanimous consent that the Senate insist on its substitute to HB 48.

The consent was granted, and the Senate insisted on its substitute to HB 48.

The following bill was taken up to consider House action thereto:

SB 51. By Senators Hamrick of the 30th, Heath of the 31st and Thomas of the 54th:

A BILL to be entitled an Act to amend Code Section 31-22-1 of the Official Code of Georgia Annotated, relating to definitions relative to clinical laboratories, so as to provide for the degree of supervision of technicians in clinical laboratories; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 31-22-1 of the Official Code of Georgia Annotated, relating to definitions relative to clinical laboratories, so as to provide for the degree of supervision of technicians in clinical laboratories; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 31-22-1 of the Official Code of Georgia Annotated, relating to definitions relative to clinical laboratories, is amended by striking paragraph (7) and inserting in lieu thereof the following:

"(7) 'Technician' means any person other than the clinical laboratory director, supervisor, technologist, or trainee who functions under the supervision of a clinical laboratory director, supervisor, or technologist and performs only those clinical laboratory procedures which require limited skill and responsibility and a minimal exercise of independent judgment. The degree of supervision by the clinical laboratory director, supervisor, or technologist of a technician in order for such technician to perform moderate or lower complexity testing procedures shall be determined by the director, supervisor, or technologist based on:

- (A) The complexity of the procedure to be performed;
- (B) The training and capability of the technician; and
- (C) The demonstrated competence of the technician in the procedure being performed.

A technician performing high complexity testing procedures shall perform such procedures only under the direct supervision of a clinical laboratory director, supervisor, or technologist."

## SECTION 2.

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

Senator Heath of the 31st asked unanimous consent that the Senate disagree to the House substitute to SB 51.

The consent was granted, and the Senate disagreed to the House substitute to SB 51.

The following bill was taken up to consider House action thereto:

HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Hill of the 4th asked unanimous consent that the Senate adhere to its substitute to HB 509 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Hill of the 4th, Williams of the 19th and Kemp of the 46th.

Senator Meyer von Bremen of the 12th asked unanimous consent that Senator Jones of the 10th be excused. The consent was granted, and Senator Jones was excused.

The Calendar was resumed.

HB 10. By Representatives Oliver of the 83rd, Benfield of the 85th, McClinton of the 84th, Drenner of the 86th and Henson of the 87th:

A BILL to be entitled an Act to amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to assault and battery, so as to provide for the crime of female genital mutilation; to provide for penalties; to provide for exceptions; to provide that certain statutory privileges shall not be available; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Butler of the 55th.

The Senate Judiciary Committee offered the following substitute to HB 10:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to assault and battery, so as to provide for the crime of female genital mutilation; to provide for penalties; to provide for exceptions; to provide that certain statutory privileges shall not be available; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to assault and battery, is amended by adding a new Code Section 16-5-27 to read as follows:

"16-5-27.

(a) Any person:

- (1) Who knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of a female under 18 years of age;
- (2) Who is a parent, guardian, or has immediate custody or control of a female under 18 years of age and knowingly consents to or permits the circumcision, excision, or

infibulation, in whole or in part, of the labia majora, labia minora, or clitoris of such female; or

(3) Who knowingly removes or causes or permits the removal of a female under 18 years of age from this state for the purpose of circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female shall be guilty of female genital mutilation.

(b) A person convicted of female genital mutilation shall be punished by imprisonment for not less than five nor more than 20 years.

(c) This Code section shall not apply to procedures performed by or under the direction of a physician, a registered professional nurse, a certified nurse midwife, or a licensed practical nurse licensed pursuant to Chapter 34 or 26, respectively, of Title 43 when necessary to preserve the physical health of the female. This Code section shall also not apply to any autopsy or limited dissection as defined by Code Section 45-16-21 which is conducted in accordance with Article 2 of Chapter 16 of Title 45.

(d) Consent of the female under 18 years of age or the parent, guardian, or custodian of the female under 18 years of age shall not be a defense to the offense of female genital mutilation. Religion, ritual, custom, or standard practice shall not be a defense to the offense of female genital mutilation.

(e) The statutory privileges provided by Chapter 9 of Title 24 shall not apply to proceedings in which one of the parties to the privilege is charged with a crime against a female under 18 years of age, but such person shall be compellable to give evidence only on the specific act for which the defendant is charged."

## SECTION 2.

This Act shall become effective on July 1, 2005, and shall apply to all offenses committed on or after such date.

## SECTION 3.

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

On the adoption of the substitute, the yeas were 36, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate

Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 10, having received the requisite constitutional majority, was passed by substitute.

The following bill was taken up to consider House action thereto:

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senator Rogers of the 21st asked unanimous consent that the Senate adhere to its disagreement to the House amendment to the Senate amendment to HB 366 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Rogers of the 21st, Stephens of the 27th and Pearson of the 51st.

Senator Hill of the 32nd asked unanimous consent that Senator Hamrick of the 30th be excused. The consent was granted, and Senator Hamrick was excused.

The Calendar was resumed.

HB 301. By Representatives Warren of the 122nd, Harbin of the 118th and Jenkins of the 8th:

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 change certain provisions relating to taking fish generally; to change certain provisions relating to spearing of fish; to authorize the taking of fish by grabbling, by noodling, or by hand under certain conditions; to provide penalties for violations; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Whitehead of the 24th.

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 Hill,Jack	Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	Y Tolleson
Y Goggans	N Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 46, nays 2.

HB 301, having received the requisite constitutional majority, was passed.

The following bill was taken up to consider House action thereto:

- SB 168. By Senators Rogers of the 21st, Johnson of the 1st, Stephens of the 27th, Seabaugh of the 28th, Pearson of the 51st and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for special license plates bearing the National Association for Stock Car Auto Racing (NASCAR) logo and promoting specific drivers or general motorsports; to support the Governor's Highway Safety Program; to provide for issuance, renewal, fees, licensing agreements, applications, transfers, and disposition of funds relative to such license plates; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to special license plates for certain persons and vehicles, so as to refine the method for administrative issuance of special license plates; to provide for allowing spouses of Medal of Honor winners to retain the special license plate; to restate conditions for issuance of disabled persons' license plates and decals; to create license plates for motorcycles honoring a recipient of the Purple Heart, honoring police officers wounded in the line of duty, commemorating the Benevolent and Protective Order of Elks, honoring emergency medical services personnel, promoting historic preservation efforts, and identifying licensed Georgia physicians; to add an inscription on license plates for veterans awarded the Purple Heart; to provide for special license plates bearing the National Association for Stock Car Auto Racing (NASCAR) logo and promoting specific drivers or general motorsports; to provide for special license plates to promote 'Share the Road' messages for motorists and bicyclists and to benefit programs related to such motorists and bicyclists; to support the Governor's Highway Safety Program; to provide for issuance, renewal, fees, licensing agreements, applications, transfers, and disposition of funds relative to such license plates; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to special license plates for certain persons and vehicles, is amended by striking Code Section 40-2-60.1, relating to administrative issuance of special license plates, and inserting in its place a new Code section to read as follows:

"40-2-60.1.

(a) The General Assembly finds that during recent years prior to and including ~~1997~~  
~~2005~~ there have been proposed and enacted numerous laws providing for the issuance  
of special license plates for certain persons and vehicles. The General Assembly finds  
that there exists a need for a standardized administrative process to provide for the  
authorization of issuance of such special license plates and that the public interest will  
be best served by such a standardized administrative process. While recognizing that  
the legislature may not abridge its powers, the General Assembly declares that it is in  
the public interest of this state for future proposals for special license plates to be  
governed by the administrative process established by this Code section rather than by  
the legislative process, except in any case where resulting revenue is to be directed to  
any recipient other than the general fund of the state treasury in which instance the  
legislative process shall be followed.

(b)(1) The commissioner is authorized to adopt rules and regulations for the issuance  
of special license plates for groups of individuals and vehicles. Such rules and  
regulations shall provide that no such special license plate shall be issued except upon  
the application of at least ~~4,000~~ 250 persons. The rules and regulations shall provide for  
the manner of such applications. The rules and regulations shall provide that upon  
receipt of the requisite number of applications, a special license plate may be issued  
as provided in this Code section. All special license plates shall have an application  
period of two years after the receipt of the initial application for the payment of the  
manufacturing fee. After such time if the minimum number of applications is not met,  
the department shall not be required to continue to accept the manufacturing fee for  
that special license plate.

(2) The department shall not be required to continue to manufacture any special  
license plate when the number of active registrations falls below 150 registrations at  
any time during the period provided for in subsection (b) of Code Section 40-2-31.  
Current registrants may continue to renew such special license plate during their  
annual registration period. The department may continue to issue such special license  
plates that it has in its inventory to assist in achieving the minimum number of  
registrations. If the special license plate falls below 150 active registrations at any  
time during the period provided for in subsection (b) of Code Section 40-2-31, the  
organization sponsoring the special license plate shall be required again to obtain 250  
applications accompanied by the manufacturing fee.

(3) The rules and regulations may provide for exceptions whereby a special plate will  
not be issued if the issuance of the plate would adversely affect public safety. The  
rules and regulations shall provide for the design and manufacture of such special  
license plates and shall provide that such plates shall be readily recognizable as  
Georgia license plates through the adoption of a standard design containing a smaller  
space for the insertion of an appropriate logo or graphic identifying the special nature  
of the license plate. The logo or graphic shall be no larger than three inches by three  
inches and shall be placed to the left of the alphanumeric characters. The department  
shall not utilize any graphic that is copyrighted unless a sponsoring organization has

secured for the state the authority to utilize the copyrighted design at no cost to the state and the sponsoring organization has agreed to hold the state harmless against any related claim of copyright violation or infringement. Subject to the foregoing provisions of this subsection paragraph, the design of each special license plate shall be in the discretion of the commissioner.

(c) Any resident motor vehicle owner desiring a special license plate provided for in this Code section shall submit to the commissioner a completed application form for such plate with a \$25.00 manufacturing fee in addition to the regular motor vehicle registration fee. Upon complying with the motor vehicle registration and licensing laws and the rules and regulations authorized in this Code section, a resident motor vehicle owner shall be issued a special license plate if the issuance of such plate is otherwise authorized under this Code section.

(d) Special license plates issued under this Code section shall be renewed annually with a revalidation decal, as provided in Code Section 40-2-31, upon payment of an additional \$25.00 annual registration fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. Special license plates issued under this Code section may be transferred between vehicles as provided in Code Section 40-2-80.

(e) Nothing in this Code section shall affect The commissioner shall have the discretion to apply the provisions of this Code section to any special license plate provided for by any other law in existence on or becoming effective on May 1, 1997 January 1, 2006.

## SECTION 2.

Said article is further amended by striking subsection (a) of Code Section 40-2-68, relating to special license plates for Medal of Honor winners, and inserting in its place the following:

"(a) Motor vehicle owners who have been awarded the Medal of Honor and who are residents of this state, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, shall be issued two distinctive personalized license plates free of charge. Such license plates shall be fastened to both the front and the rear of the vehicle. Such license plates shall be transferred to another vehicle as provided in Code Section 40-2-80. In the event of the death of the person who received the special license plates pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her surviving spouse may retain the special license plates and continue to display such plates on the vehicle."

## SECTION 3.

Said article is further amended by striking Code Section 40-2-74, relating to special license plates for persons with disabilities, and inserting in its place the following:

"40-2-74.

(a) Prior to July 1, 1999, any motor vehicle owner who is a resident of Georgia, upon complying with the motor vehicle laws relating to registration, licensing, and payment

~~of fees and upon submitting satisfactory proof to the commissioner or one of his or her agents that he or she has permanently lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or is so severely disabled as to be unable to move without the aid of crutches or a wheelchair, shall be issued a specially designated disabled person's license plate from the commissioner. For purposes of this subsection, presentation of an identification card for persons with disabilities issued pursuant to Article 8 of Chapter 5 of this title shall constitute proof of disability.~~

(a.1) On and after July 1, 1999, any Any owner of a private passenger motor vehicle with a gross vehicle weight rating of less than 14,000 pounds who is a resident of Georgia, upon complying with the motor vehicle laws relating to registration, licensing, and payment of fees and upon submitting an affidavit of a practitioner of the healing arts stating that the owner or his or her spouse, child, or ward is a person with disabilities, as defined in paragraph (5) of Code Section 40-6-221, whose disability or incapacity can be expected to last for more than 180 days and stating the specific disability that limits or impairs the ability to walk, shall be issued a specially designated disabled person's license plate from the commissioner. As used in this Code section, the term 'practitioner of the healing arts' means a person holding a license to practice medicine, podiatric medicine, or chiropractic issued pursuant to Article 2 of Chapter 34 of Title 43, Chapter 35 of Title 43, or Chapter 9 of Title 43, respectively.

(b) A hearing impaired person otherwise qualified under this subsection shall be eligible to have issued to him or her a specially designated disabled person's license plate in accordance with this Code section. As used in this Code section, 'hearing impaired person' shall have the same meaning as defined in Code Section 24-9-101, except that the term 'hearing impaired person' shall not include any person who is not qualified for a driver's license pursuant to Code Section 40-5-35, relating to reports by physicians and vision specialists in connection with the issuance or revocation of drivers' licenses, as now or hereafter amended. For purposes of this subsection, presentation of an identification card for persons with disabilities issued pursuant to Article 8 of Chapter 5 of this title shall constitute proof of hearing impairment.

(c) Upon complying with the motor vehicle laws relating to registration, licensing, and payment of fees and upon submission of proof of disability as provided in subsection (a) ~~or (a.1)~~ of this Code section, as applicable:

- (1) Any resident person who is the joint owner of a motor vehicle with a disabled person as prescribed in this Code section shall be authorized to obtain such specialized plates for such jointly owned vehicle; and
- (2) Any resident motor vehicle owner who is the spouse, parent, or legal guardian of a person who is disabled as prescribed in this Code section shall be authorized to obtain such specialized plates for such vehicle.

Upon the death of the disabled person or if the joint ownership of such vehicle ceases for any reason, the specialized license plate shall be canceled and the owner of such motor vehicle shall be issued a regular license plate for such vehicle.

(d) The commissioner is directed to furnish such license plates as provided for in this Code section, which shall bear the official international wheelchair symbol or a

reasonable facsimile thereof, or such other symbols as the commissioner may deem appropriate.

(e) ~~The commissioner may begin issuing disabled persons' license plates with the year 1976.~~ Any license plate issued pursuant to the provisions of this Code section shall be transferred to another vehicle as provided in Code Section 40-2-80.

(f) Any person who is not a disabled person as prescribed in this Code section or a person otherwise entitled to obtain such special license plates and who willfully and falsely represents himself or herself as having the qualifications to obtain the special plates prescribed by this Code section shall be guilty of a misdemeanor.

(f.1)(g) Any practitioner of the healing arts who knowingly and willfully makes a false or misleading statement in his or her affidavit stating that an applicant is a disabled person as prescribed in this Code section shall be guilty of a misdemeanor.

(g)(h) Any person owning a vehicle bearing the special plates and not entitled to do so under this Code section shall be guilty of a misdemeanor."

#### SECTION 4.

Said article is further amended by inserting a new Code Section 40-2-74.1 immediately following Code Section 40-2-74, relating to special license plates for persons with disabilities, to read as follows:

"40-2-74.1.

(a) Any person meeting the requirements for a disabled person's license plate as provided for in Code Section 40-2-74 may obtain a special decal to be placed on any vehicle owned by such person in lieu of a disabled person's license plate. The cost of the decal shall be \$5.00 and the county tag agent is authorized to retain a \$1.00 processing fee.

(b)(1) The commissioner shall design a special disabled person's decal to be placed on the rear windshield of a private passenger vehicle.

(2) The special disabled person's decal shall be so constructed that it will adhere to the inside of the rear window of the vehicle and when removed will self-destruct.

(3) The special disabled person's decal shall have a place to write the month and year of expiration and shall expire at the end of the month in the fourth year from the date of issue.

(4) The decal shall be placed in the bottom left of the rear window so not to obscure the view of the driver to indicate that the owner has met the requirements to park in a parking space designated for a disabled person as provided for in Part 2 of Article 10 of Chapter 6 of this title.

(c) Any person who is not a disabled person as prescribed in Code Section 40-2-74 and who willfully and falsely represents himself or herself as having the qualifications to obtain a special disabled person's decal shall be guilty of a misdemeanor.

(d) Any person who acquires a special disabled person's decal who is not entitled to do so under this Code section shall be guilty of a misdemeanor."

**SECTION 5.**

Said article is further amended by striking Code Section 40-2-84, relating to license plates for veterans awarded the Purple Heart, and inserting in its place the following:

"40-2-84.

(a) Motor vehicle or ~~boat trailer~~ motorcycle owners who are veterans of the armed forces of the United States who have been awarded the Purple Heart citation shall be eligible to receive a special and distinctive vehicle license plate for a private passenger car, motorcycle, or truck used for personal transportation ~~or for a boat trailer~~, provided that the requisite number of applications are received by the commissioner as provided in subsection (b) of this Code section. Such license plate shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(b) A veteran who qualifies for the special and distinctive license plate pursuant to subsection (a) of this Code section shall make application therefor with the commissioner and include the requisite fee. Said applicant may apply for and be limited to not more than one free license plate at a time; provided, however, that upon payment of the regular license fee provided for in Code Section 40-2-151 and payment of the manufacturing fee provided for in this Code section, a veteran may obtain an additional such license plate. The commissioner shall retain all applications received for such special and distinctive license plate until a minimum of 250 applications have been received. After receipt of 250 applications for such distinctive license plate, the commissioner shall design a distinctive license plate as provided in subsection (c) of this Code section and issue the distinctive license plates to present and future qualifying applicants. If the commissioner does not receive the required minimum 250 applications no later than July 31 of the year preceding the year of issuance of such plates, the commissioner shall not accept any applications for nor issue such distinctive license plates and all fees shall be refunded to applicants. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private passenger cars, motorcycles, and trucks ~~and boat trailers~~ before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for each additional special and distinctive license plate shall be \$25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Except as provided in subsection (d) of this Code section, such plates shall be nontransferable.

(c) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, motorcycles, or trucks used for personal transportation ~~or for boat trailers~~. Additional words or symbols, in addition to the numbers and letters prescribed by law, shall be inscribed upon such license plates so as to identify distinctively the owner as a Purple Heart recipient. For any redesigned plates issued on or after January 1, 2006, such inscription shall include the designation 'Combat Wounded.'

- (d) The license plate issued pursuant to this Code section shall be transferred between vehicles as provided in Code Section 40-2-80. The spouse of a deceased veteran of the armed forces of the United States who was awarded the Purple Heart citation shall continue to be eligible to be issued a distinctive personalized license plate as provided in this Code section for any vehicle owned by such veteran ownership of which is transferred to the surviving spouse or for any other vehicle owned by such surviving spouse either at the time of the qualifying veteran's death or acquired thereafter, so long as such person does not remarry.
- (e) For each additional special license plate issued under this Code section there shall be an additional \$25.00 annual registration fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34."

#### **SECTION 6.**

Said article is further amended by adding new Code Sections 40-2-86.10 through 40-2-86.15 to read as follows:

**"40-2-86.10.**

- (a) Motor vehicle owners who are or formerly were police officers who were wounded in the line of duty as a police officer shall be eligible to receive a special and distinctive vehicle license plate for a private passenger car or truck used for personal transportation, provided that the requisite number of applications are received by the commissioner as provided in subsection (b) of this Code section. Such license plate shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter. The commissioner shall be authorized to promulgate rules and regulations to determine the eligibility of such persons for such special and distinctive license plates.
- (b) A person who qualifies for the special and distinctive license plate pursuant to subsection (a) of this Code section shall make application therefor with the commissioner and include the requisite fee. Said applicant, upon payment of the regular license fee provided for in Code Section 40-2-151 and payment of the manufacturing fee provided for in this Code section, may apply for and be limited to not more than one such special and distinctive license plate. The commissioner shall retain all applications received for such distinctive license plate until a minimum of 1,000 applications have been received. After receipt of 1,000 applications for such distinctive license plate, the commissioner shall design a distinctive license plate as provided in subsection (c) of this Code section and issue the distinctive license plates to present and future qualifying applicants. The distinctive license plate shall have an application period of two years after January 1, 2006, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants. The department shall not be required to continue to manufacture the distinctive license plate if the number of active registrations falls below 500 registrations at any time during the period as provided in subsection (b) of Code Section

40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31, the department must receive 1,000 applications accompanied by the manufacturing fee to continue to manufacture the license plate. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private passenger cars and trucks and boat trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for each additional special and distinctive license plate shall be \$25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Except as provided in subsection (d) of this Code section, such plates shall be nontransferable.

(c) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars or trucks used for personal transportation. Additional words or symbols, in addition to the numbers and letters prescribed by law, shall be inscribed upon such license plates so as to identify distinctively the owner as a police officer who was wounded in the line of duty.

(d) The license plate issued pursuant to this Code section shall be transferred between vehicles as provided in Code Section 40-2-80. The spouse of a person who qualifies for such special and distinctive license plate under subsection (a) of this Code section shall continue to be eligible to be issued a distinctive personalized license plate as provided in this Code section for any vehicle owned by such person ownership of which is transferred to the surviving spouse or for any other vehicle owned by such surviving spouse either at the time of the qualifying person's death or acquired thereafter, so long as such person does not remarry.

(e) For each special license plate issued under this Code section there shall be an additional \$25.00 annual registration fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34.

(f) For the purposes of this Code section, the term 'police officer' shall mean any law enforcement officer charged with the duty of enforcing the criminal laws and ordinances of this state, any other state, or the United States or of the counties or municipalities of this state or any other state who is employed by and compensated by the United States, the state, or any county or municipality of the state. The term shall include, but not be limited to, municipal police, county police, sheriffs, deputy sheriffs, wardens, guards, agents of the Georgia Bureau of Investigation, members of the uniform division of the Department of Public Safety, agents and investigators of the

State Forestry Commission, conservation rangers of the Department of Natural Resources, agents of the Department of Revenue, agents of the Federal Bureau of Investigation, agents of the federal Drug Enforcement Administration, and agents of the federal Secret Service.

40-2-86.11.

- (a) There shall be issued beginning in 2006 special and distinctive vehicle license plates commemorating the Benevolent and Protective Order of Elks for its contributions to Georgians through programs dedicated to our youth such as 'Hoop Shoot,' 'Soccer Shoot,' 'Drug Awareness and Prevention,' and youth scholarship contests; our veterans in local VA hospitals; the Elks major state project, 'Elks Aidmore Children's Center,' a home for disadvantaged youth of Georgia; and the many contributions made by local Elks lodges across the state, subject to the conditions set forth in this Code section.
- (b) The commissioner, in cooperation with the Benevolent and Protective Order of Elks, shall design special distinctive license plates to commemorate the Benevolent and Protective Order of Elks. The license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. No two recipients shall receive identically numbered plates. The graphic on the special license plate shall be placed to the left of the alphanumeric characters and shall be no larger than three inches by three inches. Such design shall not provide space in which to indicate the name of the county of issuance. The organization may request the assignment of the first of 100 in a series of license plates upon payment of an additional initial registration fee of \$25.00 for each license plate requested.
- (c) Notwithstanding the foregoing provisions of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise and at no cost to the state, received such licenses or other permissions as may be required for the use of the Benevolent and Protective Order of Elks logo or as may otherwise be necessary or appropriate to implement this Code section. No royalty, license fee, or other moneys shall be paid to any organization or its licensor for the use by the state of such logo or design on license plates authorized by this Code section. The commissioner may charge fees, take other actions, and agree to or impose terms and conditions which might normally be envisioned in licensing and cross-licensing agreements for the use of designs and similar intellectual property. Without limitation, the commissioner may agree to allow to others the exclusive or nonexclusive use of the design of the special license plate. The design of the special license plate, excepting only the Benevolent and Protective Order of Elks logo and any other part of the design owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright. However, such steps shall be cumulative of the ownership and exclusive use and control established by this

subsection as a matter of law and no person shall reproduce or otherwise use such design, except as authorized by the commissioner.

(d) Beginning in calendar year 2006, any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a manufacturing fee of \$25.00 in addition to the regular motor vehicle registration fee shall be issued a license plate commemorating the Benevolent and Protective Order of Elks. Revalidation decals shall be issued for such license plates in the same manner as provided for general issue license plates.

(e) An applicant may request a license plate commemorating the Benevolent and Protective Order of Elks at any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, such license plate shall be issued with appropriate decals attached.

(f) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt by the department of at least 1,000 applications. The special license plate shall have an application period of two years after January 1, 2006, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(g) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31, the department must receive 1,000 applications accompanied by the manufacturing fee to continue to manufacture the license plate.

(h) Benevolent and Protective Order of Elks license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(i) Benevolent and Protective Order of Elks license plates shall be issued within 30 days of application once the requirements of this Code section have been met.

#### 40-2-86.12.

(a) The commissioner, in cooperation with licensed emergency services personnel in Georgia, and in order to promote and honor these individuals, shall design a special license plate to be issued displaying the National Highway Traffic Safety Administration's EMS Star of Life Symbol and the initials 'EMS.' The license plates

must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. It shall not be a requirement that a county name decal shall be fixed and displayed on license plates issued under this Code section.

(b) Notwithstanding the foregoing provisions of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise, received such licenses or other permissions as may be required to implement this Code section. The design of the initial edition of the emergency medical services license plates, as well as the design of subsequent editions and excepting only any part or parts of the designs owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(c) Beginning in calendar year 2006, any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, and provides proof of certification or licensure by the State of Georgia as an emergency medical technician, paramedic, or owner of a licensed ambulance service in the State of Georgia, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a fee of \$25.00 in addition to the regular motor vehicle registration fee, shall be issued an emergency medical services license plate. Special license plates issued under this Code section shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31 upon payment of an additional \$25.00 annual registration fee, which fee shall be collected by the county tag agent at the time of collection of other registration fees and remitted to the state as provided in Code Section 40-2-34.

(d) A qualified applicant may request an emergency medical services license plate any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, the emergency medical services license plate shall be issued with appropriate decals attached.

(e) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt of at least 1,000 applications. The special license plate shall have an application period of two years after January 1, 2006, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(f) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual

registration period upon payment of an additional \$25.00 annual special tag fee, which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31, manufacture of the license plates shall not be continued until the commissioner receives 1,000 applications.

(g) Emergency medical services license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-42.

(h) Emergency medical services license plates shall be issued within 30 days of application.

40-2-86.13.

(a) In order to promote and financially provide for historic preservation efforts in Georgia, there shall be issued beginning January 1, 2006, special license plates promoting such efforts.

(b) The Division of Historic Preservation of the Department of Natural Resources shall design special distinctive license plates appropriate to promote historic preservation efforts in Georgia. Such license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total characters do not exceed the sum of six. No two recipients shall receive identically numbered plates. Such design shall not provide space in which to indicate the name of the county of issuance.

(c) The design of the initial edition of the special historic preservation license plate, as well as the design of subsequent editions and excepting only any part or parts of the designs which may be owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(d) Beginning on January 1, 2006, any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a fee of not more than \$25.00 in addition to the regular motor vehicle registration fee, may be issued a historic preservation license plate. Revalidation decals shall be issued for historic preservation license plates in the same manner as provided for general issue license plates upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a fee of not more than \$25.00 in addition to the regular motor vehicle registration fee.

- (e) The funds derived from the sale and revalidation of historic preservation license plates, less a \$1.00 processing fee, which shall be granted to county tag offices per plate sold, and less the actual manufacturing cost of the plates, shall be deposited in the general fund of the state treasury. As soon as practicable after December 31 of each year, the commissioner shall report the net amount derived from the sale of historic preservation license plates to the Office of Planning and Budget and the Division of Historic Preservation of the Department of Natural Resources. Subject to the appropriations process, it is the intent of the General Assembly that the General Assembly appropriate an amount equal to the net proceeds from the sale of such license plates to the Department of Natural Resources for use by the Historic Preservation Division to fund historic preservation programs in the state through the Georgia historic preservation grant program as otherwise authorized by law.
- (f) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt by the department of at least 1,000 applications. The special license plate shall have an application period of two years after January 1, 2006, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.
- (g) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31, the department must receive 1,000 applications accompanied by the manufacturing fee to continue to manufacture the license plate.
- (h) An applicant may request a historic preservation license plate any time during the applicant's registration period. If a historic preservation license plate is to replace a current valid license plate, the department shall issue the historic preservation license plate with appropriate decals attached. When an applicant requests a historic preservation license plate at the beginning of the registration period, the applicant shall pay the tax together with all applicable fees.
- (i) Historic preservation license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-42.
- (j) Historic preservation license plates shall be issued within 30 days of application.
- (k) The Department of Natural Resources shall submit a report to the chairpersons of the Senate Natural Resources and the Environment Committee and House Natural Resources and Environment Committee detailing the receipt and expenditure of all

appropriated funds and all funds received from the sale of historic preservation license plates as provided by this Code section to promote historic preservation. Such report shall be made not later than the second Monday of January of each year.

40-2-86.14.

- (a) There shall be issued beginning in 2006 special and distinctive vehicle license plates identifying licensed Georgia physicians, subject to the conditions set forth in this Code section.
- (b) The commissioner shall design special distinctive license plates identifying licensed Georgia physicians. The license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. No two recipients shall receive identically numbered plates. The license plate will contain the words 'Licensed Georgia Physician' in the space normally containing the county of issuance. Such design shall not provide space in which to indicate the name of the county of issuance. The graphic on the special license plate shall be placed to the left of the alphanumeric characters and shall be no larger than three inches by three inches.
- (c) Notwithstanding the foregoing provisions of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise and at no cost to the state, received such licenses or other permissions as may be required for the use of any logo or as may otherwise be necessary or appropriate to implement this Code section. No royalty, license fee, or other moneys shall be paid to any organization or its licensor for the use by the state of such logo or design on license plates authorized by this Code section. The commissioner may charge fees, take other actions, and agree to or impose terms and conditions which might normally be envisioned in licensing and cross-licensing agreements for the use of designs and similar intellectual property. Without limitation, the commissioner may agree to allow to others the exclusive or nonexclusive use of the design of the special license plate. The design of the special license plate, excepting only any part of the design owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law and no person shall reproduce or otherwise use such design, except as authorized by the commissioner.
- (d) Beginning in calendar year 2006, any qualified Georgia resident who shows proof that he or she is a licensed Georgia physician and is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a manufacturing fee of \$25.00 in addition to the regular motor vehicle registration fee shall be issued a license plate identifying him or her as a

licensed Georgia physician. Revalidation decals shall be issued for such license plates in the same manner as provided for general issue license plates.

(e) An applicant may request a license plate identifying him or her as a licensed Georgia physician at any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, such license plate shall be issued with appropriate decals attached.

(f) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt by the department of at least 1,000 applications. The special license plate shall have an application period of two years after January 1, 2006, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(g) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31, the department must receive 1,000 applications accompanied by the manufacturing fee to continue to manufacture the license plate.

(h) License plates identifying licensed Georgia physicians shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(i) License plates identifying licensed Georgia physicians shall be issued within 30 days of application once the requirements of this Code section have been met.

#### 40-2-86.15.

(a) In order to promote the Governor's Highway Safety Program, there shall be issued beginning January 1, 2006, special license plates bearing the NASCAR logo with a specific driver or general motorsports theme, subject to the conditions set forth in this Code section. Also, in order to promote and provide for motorist and bicyclist safety and interaction education and awareness programs and media campaigns; adult and child bicycling safety training, workshops, and educational materials; assistance in forming local bicycle advisory committees; law enforcement education and implementation programs for policing by bicycle and policing to improve bicycling conditions; and 'share the road/yield to bicycles/bicyclists may use full lane' sign installations through the Governor's Highway Safety Program, there shall be issued beginning January 1, 2006, special license plates promoting and benefiting such efforts,

which shall be known as the 'Share the Road' Motorists and Bicyclists special license plate.

(b) Notwithstanding the provisions of Code Section 40-2-4, for the NASCAR plates, the supplier of the plates, as designated by NASCAR, in consultation with the commissioner shall design special distinctive license plates bearing the NASCAR logo with a specific driver or general motorsports theme. For the 'Share the Road' plates, the commissioner shall design a special distinctive license plate in conjunction with the Southern Bicycle League and Bicycle Ride Across Georgia appropriate to promote the message of motorists and bicyclists safely and courteously sharing the roadway. The license plates shall be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. No two recipients shall receive identically numbered plates. The graphic on the special license plates shall be placed to the left of the alphanumeric characters and shall be no larger than three inches by three inches. Such design shall not provide space in which to indicate the name of the county of issuance.

(c) Notwithstanding the provisions of subsection (b) of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise, received any licenses or other permissions that may be required to implement this Code section. The design of the initial edition of the license plates, as well as the design of subsequent editions and excepting only any part or parts of the designs owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(d) Beginning in calendar year 2006, any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a manufacturing fee of \$25.00 in addition to the regular motor vehicle registration fee shall be issued a license plate promoting NASCAR or promoting bicycle safety and sharing the roadway. Revalidation decals shall be issued for such license plates in the same manner as provided for general issue license plates.

(e)(1) From the additional \$25.00 fee charged for the issuance and renewal of the NASCAR license plates authorized under this Code section, \$10.25 shall be used by the department for purchasing plates from the supplier of the plates, as designated by NASCAR, and royalty costs, and \$14.75 shall be paid to the general fund of the state treasury with the intent of supporting the Governor's Highway Safety Program. From the additional \$25.00 fee charged for the issuance of the 'Share the Road' license plates authorized under this Code section, subject to the general appropriations process, it is the intent of the General Assembly that all such funds shall be utilized by

the Governor's Highway Safety Program to provide for motorist and bicyclist safety and interaction education and awareness programs and media campaigns; adult and child bicycling safety training, workshops, and educational materials; assistance in forming local bicycle advisory committees; law enforcement education and implementation programs for policing by bicycle and policing to improve bicycling conditions; and 'share the road/yield to bicycles/bicyclists may use full lane' sign installations. The Office of Highway Safety may enter into contractual agreements, as may be appropriate, to further such objectives. The Office of Highway Safety may provide said funds for use as local or minimum matching funds. The agency or organization ultimately making use of such funds shall periodically provide to the commissioner an audit of the use of the funds or other evidence of use of the funds satisfactory to the commissioner. Any audit performed under Chapter 6 of Title 50 shall meet this auditing requirement. If an audit demonstrates that the funds are not being used for the purposes set forth in this Code section or if the required audit or evidence is not provided to the commissioner, then the commissioner shall so notify the appropriations committees of the Senate and the House of Representatives. Any funds appropriated pursuant to this Code section shall not lapse.

(2) Subject to the general appropriations process, it is the intent of the General Assembly in the enactment of this Code section that the funds dedicated by this subsection be made available for the ultimate use of the Governor's Highway Safety Program administered by the Office of Highway Safety in the Department of Public Safety.

(f) An applicant may request a NASCAR or 'Share the Road' license plate any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, the NASCAR or 'Share the Road' license plate shall be issued with appropriate decals attached.

(g) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt of at least 1,000 applications. The special license plates shall have an application period of two years after January 1, 2006, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(h) The department shall not be required to continue to provide the special license plates if the number of active registrations falls below 500 registrations at any time during the period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee, which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period as

provided in subsection (b) of Code Section 40-2-31, production of the license plates shall not be continued until the commissioner receives 1,000 applications.

- (i) NASCAR or 'Share the Road' license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.
- (j) NASCAR or 'Share the Road' license plates shall be issued within 30 days of application once the requirements of this Code section have been met."

#### **SECTION 7.**

This Act shall become effective on January 1, 2006.

#### **SECTION 8.**

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

Senator Rogers of the 21st moved that the Senate agree to the House substitute to SB 168 as amended by the following amendment:

Amend the House Committee on Motor Vehicles substitute to SB 168 by deleting "To" on line 1 on page 1 and inserting in its place the following: "To amend Chapter 4 of Title 1 of the Official Code of Georgia Annotated, relating to holidays and observances, by designating an annual Bill Elliott Day in Georgia; to".

By inserting a new Section .1 to read as follows:

#### **"SECTION .1.**

Chapter 4 of Title 1 of the Official Code of Georgia Annotated, relating to holidays and observances, is amended by inserting a new Code Section 1-4-15, immediately following Code Section 1-4-14, relating to Home Education Week, to read as follows:

'1-4-15.

- (a) The General Assembly finds that a Georgia family's proud tradition of racing began in Dawsonville, Georgia, under the tutelage and guiding hand of George Elliott. George's young son Bill began to demonstrate at an early age a natural skill and competitive racing instinct at Dixie Speedway in Woodstock, and in 1976, at the tender age of 20, Bill Elliott entered his first Winston Cup race and launched a career that would span decades. Awesome Bill from Dawsonville, a modest, unassuming, and unpretentious man, has become a household name in NASCAR racing and has been selected Most Popular Driver an unprecedented 16 times, Georgia Professional Athlete of the Year twice, National Motorsports Driver of the Year 14 times, and in 1998, was inducted into the Georgia Sports Hall of Fame. It is virtually impossible to list all of the honors and awards Million Dollar Bill has garnered over his incandescent career, but perhaps his most acclaimed accomplishment is his support, love, and respect from racing fans. He has given unstintingly of his time, talents, energy, and financial resources to numerous charities including the Special Olympics, the M.D. Anderson Cancer Center, and the Make-A-Wish Foundation and it is abundantly fitting and proper that this extraordinary Georgian be recognized in a special and lasting manner.

(b) The members of the General Assembly commend Bill Elliott for his over 30 years of outstanding contributions to the sport of racing and designate October 8 of each year as Bill Elliott Day in Georgia."

By deleting "~~1,000 250~~" and inserting "1,000" on line 13 on page 2.

By deleting "150" and inserting "500" on line 21 on page 2.

By deleting "150" and inserting "500" on line 26 on page 2.

By deleting "250" and inserting "1,000" on line 28 on page 2.

On the motion, the yeas were 43, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 168 as amended by the Senate.

The Calendar was resumed.

HB 246. By Representatives Graves of the 137th, Stephens of the 164th, Carter of the 159th, Burmeister of the 119th, Parham of the 141st and others:

A BILL to be entitled an Act to amend Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing prescription drugs, electronically transmitting drug orders, refills, and Schedule II controlled substance prescriptions, so as to change certain provisions relating to the electronic transmission of prescription drug orders; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Goggans of the 7th.

Senator Balfour of the 9th offered the following amendment:

Amend HB 246 (LC 33 0620) by inserting after "amend" on line 1 of page 1 the following:

"Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to grounds for suspension, revocation, or refusal to grant licenses by the State Board of Pharmacy, so as to change certain provisions relating to selling, distributing, and delivering prescription drugs by mail or other common carriers; to amend".

By inserting between lines 6 and 7 of page 1 the following:

#### **"SECTION 1.**

Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to grounds for suspension, revocation, or refusal to grant licenses by the State Board of Pharmacy, is

amended by striking paragraph (11) of subsection (a) and inserting in lieu thereof the following:

'(11) Regularly employing the mails or other common carriers to sell, distribute, and deliver a drug which requires a prescription directly to a patient; provided, however, that this provision shall not prohibit the use of the mails or other common carriers to sell, distribute, and deliver a prescription drug directly to an institution or to an enrollee in a health benefits plan of a closed panel health maintenance organization or its affiliates by a pharmacy which is operated by a health maintenance organization and licensed under Code Section 26-4-110. For purposes of this paragraph, the term 'closed panel health maintenance organization' means a health maintenance organization that has an exclusive contract with a medical group practice to provide or arrange for the provision of substantially all physician services to enrollees in health benefit plans of the health maintenance organization;"

By redesignating Sections 1 and 2 as Sections 2 and 3, respectively.

On the adoption of the amendment, the yeas were 27, nays 14, and the Balfour amendment 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	N Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	E Jones	Y Tate
N Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	N Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 9.

HB 246, having received the requisite constitutional majority, was passed as amended.

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

The Senate Judiciary Committee offered the following substitute to HB 254:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions relative to courts, so as to establish a drug court division and create an alternative system for storing copies of records for courts; to authorize the clerk of each superior court, state court, probate court, magistrate court, juvenile court, or municipal court to create and maintain digital copies of records, pleadings, orders, writs, process, or other documents submitted to or issued by the court in any criminal, quasi-criminal, juvenile, or civil proceeding or in any proceeding involving the enforcement of ordinances of local governments; to provide for requirements, practices, and procedures related to the digital storage and retrieval of such records; to provide for the destruction of the original copies of such documents; to provide for the payment of costs and expenses; to provide for exceptions; to provide for the alternative nature of the authority granted by this method of records management; to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain felony and misdemeanor cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys,

public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; 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 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking Code Section 15-1-10, relating to removal of court records and storage thereof, and inserting in its place the following:

"15-1-10.

- (a) No records or papers of any court shall be removed out of the county, except in cases of invasion whereby the same may be endangered, ~~or~~ by order of the court, or as otherwise provided in this Code section.
- (b) Notwithstanding any other provision of this Code section, such records may be stored in accordance with the provisions of subsection (b) of Code Section 15-6-86 or subsection (c) of this Code section.
- (c) With the prior written consent of the governing authority of the county or municipality and the prior written consent of the chief judge, judge of the probate court, or chief magistrate of the affected court, the clerk of each superior court, state court, probate court, magistrate court, juvenile court, or municipal court in this state is authorized, but not required, to create and maintain digital copies of records, pleadings, orders, writs, process, and other documents submitted to or issued by the court in criminal, quasi-criminal, juvenile, or civil proceedings or in any proceedings involving the enforcement of ordinances of local governments. All digital copies created pursuant to this subsection shall be accurate copies of the original documents and shall be stored and indexed in such manner as to be readily retrievable in the office of the clerk during normal business hours. It shall be the duty of the clerk to provide and maintain software and computers, readers, printers, and other necessary equipment in sufficient numbers to permit the retrieval, duplication, and printing of such digitally stored documents in a timely fashion when copies are requested. A copy of such digitally stored document retrieved by the clerk shall be admissible in all courts in the same manner as the original document. If a backup copy is created pursuant to the process prescribed by subsections (b), (c), and (d) of Code Section 15-6-62, the clerk is authorized to destroy the original document. This subsection shall not apply to documents or records which have been ordered sealed by the court nor to documents which are placed in evidence in a proceeding. The costs of creating and storing digital copies of documents and providing the necessary software and equipment to retrieve and reproduce such documents shall be paid from funds available for the operation of the court. The

provisions of this subsection shall constitute an additional and alternative method of records management and shall not supersede or repeal Code Section 15-6-62, 15-6-62.1, 15-6-86, or 15-6-87."

## SECTION 2.

Said chapter is further amended by adding a new Code section to the end of the chapter to read as follows:

"15-1-15.

- (a)(1) Any court that has jurisdiction over any criminal case which arises from the use, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled substance, dangerous drug, or other drug may establish a drug court division to provide an alternative to the traditional judicial system for disposition of such cases.
- (2) In any case which arises from the use, addiction, dependency, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled substance, dangerous drug, other drug, or is ancillary to such conduct and the defendant meets the eligibility criteria for the drug court division, the court may assign the case to the drug court division:
  - (A) Prior to the entry of the sentence, if the prosecuting attorney consents;
  - (B) As part of a sentence in a case; or
  - (C) Upon consideration of a petition to revoke probation.
- (3) Each drug court division shall adopt policies and procedures consistent with the Standards of Drug Courts adopted by the Judicial Council of Georgia, establish conditions, protocol, and rules for referral of such cases to the drug court division. The drug court division shall combine judicial supervision, treatment of drug court division participants, and drug testing.
- (4) Each drug court division shall have the same jurisdiction as the court that established the drug court division. The court instituting the drug court division may designate one or more judges to sit as judges of the drug court division. In addition, the court may designate one or more judges to sit as judges of the drug court division on a standby basis. The court instituting the drug court division shall require the drug court judges to complete a planned program of instruction in criminal law, substance abuse, treatment alternatives, psychology, family dynamics, and working with diverse populations.
- (5) The court instituting the drug court division may request the prosecuting attorney for the jurisdiction to designate one or more prosecuting attorneys to serve in the drug court division and may request the public defender, if any, to designate one or more assistant public defenders to serve in the drug court division.
- (6) The clerk of the court instituting the drug court division or such clerk's designee shall serve as the clerk of the drug court division.
- (7) The court instituting the drug court division may request probation officers and other employees of the court to perform duties for the drug court division. Such employees shall perform duties as directed by the judges of the drug court division.

- (8) The court instituting the drug court division may enter into agreements with other courts and agencies for the assignment of personnel from other courts and agencies to the drug court division.
- (9) Expenses for salaries, equipment, services, and supplies incurred in implementing this Code section may be paid from state funds, funds of the county or political subdivision implementing such drug court division, federal grant funds, and funds from private donations.
- (b)(1) Each drug court division shall establish criteria which define the successful completion of the drug court division program.
- (2) If the drug court division participant successfully completes the drug court division program prior to the entry of judgment, the case against the drug court division participant may be dismissed by the prosecuting attorney.
- (3) If the drug court division participant successfully completes the drug court division program as part of a sentence imposed by the court, the sentence of the drug court division participant may be reduced or modified.
- (4) Any plea of guilty or nolo contendere entered pursuant to this Code section may not be withdrawn without the consent of the court.
- (c) Any statement made by a drug court division participant as part of participation in such court, or any report made by the staff of the court or program connected to the court, regarding a participant's substance usage shall not be admissible as evidence against the participant in any legal proceeding or prosecution; provided, however, if the participant violates the conditions of his or her participation in the program or is terminated from the drug court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise disposing of the participant's case.
- (d) Nothing contained in this Code section shall be construed to permit a judge to impose, modify, or reduce a sentence below the minimum sentence required by law.
- (e) Notwithstanding any provision of law to the contrary, drug court division staff shall be provided, upon request, with access to all records relevant to the treatment of the drug court division participant from any state or local government agency. All such records and the contents thereof shall be treated as confidential, shall not be disclosed to any person outside of the drug court division, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. Such records and the contents thereof shall be maintained by the drug court division and originating court in a confidential file not available to the public.
- (f) Any fees received by a drug court division from a drug court division participant as payment for substance abuse treatment and services shall not be considered as court costs or a fine.
- (g) The court may have the authority to accept grants and donations and other proceeds from outside sources for the purpose of supporting the drug court division. Any such grants, donations, or proceeds shall be retained by the drug court division for expenses."

**SECTION 3.**

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

Senator Hamrick of the 30th offered the following amendment:

Amend the Senate Judiciary Committee substitute to HB 254 by striking lines 15 through 19 of page 3 and inserting in lieu thereof the following:

"(3) Each drug court division shall establish a planning group to develop a work plan. The planning group shall include the judges, prosecuting attorneys, public defenders, probation officers, and persons having expertise in the field of substance abuse. The work plan shall address the operational, coordination, resource, information management, and evaluation needs of the drug court division. The work plan shall include eligibility criteria for the drug court division. The drug court division shall combine judicial supervision, treatment of drug court division participants, and drug testing.

(4) The Judicial Council of Georgia and The Council of Superior Court Judges of Georgia shall adopt standards for the drug court divisions. The Judicial Council of Georgia standards and The Council of Superior Court Judges of Georgia standards shall be consistent with each other. Each drug court division shall adopt standards that are consistent with the standards of the Judicial Council of Georgia and the standards of The Council of Superior Court Judges. The standards are to serve as a flexible framework for developing effective drug court divisions and to provide a structure for conducting research and evaluation for program accountability. The standards are not intended to be a certification or regulatory checklist."

By striking "(4)" from line 20 of page 3 and inserting in lieu thereof "(5)".

By striking "(5)" from line 27 of page 3 and inserting in lieu thereof "(6)".

By striking "(6)" from line 31 of page 3 and inserting in lieu thereof "(7)".

By striking "(7)" from line 33 of page 3 and inserting in lieu thereof "(8)".

By striking "(8)" from line 1 of page 4 and inserting in lieu thereof "(9)".

By striking "(9)" from line 4 of page 4 and inserting in lieu thereof "(10)".

On the adoption of the amendment, the yeas were 34, nays 0, and the Hamrick amendment was adopted.

On the adoption of the substitute, the yeas were 30, nays 1, 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 as amended.

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

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 52, nays 0.

HB 254, having received the requisite constitutional majority, was passed by substitute.

The following bill was taken up to consider House action thereto:

SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide legislative findings; to provide definitions; to require information brokers to give notice to consumers of certain security breaches; to provide for rights of action by certain persons in the event of a security breach; to provide for a civil fine; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, is amended by adding a new Article 34 to read as follows:

**"ARTICLE 34**

**10-1-910.**

The General Assembly finds and declares as follows:

- (1) The privacy and financial security of individuals is increasingly at risk due to the ever more widespread collection of personal information by both the private and public sectors;
- (2) Credit card transactions, magazine subscriptions, telephone numbers, real estate records, automobile registrations, consumer surveys, warranty registrations, credit reports, and Internet websites are all sources of personal information and form the source material for identity thieves;
- (3) Identity theft is one of the fastest growing crimes committed in this state. Criminals who steal personal information such as social security numbers use the information to open credit card accounts, write bad checks, buy cars, and commit other financial crimes with other people's identities;
- (4) Identity theft is costly to the marketplace and to consumers; and
- (5) Victims of identity theft must act quickly to minimize the damage; therefore, expeditious notification of possible misuse of a person's personal information is imperative.

**10-1-911.**

As used in this article, the term:

- (1) 'Breach of the security of the system' means unauthorized acquisition of an individual's file or computerized data that compromises the security, confidentiality, or integrity of personal information of such individual maintained by an information broker. Good faith acquisition of personal information by an employee or agent of an information broker for the purposes of such information broker is not a breach of the

security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(2) 'File,' when used in connection with information on any individual, means all of the information on that individual recorded and retained by an information broker regardless of how the information is stored.

(3) 'Information broker' means any person or entity who, for monetary fees or dues, engages in whole or in part in the practice of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring, or communicating information concerning individuals for the purposes of furnishing personal information to third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes.

(4) 'Notice' means:

(A) Written notice;

(B) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code; or

(C) Substitute notice, if the information broker demonstrates that the cost of providing notice would exceed \$250,000.00, that the affected class of individuals to be notified exceeds 500,000, or that the information broker does not have sufficient contact information to provide written or electronic notice to such individuals. Substitute notice shall consist of all of the following:

(i) E-mail notice, if the information broker has an e-mail address for the individuals to be notified;

(ii) Conspicuous posting of the notice on the information broker's website page, if the information broker maintains one; and

(iii) Notification to major state-wide media.

Notwithstanding any provision of this paragraph to the contrary, an information broker that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this article shall be deemed to be in compliance with the notification requirements of this article if it notifies the individuals who are the subjects of the notice in accordance with its policies in the event of a breach of the security of the system.

(5) 'Person' means any individual, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other entity. The term 'person' as used in this article shall not be construed to require duplicative reporting by any individual, corporation, trust, estate, cooperative, association, or other entity involved in the same transaction.

(6) 'Personal information' means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) Social security number;

- (B) Driver's license number of an individual or number of an individual's identification card issued pursuant to Article 5 of Chapter 5 of Title 40;
- (C) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account; or
- (D) Other information collected, assembled, evaluated, compiled, reported, transmitted, transferred, or communicated concerning such individual.

The term 'personal information' does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

10-1-912.

- (a) Any information broker that owns or licenses files or computerized data that includes personal information of individuals shall give notice of any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information or file was, or is reasonably believed to have been, acquired by an unauthorized person. The notice shall be made within ten days following such discovery or notification.
- (b) Any information broker that maintains computerized data that includes personal information of individuals that the information broker does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
- (c) The notification required by this Code section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this Code section shall be made after the law enforcement agency determines that it will not compromise the investigation.
- (d) The duty of an information broker to disclose a breach of the security of the system under this Code section shall apply to all such breaches occurring on and after the effective date of this article and any breaches that occurred within six months immediately prior to the effective date of this article."

## **SECTION 2.**

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

## **SECTION 3.**

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

Senator Hamrick of the 30th asked unanimous consent that the Senate disagree to the House substitute to SB 230.

The consent was granted, and the Senate disagreed to the House substitute to SB 230.

The Calendar was resumed.

HB 266. By Representatives Wilkinson of the 52nd, Henson of the 87th, Drenner of the 86th, Burmeister of the 119th, Williams of the 4th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors, so as to provide for additional authority for the board to expunge or delete certain violations from the disciplinary record of any licensee; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Unterman of the 45th.

The Senate Health and Human Services Committee offered the following substitute to HB 266:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors, so as to provide for additional authority for the board to expunge or delete certain violations from the disciplinary record of any licensee; to provide for additional authority for the board to refuse to grant a license, revoke a license, or discipline a licensee; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors, is amended by striking Code Section 43-9-6.1, relating to the scope of the authority of the Georgia Board of Chiropractic Examiners, and inserting in its place the following:

"43-9-6.1.

The board is authorized to:

- (1) Adopt, amend, and repeal such rules and regulations not inconsistent with this chapter necessary for the proper administration and enforcement of said chapter;
- (2) Examine, issue, renew, and reinstate the licenses of duly qualified applicants for licensure to practice chiropractic in this state;
- (3) Deny, suspend, revoke, or otherwise sanction licenses to practice chiropractic in this state;
- (4) Initiate investigations for the purpose of discovering violations of this chapter;
- (5) Conduct hearings upon charges calling for the discipline of a licensee or on violations of this chapter; **and**

- (6) Issue to chiropractors, licensed under this chapter, certificates under the seal of the board evidencing such licensure and signed, either by hand or facsimile signature, by the president of the board and the division director; and  
(7) Expunge or delete from the disciplinary record of any licensee advertising violations not defined in the rules of the board as immoral and unprofessional conduct or relating to reasonable care and skill in the treatment of a patient."

## SECTION 2.

Said chapter is further amended by striking subsection (a) of Code Section 43-9-12, relating to grounds for refusal or revocation of license, and inserting in its place the following:

- "(a) The board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:
- (1) Failed to demonstrate the qualifications or standards for a license contained in this chapter or the rules or regulations promulgated under this chapter; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he meets all the requirements for the issuance of a license, and, if the board is not satisfied as to the applicant's qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he so desires;
  - (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of chiropractic or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice the licensed business or profession; or made a false statement or deceptive registration with the board;
  - (3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;
  - (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:
    - (A) A plea of nolo contendere was entered to the charge;
    - (B) First offender treatment without adjudication of guilt pursuant to the charge was granted; or
    - (C) An adjudication or sentence was otherwise withheld or not entered on the charge.

The plea of nolo contendere or the order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first

offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(5) Had his license to practice chiropractic revoked, suspended, or annulled by any lawful licensing authority other than the board; or had other disciplinary action taken against him by any such lawful licensing authority other than the board; or was denied a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings, or was refused the renewal of a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice chiropractic, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of chiropractic but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing practice of chiropractic;

(7) Knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee whose license has been suspended or revoked by the board to practice chiropractic or to practice outside the scope of any disciplinary limitation placed upon the licensee by the board;

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, which statute, law, or rule or regulation relates to or in part regulates the practice of chiropractic when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement;

(9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or outside this state; any such adjudication shall automatically suspend the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect; ~~or~~

(10) Displayed an inability to practice chiropractic with reasonable skill and safety to the public or has become unable to practice chiropractic with reasonable skill and safety to the public by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material; or

(11) Become unable to practice chiropractic with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition:

(A) In enforcing this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by licensed health care providers designated by the board. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of

privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-9-21. Every person who shall accept the privilege of practicing chiropractic in this state or who shall file an application for a license to practice chiropractic in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board, upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing chiropractic under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin the practice of chiropractic with reasonable skill and safety to patients;

(B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-9-21. Every person who shall accept the privilege of practicing chiropractic in this state or who shall file an application to practice chiropractic in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board, upon the grounds that the same constitutes a privileged communication; and

(C) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (A) of this paragraph or the records relating to the mental or physical condition of such licensee or applicant obtained pursuant to subparagraph (B) of this paragraph, all such information shall be received by the board in camera and shall not be disclosed to the public, nor shall any part of the record containing such information be used against any licensee or applicant in any other type of proceeding."

### **SECTION 3.**

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

On the adoption of the substitute, the yeas were 35, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 266, having received the requisite constitutional majority, was passed by substitute.

HB 296. By Representative Willard of the 49th:

A BILL to be entitled an Act to amend Title 15 of the O.C.G.A., relating to courts, so as to authorize the Family Court Division of the Superior Court of Fulton County in the Atlanta Judicial Circuit as a pilot project of limited duration; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize the Attorney General to appoint attorneys to represent the Department of Human Resources in such court; to authorize the chief judge of the Superior Court to require family court judges to complete a planned program of instruction; to provide for expenses; to provide for reports; to provide for automatic repeal; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Wiles of the 37th.

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 296:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to authorize the Family Court Division of the Superior Court of Fulton County in the Atlanta Judicial Circuit as a pilot project of limited duration; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize the Attorney General to appoint attorneys to represent the Department of Human Resources in such court; to authorize the chief judge of the Superior Court to require family court judges to complete a planned program of instruction; to provide for jurisdiction, authority, powers, and duties of the family court division; to provide for expenses; to provide for reports; to provide for automatic repeal; to provide for requests that a hearing, trial, or other proceeding be held before an elected judge of the superior or state court, as the case may be; to provide for a definition; to provide for exceptions; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Chapter 6, relating to superior courts, by inserting a new Code section to be designated Code Section 15-6-37 to read as follows:

**"15-6-37.**

(a) Except as provided in subsection (b) of this Code section, at any hearing, trial, or other proceeding, if the individual presiding is not an elected judge of the superior court, any plaintiff may request that such hearing, trial, or other proceeding be held before an elected judge of the superior court, and such request shall be granted; provided, however, that such request is made at or before the first hearing of any case or within five days of the date the plaintiff learns that his or her case is assigned to a judge, whichever occurs first. As used in this Code section, the term 'elected judge' means a duly elected judge or a judge who has been appointed to fill a vacancy for an elective office as provided by Article VI, Section VII, Paragraph III of the Georgia Constitution.

(b) Subsection (a) of this Code section shall not apply to the following:

- (1) Any cause of action where a party is seeking relief pursuant to Chapter 13 of Title 19;

- (2) Any cause of action where the defendant alleges in a counterclaim that the plaintiff has engaged in physical abuse of the plaintiff; or
- (3) Any cause of action where a party is seeking an interlocutory injunction or temporary restraining order pursuant to Code Section 9-11-65."

### **SECTION 2.**

Said title is further amended in Chapter 7, relating to state courts, by inserting a new Code section to be designated Code Section 15-7-51 to read as follows:

**"15-7-51.**

Notwithstanding any provision of general or local law to the contrary, at any hearing, trial, or other proceeding, if the individual presiding is not an elected judge of the state court, any plaintiff may request that such hearing, trial, or other proceeding be held before an elected judge of the state court, and such request shall be granted; provided, however, that such request is made at or before the first hearing of any case or within five days of the date the plaintiff learns that his or her case is assigned to a judge, whichever occurs first. As used in this Code section, the term 'elected judge' means a duly elected judge or a judge who has been appointed to fill a vacancy for an elective office as provided by Article VI, Section VII, Paragraph III of the Georgia Constitution."

### **SECTION 3.**

Said title is further amended by inserting a new chapter, to be designated as Chapter 11A, to read as follows:

**"CHAPTER 11A**

**15-11A-1.**

There is hereby authorized a Family Court Division of the Superior Court of Fulton County in the Atlanta Judicial Circuit as a pilot project pursuant to authority granted by Article VI, Section I, Paragraph X of the Georgia Constitution.

**15-11A-2.**

The Family Court Division of the Superior Court of Fulton County, sometimes referred to in this chapter as the family court division and the superior court, respectively, shall exist as a pilot project of limited duration until July 1, 2010, and shall have the powers, rules of practice and procedure, and selection, qualifications, and terms of judges of the superior court and as duly adopted by the superior court for the family court division.

**15-11A-3.**

(a) The chief judge of the superior court shall designate one or more judges of the superior court to sit as judges of the family court division for terms of up to three years and shall designate successors for terms of up to three years. In addition, the chief judge of the superior court may designate one or more judges of the superior court to sit as judges of the family court division on a standby basis for terms of up to three years.

(b) The chief judge of the superior court may require the family court division judges to complete a planned program of instruction in family law, psychology, family dynamics, child development, nonadversarial techniques, and working with diverse populations.

15-11A-4.

- (a) The district attorney of the Atlanta Judicial Circuit is authorized to designate one or more assistant district attorneys to serve in the family court division.
- (b) The public defender of the Atlanta Judicial Circuit is authorized to designate one or more assistant public defenders to serve in the family court division.
- (c) The clerk of the superior court or such clerk's designee shall serve as the clerk of the family court division.
- (d) The chief judge of the Atlanta Judicial Circuit shall designate probation officers and other employees of the Atlanta Judicial Circuit to perform duties for the family court division. Such employees shall perform duties as directed by the judges of the family court division.
- (e) The chief judge of the Atlanta Judicial Circuit may enter into agreements with other courts and agencies for the assignment of personnel from other courts or agencies to the Family Court Division of the Superior Court of Fulton County.
- (f) The Attorney General of Georgia may appoint attorneys to represent the Department of Human Resources in the Family Court Division of the Superior Court of Fulton County.

15-11A-5.

- (a) The family court division shall have the jurisdiction of the superior court and as provided in this Code Section.
- (b) When a petition or case is filed in the superior court relating to divorce or where issues affecting children are involved, including, but not limited to, child support, child custody, visitation, child abuse, child molestation, domestic violence, legitimacy, paternity, adoption, abandonment, or contempt or modification relative to such cases, the chief judge of the superior court or an intake case manager designated by such chief judge may assign the case to the family court division. The Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, and City of Atlanta Municipal Court are authorized to transfer ancillary cases related to the same family to the family court division. Such ancillary cases shall include but not be limited to any cases involving deprivation, delinquency involving behavioral issues, truancy, unruliness, abandonment, neglect, or termination of parental rights cases pending in the Juvenile Court of Fulton County; cases involving domestic violence, abandonment, or child support enforcement cases pending in the State Court of Fulton County; adult or minor guardianship cases pending in the Probate Court of Fulton County; or domestic violence cases pending in the Magistrate Court of Fulton County or City of Atlanta Municipal Court. In addition, any child support enforcement case from the jurisdiction

of the State of Georgia shall be considered an ancillary case subject to transfer to the family court division. Whenever a dispute arises between the family court division and another court in Fulton County as to whether a case is an ancillary case which should be transferred to the family court division, such case may be transferred to the family court division pursuant to an order for transfer issued by the chief judge of the Atlanta Judicial Circuit.

(c) The judges of the family court division shall have the same authority, powers, and duties in the consideration and disposition of cases in the family court division as any judge of the Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, or City of Atlanta Municipal Court.

**15-11A-6.**

Expenses for salaries, equipment, and supplies incurred in implementing this chapter shall be paid from state funds appropriated for such purpose and from the funds of Fulton County.

**15-11A-7.**

The Administrative Office of the Courts shall report annually regarding the activities of the Family Court Division of the Superior Court of Fulton County to the chief judge of the Atlanta Judicial Circuit, the Chief Justice of the Georgia Supreme Court, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the Judiciary Committees of the House of Representatives and the Senate. The Administrative Office of the Courts shall prepare for the same judicial officers and elected officials a comprehensive report within 180 days following July 1, 2005, and within 180 days following July 1, 2009.

**15-11A-8.**

This chapter shall become effective upon signature of the Governor or upon becoming law without his signature.

**15-11A-9.**

This chapter shall be repealed in its entirety on July 1, 2010."

**SECTION 4.**

Section 3 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, and the remaining sections of this Act shall become effective on July 1, 2005, and shall apply to actions filed on or after that date.

**SECTION 5.**

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

Senator Smith of the 52nd offered the following amendment:

Amend the Senate State and Local Governmental Operations Committee substitute to HB 296 by inserting after the third semicolon on line 13 of page 1 the following:  
"to provide for severability".

By inserting between lines 10 and 11 on page 5 the following:

**"SECTION 3A.**

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.".

On the adoption of the amendment, the yeas were 37, nays 0, and the Smith amendment was adopted.

On the adoption of the substitute, the yeas were 36, nays 0, 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 Hill,Jack	N Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
N Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	N Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber

N Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 44, nays 7.

HB 296, having received the requisite constitutional majority, was passed by substitute.

HB 353. By Representatives Dodson of the 75th, Jamieson of the 28th, Barnes of the 78th, Rogers of the 26th and Drenner of the 86th:

A BILL to be entitled an Act to amend Title 43 of the O.C.G.A., relating to professions and businesses, so as to provide legal recognition to the professions of industrial hygiene, health physics, and safety; to provide a short title; to provide for a statement of purpose; to provide for definitions; to prohibit certain actions and conduct by individuals and entities; to regulate the use of certain terms and titles; to provide that no business entity shall identify, advertise, or represent itself as a provider of certain services unless they meet certain requirements; to provide that certain conduct shall be an unfair business practice; to provide for penalties; to provide for other matters relative to the foregoing; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Pearson of the 51st.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman

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Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 353, having received the requisite constitutional majority, was passed.

HB 355. By Representative Cummings of the 16th:

A BILL to be entitled an Act to amend Chapter 7A of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia Class Nine Fire Department Pension Fund, so as to change references to the secretary-treasurer of the fund to read executive director of the fund; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Tate of the 38th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

January 31, 2005

The Honorable Bill Cummings  
State Representative  
Legislative Office Building, Room 604-A  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 355 (LC 21 8085)

Dear Representative Cummings:

This bill would amend provisions relating to the Georgia Class Nine Fire Department Pension Fund. Specifically, this bill would change references to the secretary-treasurer of the Fund to read executive director of the Fund.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 22, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 355 (Substitute)  
(LC 21 8223S)

Dear Representative Bridges:

This substitute bill would amend provisions relating to the Georgia Firefighters' Pension Fund and the Georgia Class Nine Fire Department Pension Fund. Specifically, this bill would change references to the secretary-treasurer of the Funds to read executive director of the Funds.

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This is to certify that this substitute 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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 0.

HB 355, having received the requisite constitutional majority, was passed.

Senator Pearson of the 51st asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

HB 381. By Representatives Bridges of the 10th and Cummings of the 16th:

A BILL to be entitled an Act to amend Code Section 47-2-121 of the Official Code of Georgia Annotated, relating to optional retirement allowances, so as to make technical corrections of certain conflicting provisions; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Schaefer of the 50th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 3, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 381 (LC 21 8116)

Dear Representative Bridges:

This bill would amend provisions relating to optional retirement allowances under the Employees' Retirement System. Specifically, this bill makes technical corrections to eliminate conflicting provisions.

This is to certify that this 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 381, having received the requisite constitutional majority, was passed.

HB 425. By Representatives Harbin of the 118th, Knox of the 24th and Watson of the 91st:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to permit insurers to provide food or refreshments under certain circumstances to current or prospective clients during sales presentations and seminars provided that no insurance or annuity applications or contracts are offered or accepted at such presentations or seminars; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

Senator Hudgens of the 47th asked unanimous consent that HB 425 be committed to the Senate Insurance and Labor Committee. The consent was granted, and HB 425 was committed to the Senate Insurance and Labor Committee.

HB 440. By Representatives Yates of the 73rd, Freeman of the 140th, Lakly of the 72nd, Warren of the 122nd and Thomas of the 100th:

A BILL to be entitled an Act to amend Code Section 38-4-70 of the Official Code of Georgia Annotated, relating to the establishment of cemeteries and eligibility for interment, so as to remove the residency requirement for Georgia veterans eligible for interment in a veterans cemetery; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Douglas of the 17th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 440, having received the requisite constitutional majority, was passed.

HB 442. By Representatives Yates of the 73rd, Lakly of the 72nd, Freeman of the 140th and Warren of the 122nd:

A BILL to be entitled an Act to amend Code Section 43-12-2 of the Official Code of Georgia Annotated, relating to qualifications for an exemption from occupation taxes, administrative fees, and regulatory fees, so as to provide for certain duties of the Department of Veterans Service; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Douglas of the 17th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	E Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 442, having received the requisite constitutional majority, was passed.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 85. By Representatives Richardson of the 19th, Golick of the 34th, Harbin of the 118th, Roberts of the 154th and Keen of the 179th:

A BILL to be entitled an Act to make and provide appropriations for the State Fiscal Year beginning July 1, 2005, and ending June 30, 2006; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 85 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 85 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Hill of the 4th  
/s/ Senator Stephens of the 27th  
/s/ Senator Williams of the 19th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Harbin of the 118th  
/s/ Representative Keen of the 179th  
/s/ Representative Burkhalter of the 50th

**CONFERENCE COMMITTEE SUBSTITUTE TO H.B. 85:  
A BILL TO BE ENTITLED  
AN ACT**

To make and provide appropriations for the State Fiscal Year beginning July 1, 2005, and ending June 30, 2006; to make and provide such appropriations for the operation of the State government, its departments, boards, bureaus, commissions, institutions, and other agencies, and for the university system, common schools, counties, municipalities, political subdivisions and for all other governmental activities, projects and undertakings authorized by law, and for all leases, contracts, agreements, and grants authorized by law; to provide for the control and administration of funds; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

That the sums of money hereinafter provided are appropriated for the State Fiscal Year beginning July 1, 2005, and ending June 30, 2006, as prescribed hereinafter for such fiscal year:

<b>Total Funds</b>	<b>\$29,614,547,150</b>
<b>Non State Funds</b>	<b>\$12,199,297,331</b>

Federal Funds Not Specifically Identified	\$2,285,936,317
Agency Funds	\$1,722,123,934
Other Non-State Funds	\$104,280,096
Temporary Assistance for Needy Families Block Grant	\$314,722,471
Social Services Block Grant	\$55,368,733
Child Care and Development Block Grant	\$74,026,303
Foster Care Title IV-E	\$66,740,935
Maternal and Child Health Services Block Grant	\$17,348,033
Medical Assistance Program	\$4,312,860,208
Preventive Health and Health Services Block Grant	\$4,203,960
Block Grants for Community Mental Health Services	\$12,840,422
Block Grants for Prevention and Treatment of Substance Abuse	\$50,960,435
Federal Highway Administration Highway Planning and Construction	\$1,100,000,000
Federal Transit Administration Capital Investment Grants	\$12,858,431
Research Funds	\$1,483,785,256
Indigent Care Trust Fund - Public Hospital Authorities	\$148,828,880
State Children's Insurance Program	\$182,173,412
Community Services Block Grant	\$17,185,183
Low-Income Home Energy Assistance	\$18,929,972
TANF - Block Grant Unobligated Balance	\$160,821,854
TANF - Block Grant Transfer to Social Services Block Grant	\$23,602,496
TANF - Block Grant Transfer to Child Care Development Fund	\$29,700,000
<b>State Funds</b>	<b>\$17,415,249,819</b>
Lottery Funds	\$811,629,758
Tobacco Funds	\$156,626,752
Motor Fuel Funds	\$790,000,000
Other State Funds	\$32,034,000
State General Funds	\$15,624,959,309
<b>Intra-State Government Transfers</b>	<b>\$2,523,532,890</b>
Health Insurance Payments	\$1,977,178,195
Other Intra-State Government Transfers	\$54,306,019
Retirement Payments	\$36,195,366
Self Insurance Trust Fund Payments	\$132,900,000
Optional Medicaid Services Payments	\$322,953,310

**Section 1: Georgia Senate**

<b>Total Funds</b>	<b>\$9,715,183</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$9,715,183</b>
State General Funds	\$9,715,183
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**LIEUTENANT GOVERNOR'S OFFICE**

Total Funds	\$813,497
State Funds	\$813,497
State General Funds	\$813,497

**SECRETARY OF THE SENATE'S OFFICE**

Total Funds	\$1,212,412
State Funds	\$1,212,412
State General Funds	\$1,212,412

**SENATE**

Total Funds	\$6,689,602
State Funds	\$6,689,602
State General Funds	\$6,689,602

**SENATE BUDGET AND EVALUATION OFFICE**

The purpose is to provide budget development and evaluation expertise to the State Senate.

Total Funds	\$999,672
State Funds	\$999,672
State General Funds	\$999,672

**Section 2: Georgia House of Representatives**

<b>Total Funds</b>	<b>\$17,216,615</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$17,216,615</b>
State General Funds	\$17,216,615
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**HOUSE OF REPRESENTATIVES**

Total Funds	\$17,216,615
State Funds	\$17,216,615
State General Funds	\$17,216,615

**Section 3: Georgia General Assembly Joint Offices**

<b>Total Funds</b>	<b>\$10,154,263</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$10,154,263</b>
State General Funds	\$10,154,263
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**ANCILLARY ACTIVITIES**

The purpose is to provide services for the legislative branch of government.

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Total Funds	\$4,933,862
State Funds	\$4,933,862
State General Funds	\$4,933,862

#### **LEGISLATIVE FISCAL OFFICE**

The purpose is to act as the bookkeeper-comptroller for the legislative branch of government and maintain an account of legislative expenditures and commitments.

Total Funds	\$2,209,558
State Funds	\$2,209,558
State General Funds	\$2,209,558

#### **OFFICE OF LEGISLATIVE COUNSEL**

The purpose is to provide bill-drafting services, advice and counsel for members of the General Assembly.

Total Funds	\$3,010,843
State Funds	\$3,010,843
State General Funds	\$3,010,843

#### **Section 4: Audits and Accounts, Department of**

<b>Total Funds</b>	<b>\$30,095,144</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$30,095,144</b>
State General Funds	\$30,095,144
<b>Intra-State Government Transfers</b>	<b>\$0</b>

#### **DEPARTMENTAL ADMINISTRATION**

The purpose is to provide administrative support to all Department programs.

Total Funds	\$1,596,639
State Funds	\$1,596,639
State General Funds	\$1,596,639

#### **FINANCIAL AUDITS**

The purpose is to conduct financial and compliance audits of state entities, local boards of education, and healthcare providers that participate in the State's Medicaid program; and review financial statements of local governments and non-profit organizations.

Total Funds	\$22,831,899
State Funds	\$22,831,899
State General Funds	\$22,831,899

#### **INFORMATION SYSTEMS AUDITS**

The purpose is to provide independent information systems audits, reviews, and vulnerability assessments and to provide information systems audit guidance and support to other operations within the Department.

Total Funds	\$1,076,951
State Funds	\$1,076,951
State General Funds	\$1,076,951

**LEGISLATIVE SERVICES**

The purpose is to provide information on retirement system services, promulgation of statewide policies and procedures and provide fiscal note services.

Total Funds	\$110,575
State Funds	\$110,575
State General Funds	\$110,575

**PERFORMANCE AUDITS**

The purpose is to audit state programs to determine their efficiency, effectiveness, economy of operations, and compliance with laws and rules.

Total Funds	\$2,426,566
State Funds	\$2,426,566
State General Funds	\$2,426,566

**STATEWIDE EQUALIZED ADJUSTED PROPERTY TAX DIGEST**

The purpose is to establish an equalized adjusted property tax digest for each county and for the State as a whole for use in allocating State funds for public school systems.

Total Funds	\$2,052,514
State Funds	\$2,052,514
State General Funds	\$2,052,514

**Section 5: Appeals, Court of**

<b>Total Funds</b>	<b>\$12,627,586</b>
<b>Non State Funds</b>	<b>\$90,000</b>
Agency Funds	\$90,000
<b>State Funds</b>	<b>\$12,537,586</b>
State General Funds	\$12,537,586
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COURT OF APPEALS**

The purpose of this court is to review and exercise appellate and certiorari jurisdiction in all cases not reserved to the Supreme Court or conferred on other courts by law.

Total Funds	\$12,627,586
Non-State Funds	\$90,000
Agency Funds	\$90,000
State Funds	\$12,537,586
State General Funds	\$12,537,586

**Section 6: Judicial Council**

<b>Total Funds</b>	<b>\$13,176,292</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$13,176,292</b>
State General Funds	\$13,176,292
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**GEORGIA OFFICE OF DISPUTE RESOLUTION**

The purpose is to oversee the development of court-connected alternative dispute resolution programs in Georgia.

Total Funds	\$362,494
State Funds	\$362,494
State General Funds	\$362,494

**INSTITUTE OF CONTINUING JUDICIAL EDUCATION**

The purpose is to provide basic training and continuing education to elected officials, court support personnel and volunteer agents of the State's judicial branch.

Total Funds	\$1,126,382
State Funds	\$1,126,382
State General Funds	\$1,126,382

**JUDICIAL COUNCIL**

The purpose is to consult with and assist judges, administrators, clerks of court, and other officers and employees of the court pertaining to matters relating to court administration.

Total Funds	\$10,629,370
State Funds	\$10,629,370
State General Funds	\$10,629,370

**JUDICIAL QUALIFICATIONS COMMISSION**

The purpose is to discipline, remove, and cause involuntary retirement of judges.

Total Funds	\$258,046
State Funds	\$258,046
State General Funds	\$258,046

**RESOURCE CENTER**

The purpose of this program is to provide representation to all death penalty sentenced inmates in habeas proceedings.

Total Funds	\$800,000
State Funds	\$800,000
State General Funds	\$800,000

**Section 7: Juvenile Courts**

<b>Total Funds</b>	<b>\$6,233,940</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$6,233,940</b>
State General Funds	\$6,233,940
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COUNCIL OF JUVENILE COURT JUDGES**

The Council of Juvenile Court Judges represents all the juvenile judges in Georgia. Jurisdiction in cases involving children includes delinquencies, status offenses, and deprivation.

Total Funds	\$1,519,101
State Funds	\$1,519,101
State General Funds	\$1,519,101

**GRANTS TO COUNTIES FOR JUVENILE COURT JUDGES**

This program mandates payment of state funds to circuits to pay for juvenile court judges salaries.

Total Funds	\$4,714,839
State Funds	\$4,714,839
State General Funds	\$4,714,839

**Section 8: Prosecuting Attorneys**

<b>Total Funds</b>	<b>\$51,157,751</b>
<b>Non State Funds</b>	<b>\$1,767,046</b>
Agency Funds	\$1,767,046
<b>State Funds</b>	<b>\$49,390,705</b>
State General Funds	\$49,390,705
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**DISTRICT ATTORNEYS**

The District Attorney represents the State of Georgia in the trial and appeal of felony criminal cases in the Superior Court for the judicial circuit and delinquency cases in the juvenile courts.

Total Funds	\$45,692,494
Non-State Funds	\$1,767,046
Agency Funds	\$1,767,046
State Funds	\$43,925,448
State General Funds	\$43,925,448

**PROSECUTING ATTORNEY'S COUNCIL**

This program is charged with the responsibility of assisting Georgia's District Attorneys and State Court Solicitors.

TUESDAY, MARCH 29, 2005

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Total Funds	\$5,465,257
State Funds	\$5,465,257
State General Funds	\$5,465,257

**Section 9: Public Defender Standards Council, Georgia**

<b>Total Funds</b>	<b>\$44,051,892</b>
<b>Non State Funds</b>	<b>\$1,972,832</b>
Agency Funds	\$1,972,832
<b>State Funds</b>	<b>\$42,079,060</b>
State General Funds	\$42,079,060
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**PUBLIC DEFENDER STANDARDS COUNCIL**

The Standards Council provides administrative, fiscal, appellate, and technology support to public defender offices including all training. The Standards Council also represents persons charged with the death penalty after January 1, 2005, and provides training, assistance and direct representation in NGRI (Not Guilty by Reason of Insanity) cases.

Total Funds	\$11,167,007
Non-State Funds	\$559,797
Agency Funds	\$559,797
State Funds	\$10,607,210
State General Funds	\$10,607,210

**PUBLIC DEFENDERS**

The purpose is to assure that adequate and effective legal representation is provided, independently of political considerations or private interests, to indigent persons who are entitled to representation under this chapter.

Total Funds	\$32,884,885
Non-State Funds	\$1,413,035
Agency Funds	\$1,413,035
State Funds	\$31,471,850
State General Funds	\$31,471,850

**Section 10: Superior Courts**

<b>Total Funds</b>	<b>\$52,371,465</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$52,371,465</b>
State General Funds	\$52,371,465
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COUNCIL OF SUPERIOR COURT CLERKS**

To assist superior court clerks throughout the state in the execution of their duties, and to promote and assist in their training of the superior court clerks.

Total Funds	\$144,925
State Funds	\$144,925
State General Funds	\$144,925

**COUNCIL OF SUPERIOR COURT JUDGES**

The purpose of the Council of Superior Court Judges is to further the improvement of the superior court and the administration of justice through leadership, training, policy development and budgetary and fiscal administration.

Total Funds	\$882,809
State Funds	\$882,809
State General Funds	\$882,809

**JUDICIAL ADMINISTRATIVE DISTRICTS**

The purpose is to provide regional administrative support to the judges of the superior court. This support includes managing budgets, policy, procedure, and providing a liaison between local and state courts.

Total Funds	\$2,253,718
State Funds	\$2,253,718
State General Funds	\$2,253,718

**STATEWIDE FELONY AND JUVENILE DRUG COURTS**

The purpose of this program is to reduce recidivism among nonviolent substance abusing adult and juvenile offenders through intensive, judicially-supervised case management. Funds for this program are used to support Superior Court Judges' drug courts and other drug courts, through cooperation with the Judicial Council.

Total Funds	\$1,000,000
State Funds	\$1,000,000
State General Funds	\$1,000,000

**SUPERIOR COURT JUDGES**

The purpose is to be Georgia's general jurisdiction trial court and exercise exclusive, constitutional authority over felony cases, divorce, equity and cases regarding title to land.

Total Funds	\$48,090,013
State Funds	\$48,090,013
State General Funds	\$48,090,013

**Section 11: Supreme Court**

<b>Total Funds</b>	<b>\$7,647,980</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$7,647,980</b>
State General Funds	\$7,647,980
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**SUPREME COURT OF GEORGIA**

The purpose is to be a court of review and exercise exclusive appellate jurisdiction in all cases involving the construction of a treaty or of the Constitution of the State of Georgia or of the United States and all cases in which the constitutionality of a law, ordinance, or constitutional provision has been drawn in question, and all cases of election contest.

Total Funds	\$7,647,980
State Funds	\$7,647,980
State General Funds	\$7,647,980

**Section 12: Accounting Office, State**

<b>Total Funds</b>	<b>\$10,579,683</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$1,723,889</b>
State General Funds	\$1,723,889
<b>Intra-State Government Transfers</b>	<b>\$8,855,794</b>
Other Intra-State Government Payments	\$8,855,794

**STATE ACCOUNTING OFFICE**

The purpose is to support statewide People Soft financials and human capital management, to provide the comprehensive annual financial report of Georgia, and to create accounting procedures and policies for state agencies.

Total Funds	\$10,579,683
State Funds	\$1,723,889
State General Funds	\$1,723,889
Intra-State Government Transfers	\$8,855,794
Other Intra-State Government Payments	\$8,855,794

**Section 13: Administrative Services, Department of**

<b>Total Funds</b>	<b>\$181,453,236</b>
<b>Non State Funds</b>	<b>\$16,056,799</b>
Agency Funds	\$12,877,427
Other Non-State Funds	\$3,179,372
<b>State Funds</b>	<b>\$28,132,494</b>
State General Funds	\$28,132,494
<b>Intra-State Government Transfers</b>	<b>\$137,263,943</b>
Other Intra-State Government Payments	\$4,363,943
Self Insurance Trust Fund Payments	\$132,900,000

**BULK PAPER SALES**

The purpose is to reduce cost through aggregation of demand for paper in bulk quantities.

Total Funds	\$2,353,715
Non-State Funds	\$2,353,715

Agency Funds	\$2,353,715
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#### **DEPARTMENTAL ADMINISTRATION**

The purpose is to provide administrative support to all department programs.

Total Funds	\$5,544,369
Non-State Funds	\$2,030,008
Agency Funds	\$2,030,008
State Funds	\$3,514,361
State General Funds	\$3,514,361

#### **FISCAL SERVICES**

The purpose is to provide administrative functions, services, and equipment necessary for the fulfillment of the responsibilities of the superior courts, to provide pass-thru to appropriate authorities, and to act as administrative managers of attached agencies.

Total Funds	\$307,228
Non-State Funds	\$307,228
Agency Funds	\$307,228

#### **FLEET MANAGEMENT**

The purpose is to reduce cost through centralized, appropriate, and cost-effective management of the state's motor vehicle fleet.

Total Funds	\$2,409,075
Non-State Funds	\$2,409,075
Agency Funds	\$1,719,934
Other Non-State Funds	\$689,141

#### **MAIL AND COURIER**

The purpose is to reduce cost through aggregation of demand for Capitol Hill and metro area mail and package delivery services.

Total Funds	\$1,281,259
Non-State Funds	\$1,281,259
Agency Funds	\$1,164,259
Other Non-State Funds	\$117,000

#### **RISK MANAGEMENT**

The purpose is cost minimization and fair treatment of citizens through effective claims management.

Total Funds	\$137,263,943
Intra-State Government Transfers	\$137,263,943
Other Intra-State Government Payments	\$4,363,943
Self Insurance Trust Fund Payments	\$132,900,000

**SERVICE CONTRACT MANAGEMENT**

The purpose is to provide customer cost avoidance for service contracts through aggregation of demand, competitive procurement, and contract management.

Total Funds	\$140,330
Non-State Funds	\$140,330
Agency Funds	\$140,330

**SPACE MANAGEMENT**

The purpose is to help state government meet its current need for office space and plan for future needs as business goals and operations change.

Total Funds	\$371,491
State Funds	\$371,491
State General Funds	\$371,491

**STATE PURCHASING**

The purpose is to reduce cost and provide fair and equitable access through open, structured competitive procurement.

Total Funds	\$18,791,672
Non-State Funds	\$2,167,831
Agency Funds	\$147,831
Other Non-State Funds	\$2,020,000
State Funds	\$16,623,841
State General Funds	\$16,623,841

**SURPLUS PROPERTY**

The purpose is to reduce cost through maximization of the useful life of state-owned equipment.

Total Funds	\$1,885,035
Non-State Funds	\$1,885,035
Agency Funds	\$1,885,035

**U.S. POST OFFICE**

The purpose is to provide convenient and cost-effective postal services to agencies and individuals.

Total Funds	\$160,593
Non-State Funds	\$151,000
Agency Funds	\$151,000
State Funds	\$9,593
State General Funds	\$9,593

**PAYMENTS TO GEORGIA BUILDING AUTHORITY**

The purpose is to purchase, erect, and maintain buildings and other facilities to house agents and officials of the state government.

Total Funds	\$2,331,288
State Funds	\$2,331,288
State General Funds	\$2,331,288

**PAYMENTS TO GOLF HALL OF FAME AUTHORITY**

The purpose is to construct and maintain a facility and related attractions to house the Georgia Golf Hall of Fame to honor those who by achievement or service have made outstanding and lasting contributions to the sport of golf in this state or elsewhere.

Total Funds	\$58,685
State Funds	\$58,685
State General Funds	\$58,685

**PAYMENTS TO GEORGIA TECHNOLOGY AUTHORITY**

The purpose is to provide for procurement of technology resources, enterprise management, and portfolio management as well as the centralized marketing, provision, sale, and leasing, or execution of license agreements for access online or in volume, of certain public information maintained in electronic format to the public.

Total Funds	\$750,000
Non-State Funds	\$353,231
Other Non-State Funds	\$353,231
State Funds	\$396,769
State General Funds	\$396,769

**ADMINISTRATIVE HEARINGS, OFFICE OF STATE**

The purpose is to provide an impartial, independent forum for resolving disputes between the public and state agencies.

Total Funds	\$4,318,825
Non-State Funds	\$601,308
Agency Funds	\$601,308
State Funds	\$3,717,517
State General Funds	\$3,717,517

**PROPERTIES COMMISSION, STATE**

The purpose is to assure the taxpayers of Georgia that acquisitions and dispositions of state property are carried out in an equitable, legal, ethical, and efficient manner.

Total Funds	\$558,553
State Funds	\$558,553
State General Funds	\$558,553

**TREASURY AND FISCAL SERVICES, OFFICE OF**

The purpose is to receive and keep safely all monies which shall from time to time be paid to the treasury of this state, and to pay all warrants legally drawn on the treasury.

Total Funds	\$2,731,348
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Non-State Funds	\$2,376,779
Agency Funds	\$2,376,779
State Funds	\$354,569
State General Funds	\$354,569

**PAYMENTS TO AVIATION HALL OF FAME**

The purpose is to promote and encourage the growth and public support of aviation within the state by honoring those, living or dead, who by extraordinary achievement or service have made outstanding and lasting contributions to aviation in Georgia.

Total Funds	\$50,000
State Funds	\$50,000
State General Funds	\$50,000

**HEALTH PLANNING REVIEW BOARD**

The purpose is to review decisions made by hearing officers.

Total Funds	\$60,473
State Funds	\$60,473
State General Funds	\$60,473

**HAZARDOUS MATERIALS, AGENCY FOR THE REMOVAL OF**

The purpose is to establish and administer a program for the abatement and removal of asbestos and other hazardous materials from premises of the state.

Total Funds	\$85,354
State Funds	\$85,354
State General Funds	\$85,354

**Section 14: Agriculture, Department of**

<b>Total Funds</b>	<b>\$49,605,178</b>
<b>Non State Funds</b>	<b>\$8,734,010</b>
Federal Funds Not Specifically Identified	\$7,027,377
Agency Funds	\$1,657,042
Other Non-State Funds	\$49,591
<b>State Funds</b>	<b>\$40,871,168</b>
State General Funds	\$40,871,168
<b>Intra-State Government Transfers</b>	<b>\$0</b>

The Office of Planning and Budget is hereby authorized to transfer funds to the appropriate departmental programs in amounts equal to the departmental remittances to the Office of Treasury and Fiscal Services from agency fund collections.

**ATHENS AND TIFTON VETERINARY LABORATORIES**

The purpose is to ensure the safety of our food supply and the health of animals (production, equine and companion) within the State of Georgia.

Total Funds	\$3,271,132
State Funds	\$3,271,132
State General Funds	\$3,271,132

**CONSUMER PROTECTION**

The purpose is to prevent, control and eradicate certain infectious and communicable diseases of livestock.

Total Funds	\$28,301,945
Non-State Funds	\$7,561,782
Agency Funds	\$591,257
Federal Funds Not Specifically Identified	\$6,970,525
State Funds	\$20,740,163
State General Funds	\$20,740,163

**DEPARTMENTAL ADMINISTRATION**

The purpose is to provide administrative support for all programs of the department.

Total Funds	\$6,266,053
Non-State Funds	\$299,047
Agency Funds	\$211,680
Other Non-State Funds	\$49,591
Federal Funds Not Specifically Identified	\$37,776
State Funds	\$5,967,006
State General Funds	\$5,967,006

**MARKETING AND PROMOTION**

The purpose is to expand sales of Georgia's commodities from growers by promoting them domestically and internationally.

Total Funds	\$8,731,062
Non-State Funds	\$873,181
Agency Funds	\$854,105
Federal Funds Not Specifically Identified	\$19,076
State Funds	\$7,857,881
State General Funds	\$7,857,881

**POULTRY VETERINARY DIAGNOSTIC LABS**

The purpose is to provide diagnostic and monitoring services to Georgia poultry growers.

Total Funds	\$3,034,986
State Funds	\$3,034,986
State General Funds	\$3,034,986

**Section 15: Banking and Finance, Department of**  
**Total Funds**

**\$10,976,353**

<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$10,976,353</b>
State General Funds	\$10,976,353
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**CHARTERING, LICENSING AND APPLICATIONS/NON-MORTGAGE ENTITIES**

The purpose is to provide efficient and flexible application, registration and notification procedures for financial institutions that are in compliance with applicable laws, regulations and department policies.

Total Funds	\$495,504
State Funds	\$495,504
State General Funds	\$495,504

**CONSUMER PROTECTION AND ASSISTANCE**

The purpose is to assist consumers with problems encountered when dealing with department-regulated entities.

Total Funds	\$515,920
State Funds	\$515,920
State General Funds	\$515,920

**DEPARTMENTAL ADMINISTRATION**

The purpose is to provide administrative support to all department programs.

Total Funds	\$1,645,199
State Funds	\$1,645,199
State General Funds	\$1,645,199

**FINANCIAL INSTITUTION SUPERVISION**

The purpose is to provide for safe and sound operation of Georgia state-chartered financial institutions, and to protect the interests of the depositors, creditors and shareholders of those institutions.

Total Funds	\$6,581,431
State Funds	\$6,581,431
State General Funds	\$6,581,431

**MORTGAGE SUPERVISION**

The purpose is to protect consumers from unfair, deceptive or fraudulent residential mortgage lending practices and enforce applicable laws and regulations.

Total Funds	\$1,738,299
State Funds	\$1,738,299
State General Funds	\$1,738,299

<b>Section 16: Community Affairs, Department of</b>	
<b>Total Funds</b>	<b>\$186,619,085</b>
<b>Non State Funds</b>	<b>\$104,659,767</b>
Federal Funds Not Specifically Identified	\$93,566,048
Agency Funds	\$10,831,688
Other Non-State Funds	\$262,031
<b>State Funds</b>	<b>\$81,959,318</b>
Tobacco Funds	\$47,123,333
State General Funds	\$34,835,985
<b>Intra-State Government Transfers</b>	<b>\$0</b>

If a local assistance grant incorrectly identifies the local government recipient for the stated purpose, then the intended recipient is the local government entity with responsibility for the purpose. If a local assistance grant states an ineligible purpose, the intended purpose is eligible activity of the stated recipient with substantially similar character. Where a local assistance grant states that it is for the operation of a private program or a private entity, the intent is that the local government recipient contract for services of such a nature from the private entity. If a local assistance grant states that it is for the purchase of property for a private entity or for the improvement of property of a private entity, the intent is that recipient contract for services of the private entity using the property.

#### BUILDING CONSTRUCTION

The purpose is to establish minimum building construction standards for all new structures including mass-produced factory built (modular) buildings built in the state.

Total Funds	\$451,125
Non-State Funds	\$171,722
Agency Funds	\$171,722
State Funds	\$279,403
State General Funds	\$279,403

#### COORDINATED PLANNING

The purpose is to give communities the information, assistance, tools and funding needed to successfully implement planning and quality growth solutions to enhance and fulfill the requirements of Coordinated Comprehensive Planning according to the Georgia Planning Act of 1989.

Total Funds	\$3,834,160
State Funds	\$3,834,160
State General Funds	\$3,834,160

#### DEPARTMENTAL ADMINISTRATION

The purpose is to provide administrative support for all programs of the department.

Total Funds	\$4,742,899
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Non-State Funds	\$2,760,804
Agency Funds	\$2,476,773
Other Non-State Funds	\$262,031
Federal Funds Not Specifically Identified	\$22,000
State Funds	\$1,982,095
State General Funds	\$1,982,095

**ENVIRONMENTAL EDUCATION AND ASSISTANCE**

The purpose is to provide technical assistance, resource tools, and public education outreach resources.

Total Funds	\$973,896
State Funds	\$973,896
State General Funds	\$973,896

**FEDERAL COMMUNITY AND ECONOMIC DEVELOPMENT**

The purpose is to administer incentive programs and education programs as well as provide technical assistance in the area of economic development to local governments, development authorities, and private for-profit entities.

Total Funds	\$38,616,134
Non-State Funds	\$36,985,354
Federal Funds Not Specifically Identified	\$36,985,354
State Funds	\$1,630,780
State General Funds	\$1,630,780

**HOMEOWNERSHIP PROGRAMS**

The purpose is to expand the supply of standard affordable housing through rehabilitation, construction and provide homeownership opportunities for low and moderate income individuals.

Total Funds	\$4,014,155
Non-State Funds	\$4,014,155
Agency Funds	\$4,014,155

**LOCAL ASSISTANCE GRANTS**

The department shall make grants or loans to eligible recipients or qualified local governments, which grants or loans are specified by amount, recipient, and purpose in an appropriation to the department.

Total Funds	\$3,881,066
State Funds	\$3,881,066
State General Funds	\$3,881,066

LAG# 1	To provide funding to the City of Milledgville for the Silver Haired Legislature	\$5,000
LAG#2	To provide funding to the City of Columbus for the Civil War	

Naval Museum	\$30,000
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**Economic Development**

LAG# 3	To provide funding for emergency generator for the water system in Crawford County	\$25,000
LAG# 4	To provide funding to Pike County to join city and county systems at HWY 341 waterline for economic development business park	\$300,000
LAG# 5	To provide funding to City of Lula for sewage treatment systems upgrade	\$125,000
LAG# 6	To provide funding to the City of Gainesville to renovate city storm drain	\$100,000
LAG# 7	To provide park and renovation funding in the City of St. Simons	\$155,500
LAG# 8	To provide funding for services for master development plan in Fannin County	\$50,000
LAG# 9	To provide funding to the City of Chickamauga for expansion to the public library	\$100,000
LAG# 10	To provide funding to the City of Harlem for Phase II of the sewer and waste pond repair	\$138,000
LAG# 11	To provide funding for site work development in Columbia County Industrial Park	\$140,566
LAG# 12	To provide funding to Columbia County library for technology improvements	\$300,000
LAG# 13	To provide funding to Autrey Mill for historical restoration in Fulton County	\$250,000
LAG# 14	To provide funding for services to the Official Transportation Museum in Duluth	\$350,000
LAG# 15	To provide funding for services for the Gwinnett County Neighborhood Leadership Institute	\$35,000
LAG# 16	To provide funding for engineering study plan for the Old Coweta County Courthouse	\$35,000
LAG# 17	To provide funds for a match to Hall County for the Phase II Economic Development project	\$100,000
LAG# 18	To provide funding for services in White County for the Appalachian Community Enterprises non-profit small business incubator	\$50,000
LAG# 19	To provide funding for partial roof replacement for Historic Oconee County Arts Foundation	\$15,000
LAG# 20	To provide funding for services in Warner Robbins for the Museum of Aviation	\$35,000
LAG# 21	To provide funding for park renovations at Lake Tobosofkee in Bibb County	\$50,000
LAG# 22	To provide funding for Hancock County for warehouse expansion	

at Saint Gobain	\$150,000
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LAG# 23	To provide funding to Dodge County for the Heart of Georgia Airport Authority	\$7,500
LAG# 24	To provide funding for services for the City of Newnan for Economic Development	\$20,000
LAG# 25	To provide funding to the City of Savannah for Battlefield Park youth facility construction	\$30,000

#### **Education Development**

LAG# 26	To provide funding for the Washington County school system to compensate for one-time loss of motor vehicle ad valorem tax revenue due to a shift in collections policy.	\$125,000
LAG# 27	To provide funding for improvements to the Loganville High School facility in Gwinnett County	\$50,000
LAG# 28	To provide funding for services to Forest Hills Elementary Community Coalition in Dekalb County	\$15,000
LAG# 29	To provide funding for restoration of the Old School Auditorium for Lanier County	\$50,000
LAG# 30	To provide funding for services to the City of Atlanta for Intergenerational Resource Center	\$25,000
LAG# 31	To provide funds for a match to the City of Byromville for Vienna Elementary after school program	\$2,000
LAG# 32	To provide funding for the Oglethorpe County Agriculture Education Center	\$50,000

#### **Human Services**

LAG# 33	To provide funding to Northeast Cobb County to expand senior center facility	\$272,000
LAG# 34	To provide funding to refurbish Live Oak Child Emergency Shelter in Carroll County	\$50,000
LAG# 35	To provide funds to Hall County for Health Access indigent care initiative	\$50,000
LAG# 36	To provide funding to the City of Tennille for renovations to the Police Department	\$35,000
LAG# 37	To provide funding for firehouse expansion in the City of Avery	\$20,000
LAG# 38	To provide funding for the City of Damascus for firehouse renovations	\$25,000
LAG# 39	To provide funding for services for Our House in Polk County	\$25,000
LAG# 40	To provide funding for the Boys and Girls Club in Polk County	\$25,000
LAG# 41	To provide funding for services to Warner Robbins for the Senior Citizen Center	\$15,000
LAG# 42	To provide funding to Houston County for assisting Drug Action	

Council	\$15,000
LAG# 43 To provide funding to Emanuel County Volunteer Fire Department for equipment	\$11,000
LAG# 44 To provide funding to Candler County Volunteer Fire Department for equipment	\$10,000
LAG# 45 To provide funding to Johnson County Volunteer Fire Department for equipment	\$10,000
LAG# 46 To provide funding to Upson County for construction and start-up costs for Harbor House	\$100,000
LAG# 47 To provide funding for Mitchell County Fire Department	\$24,500
LAG# 48 To provide funding to the City of Savannah for the Association of the Blind	\$15,000
LAG# 49 To provide funding to the City of Savannah for the Cardiovascular Center	\$15,000
LAG# 50 To provide funding to the Augusta Burn Center for indigent care	\$250,000

#### **PAYMENTS TO GEORGIA MEDICAL CENTER AUTHORITY**

The purpose is to provide funds to the Georgia Medical Center Authority.

Total Funds	\$250,000
State Funds	\$250,000
State General Funds	\$250,000

#### **PAYMENTS TO THE STATE HOUSING TRUST FUND**

The purpose is to provide temporary shelter, permanent housing, and essential services to homeless individuals and households, and provide affordable housing to persons with special needs.

Total Funds	\$4,205,351
Non-State Funds	\$1,172,459
Agency Funds	\$1,172,459
State Funds	\$3,032,892
State General Funds	\$3,032,892

#### **REGIONAL SERVICES**

The purpose is to assist in the marketing, development, and implementation of housing, community and economic development projects and services and to award grants from the Local Development Fund.

Total Funds	\$3,071,517
State Funds	\$3,071,517
State General Funds	\$3,071,517

#### **RENTAL HOUSING PROGRAMS**

The purpose is to provide affordable rental housing to very low, low, and moderate-income households by allocating federal and state housing tax credits on a competitive basis and by providing subsidized housing through the Housing Choice Program.

Total Funds	\$62,831,215
Non-State Funds	\$59,543,386
Agency Funds	\$2,996,579
Federal Funds Not Specifically Identified	\$56,546,807
State Funds	\$3,287,829
State General Funds	\$3,287,829

#### **RESEARCH AND SURVEYS**

The purpose is to conduct surveys and collect financial/management data from local governments and authorities as directed by statute.

Total Funds	\$665,422
State Funds	\$665,422
State General Funds	\$665,422

#### **STATE COMMUNITY DEVELOPMENT PROGRAMS**

The purpose is to assist Georgia cities, small towns and neighborhoods in the development of their core commercial areas and champion new development opportunities for rural Georgia.

Total Funds	\$1,690,051
State Funds	\$1,690,051
State General Funds	\$1,690,051

#### **STATE ECONOMIC DEVELOPMENT PROGRAM**

The purpose is to facilitate and stimulate economic activity, private investment, and job creation by various means including making loans and grants.

Total Funds	\$3,716,081
Non-State Funds	\$11,887
Federal Funds Not Specifically Identified	\$11,887
State Funds	\$3,704,194
State General Funds	\$3,704,194

#### **PAYMENTS TO GEORGIA ENVIRONMENTAL FACILITIES AUTHORITY**

The purpose is to provide funds for the Georgia Rural Water Association and the Infrastructure Grant Program.

Total Funds	\$700,000
State Funds	\$700,000
State General Funds	\$700,000

#### **PAYMENTS TO GEORGIA MUSIC HALL OF FAME AUTHORITY**

The purpose is to preserve Georgia's rich musical heritage.

Total Funds	\$767,039
State Funds	\$767,039
State General Funds	\$767,039

**PAYMENTS TO GEORGIA SPORTS HALL OF FAME AUTHORITY**

The purpose is to preserve and interpret the history of sports in Georgia.

Total Funds	\$725,060
State Funds	\$725,060
State General Funds	\$725,060

**PAYMENTS TO GEORGIA REGIONAL TRANSPORTATION AUTHORITY**

The purpose is to improve Georgia's mobility, air quality, and land use practices.

Total Funds	\$4,360,581
State Funds	\$4,360,581
State General Funds	\$4,360,581

**PAYMENTS TO ONEGEORGIA AUTHORITY**

The purpose is to provide funds for the OneGeorgia Authority.

Total Funds	\$47,123,333
State Funds	\$47,123,333
Tobacco Funds	\$47,123,333

**Section 17: Community Health, Department of**

**Total Funds** \$9,350,909,388

**Non State Funds** \$4,790,832,249

Federal Funds Not Specifically Identified \$0

Agency Funds \$146,969,749

Medical Assistance Program \$4,312,860,208

State Children's Insurance Program \$182,173,412

Indigent Care Trust Fund - Public Hospital Authorities \$148,828,880

**State Funds** \$2,259,945,634

Tobacco Funds \$58,087,386

State General Funds \$2,201,858,248

**Intra-State Government Transfers** \$2,300,131,505

Health Insurance Payments \$1,977,178,195

Optional Medicaid Service Payments \$322,953,310

This paragraph applies to and only to the appropriations for the "MEDICAID: LOW-INCOME MEDICAID" and MEDICAID: AGED, BLIND, AND DISABLED" programs of the Department of Community Health. The appropriation of a particular fund source for each program is the amount stated plus up to an additional amount of 2 percent (2%) of the amount stated. However, if the additional authority is used, the appropriation of the same fund source for the other program to that agency is reduced in

the same amount, such that the stated total in program appropriations from that fund source for the two programs is not exceeded. However, the additional amount must be from a fund source which is lawfully available for the program to which it is added.

#### **DEPARTMENTAL ADMINISTRATION AND PROGRAM SUPPORT**

The purpose is to provide administrative support to all departmental programs.

Total Funds	\$267,224,318
Non-State Funds	\$186,467,368
Medical Assistance Program	\$178,630,997
State Children's Insurance Program	\$7,836,371
State Funds	\$62,221,212
State General Funds	\$62,221,212
Intra-State Government Transfers	\$18,535,738
Health Insurance Payments	\$17,295,727
Optional Medicaid Services Payments	\$1,240,011

#### **HEALTH CARE ACCESS AND IMPROVEMENT**

The purpose is to improve the health, wellness and access to healthcare for Georgians.

Total Funds	\$6,400,244
Non-State Funds	\$513,693
Medical Assistance Program	\$513,693
State Funds	\$5,786,551
State General Funds	\$5,786,551
Intra-State Government Transfers	\$100,000
Optional Medicaid Services Payments	\$100,000

#### **INDIGENT CARE TRUST FUND**

The purpose is to expand Medicaid eligibility and services; support rural and other healthcare providers, primarily hospitals, that serve the medically indigent; and fund primary health care programs for medically indigent Georgians.

Total Funds	\$368,267,504
Non-State Funds	\$368,267,504
Medical Assistance Program	\$219,438,624
Indigent Care Trust Fund - Public Hospital Authorities	\$148,828,880

#### **MEDICAID: AGED, BLIND, AND DISABLED**

**The purpose is to provide health care access primarily to elderly and disabled individuals.**

Total Funds	\$3,586,371,934
Non-State Funds	\$2,418,957,466
Agency Funds	\$91,726,671
Medical Assistance Program	\$2,327,230,795
State Funds	\$1,167,414,468

Tobacco Funds	\$2,143,025
State General Funds	\$1,165,271,443

**MEDICAID: LOW-INCOME MEDICAID**

The purpose is to provide healthcare access primarily to low-income individuals.

Total Funds	\$2,631,014,671
Non-State Funds	\$1,494,321,821
Agency Funds	\$55,243,078
Medical Assistance Program	\$1,439,078,743
State Funds	\$815,079,551
Tobacco Funds	\$50,973,656
State General Funds	\$764,105,895
Intra-State Government Transfers	\$321,613,299
Optional Medicaid Services Payments	\$321,613,299

**NURSING HOME PROVIDER FEES**

There is hereby appropriated to the Department of Community Health a specific sum of money equal to all the provider fees paid to the Indigent Care Trust Fund created pursuant to Article 6A of chapter 8 of Title 31. The sum of money is appropriated for payments to nursing homes pursuant to Article 6A.

Total Funds	\$248,196,640
Non-State Funds	\$147,967,356
Medical Assistance Program	\$147,967,356
State Funds	\$100,229,284
State General Funds	\$100,229,284

**PEACHCARE**

The purpose is to offer comprehensive health care to uninsured children living in Georgia.

Total Funds	\$241,496,714
Non-State Funds	\$174,337,041
State Children's Insurance Program	\$174,337,041
State Funds	\$67,159,673
Tobacco Funds	\$4,970,705
State General Funds	\$62,188,968

**STATE HEALTH BENEFIT PLAN**

The purpose is to provide to state employees a healthcare benefit that is competitive with other commercial benefit plans in quality of care, access to providers and efficient management of provider fees. It is the intent of this General Assembly that the employer contribution rate for the teachers' and state employees' health benefit plan for SFY 2006 shall not exceed 14.30%.

Total Funds	\$1,959,882,468
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Intra-State Government Transfers	\$1,959,882,468
Health Insurance Payments	\$1,959,882,468

#### **COMPOSITE BOARD OF MEDICAL EXAMINERS**

The purpose of this program is to ensure quality health care by licensing qualified applicants as physicians, physician's assistants, physician residents in training, per fusionists, respiratory care professionals, acupuncturists and auricular (ear) detoxification specialists.

Total Funds	\$2,135,705
State Funds	\$2,135,705
State General Funds	\$2,135,705

#### **PHYSICIAN WORKFORCE, GEORGIA Board OF: Board ADMINISTRATION**

The purpose is to provide support services to the programs of the Georgia Board of Physician Workforce.

Total Funds	\$533,241
State Funds	\$533,241
State General Funds	\$533,241

#### **PHYSICIAN WORKFORCE, GEORGIA Board OF: GRADUATE MEICAL EDUCATION**

The purpose is to ensure an adequate supply of primary care and other needed physician specialists through cost effective public/private partnerships with Georgia's private medical schools.

Total Funds	\$6,501,965
State Funds	\$6,501,965
State General Funds	\$6,501,965

#### **PHYSICIAN WORKFORCE, GEORGIA Board OF: MERCER SCHOOL OF MEDICINE GRANT**

The purpose is to recruit and train students as physicians committed to the primary healthcare needs of underserved Georgians.

Total Funds	\$17,960,862
State Funds	\$17,960,862
State General Funds	\$17,960,862

#### **PHYSICIAN WORKFORCE, GEORGIA Board OF: MOREHOUSE SCHOOL OF MEDICINE GRANT**

The purpose is to recruit and train students as physicians committed to the primary healthcare needs of underserved Georgians.

Total Funds	\$10,141,628
State Funds	\$10,141,628

State General Funds	\$10,141,628
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**PHYSICIAN WORKFORCE, GEORGIA BOARD OF: UNDERGRADUATE MEDICAL EDUCATION**

The purpose is to identify the physician workforce needs of Georgia communities and to meet those needs through the support and development of medical education programs.

Total Funds	\$3,428,706
State Funds	\$3,428,706
State General Funds	\$3,428,706

**MEDICAL EDUCATION BOARD, STATE**

The purpose is to provide an adequate supply of physicians in rural areas of the state; and to provide a program of aid to promising medical students.

Total Funds	\$1,352,788
State Funds	\$1,352,788
State General Funds	\$1,352,788

**Section 18: Corrections, Department of**

<b>Total Funds</b>	<b>\$958,801,358</b>
<b>Non State Funds</b>	<b>\$30,873,293</b>
Federal Funds Not Specifically Identified	\$9,616,943
Agency Funds	\$21,256,350
<b>State Funds</b>	<b>\$927,228,065</b>
State General Funds	\$927,228,065
<b>Intra-State Government Transfers</b>	<b>\$700,000</b>
Other Intra-State Government Payments	\$700,000

**BAINBRIDGE PROBATION SUBSTANCE ABUSE TREATMENT CENTER**

The purpose is to provide a sanctioning option for probationers who require more security and supervision than provided by regular community supervision.

Total Funds	\$3,254,462
Non-State Funds	\$27,789
Agency Funds	\$7,046
Federal Funds Not Specifically Identified	\$20,743
State Funds	\$3,226,673
State General Funds	\$3,226,673

**COMPENSATION PER GENERAL ASSEMBLY RESOLUTIONS**

The purpose is to fund HR108 of the 2005 session.

Total Funds	\$512,377
State Funds	\$512,377
State General Funds	\$512,377

**COUNTY JAIL SUBSIDY**

The purpose is to reimburse counties for the costs of incarcerating state prisoners in their local facilities.

Total Funds	\$12,154,999
Non-State Funds	\$2,501,508
Federal Funds Not Specifically Identified	\$2,501,508
State Funds	\$9,653,491
State General Funds	\$9,653,491

**DEPARTMENTAL ADMINISTRATION**

The purpose is to protect and serve the citizens of Georgia by providing an effective and efficient department that administers a balanced correctional system.

Total Funds	\$54,848,017
Non-State Funds	\$1,836,000
Federal Funds Not Specifically Identified	\$1,836,000
State Funds	\$53,012,017
State General Funds	\$53,012,017

**DETENTION CENTERS**

The purpose is to provide a sanctioning option for probationers who require more security or supervision than provided by regular community supervision or a diversion center.

Total Funds	\$47,166,724
Non-State Funds	\$3,716,165
Agency Funds	\$1,136,399
Federal Funds Not Specifically Identified	\$2,579,766
State Funds	\$43,450,559
State General Funds	\$43,450,559

**FOOD AND FARM OPERATIONS**

The purpose is to raise crops and livestock, and produce dairy items used in preparing meals for offenders.

Total Funds	\$12,624,465
Non-State Funds	\$216,725
Agency Funds	\$194,725
Federal Funds Not Specifically Identified	\$22,000
State Funds	\$12,407,740
State General Funds	\$12,407,740

**HEALTH**

The purpose is to provide the required constitutional level of health care to the inmates of the correctional system in the most cost effective and humane manner possible.

Total Funds	\$160,007,352
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Non-State Funds	\$8,464,209
Agency Funds	\$8,464,209
State Funds	\$151,543,143
State General Funds	\$151,543,143

**OFFENDER MANAGEMENT**

The purpose is to provide cost effective correctional services that ensures public safety.

Total Funds	\$44,118,606
State Funds	\$44,118,606
State General Funds	\$44,118,606

**PAROLE REVOCATION CENTERS**

The purpose is to provide a sanction for parole violations.

Total Funds	\$3,894,956
Non-State Funds	\$59,648
Agency Funds	\$49,138
Federal Funds Not Specifically Identified	\$10,510
State Funds	\$3,835,308
State General Funds	\$3,835,308

**PRIVATE PRISONS**

The purpose is to provide cost effective correctional services that ensure public safety.

Total Funds	\$72,518,200
State Funds	\$72,518,200
State General Funds	\$72,518,200

**PROBATION DIVERSION CENTERS**

The purpose is to provide a residential sentencing option that allows offenders to continue to work in the community while receiving close supervision from corrections officials.

Total Funds	\$16,172,848
Non-State Funds	\$3,388,692
Agency Funds	\$3,188,692
Federal Funds Not Specifically Identified	\$200,000
State Funds	\$12,784,156
State General Funds	\$12,784,156

**PROBATION SUPERVISION**

The purpose is to supervise probationers.

Total Funds	\$68,632,697
State Funds	\$68,632,697
State General Funds	\$68,632,697

**STATE PRISONS**

The purpose is to house violent or repeat criminals, or nonviolent inmates who have exhausted all other forms of punishment.

Total Funds	\$442,582,200
Non-State Funds	\$10,662,557
Agency Funds	\$8,216,141
Federal Funds Not Specifically Identified	\$2,446,416
State Funds	\$431,219,643
State General Funds	\$431,219,643
Intra-State Government Transfers	\$700,000
Other Intra-State Government Payments	\$700,000

**TRANSITIONAL CENTERS**

The purpose is to provide "work release", allowing the inmate to obtain and maintain a paying job in the community while requiring him or her to conform to the structure of the center.

Total Funds	\$20,313,455
State Funds	\$20,313,455
State General Funds	\$20,313,455

**Section 19: Defense, Department of**

<b>Total Funds</b>	<b>\$46,131,314</b>
<b>Non State Funds</b>	<b>\$37,771,909</b>
Federal Funds Not Specifically Identified	\$35,265,153
Agency Funds	\$2,506,756
<b>State Funds</b>	<b>\$8,359,405</b>
State General Funds	\$8,359,405
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**CIVIL SUPPORT**

The purpose is to provide an all volunteer force to augment Georgia's organized militia in the event of a federal force mobilization.

Total Funds	\$9,024,617
Non-State Funds	\$5,670,709
Federal Funds Not Specifically Identified	\$5,670,709
State Funds	\$3,353,908
State General Funds	\$3,353,908

**DEPARTMENTAL ADMINISTRATION**

The purpose is to provide administration to the organized militia in the State of Georgia.

Total Funds	\$2,516,146
Non-State Funds	\$240,924
Agency Funds	\$138,791

Federal Funds Not Specifically Identified	\$102,133
State Funds	\$2,275,222
State General Funds	\$2,275,222

**FACILITIES MANAGEMENT**

The purpose is to provide and maintain administrative, flight and training facilities for the Georgia Air National Guard that enhance readiness and are aesthetically pleasing within the community.

Total Funds	\$34,114,775
Non-State Funds	\$31,860,276
Agency Funds	\$2,367,965
Federal Funds Not Specifically Identified	\$29,492,311
State Funds	\$2,254,499
State General Funds	\$2,254,499

**MILITARY READINESS**

The purpose is to provide a trained and ready military air force that can be activated and deployed at the direction of the President or the Governor to insure the safety and well being of all citizens.

Total Funds	\$475,776
State Funds	\$475,776
State General Funds	\$475,776

**Section 20: Early Care and Learning, Department of**

<b>Total Funds</b>	<b>\$383,868,470</b>
<b>Non State Funds</b>	<b>\$88,886,345</b>
Federal Funds Not Specifically Identified	\$88,865,436
Agency Funds	\$20,909
<b>State Funds</b>	<b>\$294,111,979</b>
Lottery Funds	\$290,081,308
State General Funds	\$4,030,671
<b>Intra-State Government Transfers</b>	<b>\$870,146</b>
Other Intra-State Government Payments	\$870,146

**CHILD CARE SERVICES**

The purpose is to guide and assist child care learning facilities to provide safe, healthy, quality child care so that children experience optimum opportunities for learning and growth.

Total Funds	\$4,700,578
Non-State Funds	\$669,907
Federal Funds Not Specifically Identified	\$669,907
State Funds	\$4,030,671
State General Funds	\$4,030,671

**NUTRITION**

The purpose is to ensure that eligible children and adults receive USDA compliant meals.

Total Funds	\$88,000,835
Non-State Funds	\$88,000,835
Federal Funds Not Specifically Identified	\$88,000,835

**PRE-KINDERGARTEN PROGRAM**

The purpose is to provide funding for providers who operate the Pre-K program.

Total Funds	\$290,296,911
Non-State Funds	\$215,603
Agency Funds	\$20,909
Federal Funds Not Specifically Identified	\$194,694
State Funds	\$290,081,308
Lottery Funds	\$290,081,308

**QUALITY INITIATIVES**

The purpose is to explore new ideas and help implement innovative strategies that focus on improving the quality of early education, child care, and nutrition for Georgia's children and families.

Total Funds	\$870,146
Intra-State Government Transfers	\$870,146
Other Intra-State Government Payments	\$870,146

**Section 21: Economic Development, Department of**

<b>Total Funds</b>	<b>\$29,671,123</b>
<b>Non State Funds</b>	<b>\$20,244</b>
Agency Funds	\$20,244
<b>State Funds</b>	<b>\$29,650,879</b>
State General Funds	\$29,650,879
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**BUSINESS RECRUITMENT AND EXPANSION**

The purpose is to provide assistance to local communities and to the state to recruit, retain, and expand businesses in Georgia.

Total Funds	\$6,783,664
State Funds	\$6,783,664
State General Funds	\$6,783,664

**DEPARTMENTAL ADMINISTRATION**

The purpose is to influence, affect, and enhance economic development in Georgia and provide information to people and companies to promote the state.

Total Funds	\$6,213,661
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State Funds	\$6,213,661
State General Funds	\$6,213,661

**FILM, MUSIC, AND VIDEO**

The purpose is to increase industry awareness of Georgia business opportunities, infrastructure resources, and natural resources as it pertains to the film, video, and music industry.

Total Funds	\$1,012,337
State Funds	\$1,012,337
State General Funds	\$1,012,337

**INTERNATIONAL RELATIONS AND TRADE**

The purpose is to provide international trade opportunities through exports to provide executive leadership for international relations and promote Georgia products and companies to other nations.

Total Funds	\$2,056,980
State Funds	\$2,056,980
State General Funds	\$2,056,980

**OFFICE OF SCIENCE AND TECHNOLOGY BUSINESS DEVELOPMENT**

The purpose is to lead in the recruitment, growth, and marketing of the life sciences and technology industries in Georgia.

Total Funds	\$1,563,914
State Funds	\$1,563,914
State General Funds	\$1,563,914

**SMALL AND MINORITY BUSINESS DEVELOPMENT**

The purpose is to provide guidance and support to agencies in maximizing access to state business opportunities for small and minority businesses.

Total Funds	\$944,398
Non-State Funds	\$20,244
Agency Funds	\$20,244
State Funds	\$924,154
State General Funds	\$924,154

**TOURISM**

The purpose is to provide information to visitors about tourism opportunities throughout the state and encourage tourism expenditures.

Total Funds	\$11,096,169
State Funds	\$11,096,169
State General Funds	\$11,096,169

**Section 22: Education, Department of**

<b>Total Funds</b>	<b>\$7,593,338,019</b>
<b>Non State Funds</b>	<b>\$1,153,659,899</b>
Federal Funds Not Specifically Identified	\$1,111,268,592
Other Non-State Funds	\$42,391,307
<b>State Funds</b>	<b>\$6,439,678,120</b>
State General Funds	\$6,439,678,120
<b>Intra-State Government Transfers</b>	<b>\$0</b>

The formula calculation for Quality Basic Education funding assumes a base unit cost of \$2,425.97. In addition, all local school system allotments for Quality Basic Education shall be made in accordance with funds appropriated by this Act.

**ACADEMIC COACH**

The purpose of this program is to provide certificated public school teachers who exhibit excellence in the classroom with salary supplements or bonuses in exchange for mentoring other public school teachers.

Total Funds	\$3,899,132
State Funds	\$3,899,132
State General Funds	\$3,899,132

**AGRICULTURAL EDUCATION**

The purpose is to provide students with competencies to make them aware of the importance of the agricultural industry and develop skills to prepare them for the world of work.

Total Funds	\$7,999,999
Non-State Funds	\$576,577
Other Non-State Funds	\$450,000
Federal Funds Not Specifically Identified	\$126,577
State Funds	\$7,423,422
State General Funds	\$7,423,422

**CENTRAL OFFICE**

The purpose is to act as a service oriented agency supporting local school districts.

Total Funds	\$78,258,130
Non-State Funds	\$43,333,449
Other Non-State Funds	\$6,899,025
Federal Funds Not Specifically Identified	\$36,434,424
State Funds	\$34,924,681
State General Funds	\$34,924,681

**CHARTER SCHOOLS**

Georgia's Charter School program seeks to support and encourage development and

approval of charter public schools as one part of Georgia's overall school improvement strategy.

Total Funds	\$7,499,904
Non-State Funds	\$6,729,711
Federal Funds Not Specifically Identified	\$6,729,711
State Funds	\$770,193
State General Funds	\$770,193

### **COMMUNITIES IN SCHOOLS**

Communities in Schools operates alternative education programs throughout the state, bringing community resources into schools to help students stay in school and prepare for life.

Total Funds	\$1,320,623
State Funds	\$1,320,623
State General Funds	\$1,320,623

### **CURRICULUM DEVELOPMENT**

The purpose is to provide a world-class curriculum that will drive both instruction and assessment for Georgia's teachers and students.

Total Funds	\$1,774,833
State Funds	\$1,774,833
State General Funds	\$1,774,833

### **FEDERAL PROGRAMS**

Federal programs coordinates federally funded programs and allocates federal funds to school systems.

Total Funds	\$817,561,039
Non-State Funds	\$817,561,039
Federal Funds Not Specifically Identified	\$817,561,039

### **FOREIGN LANGUAGE**

The foreign language program provides funds to elementary schools for foreign language instruction.

Total Funds	\$1,590,857
State Funds	\$1,590,857
State General Funds	\$1,590,857

### **GEORGIA LEARNING RESOURCES SYSTEM**

The purpose of this program is to provide training and resources to educators and parents of students with disabilities through a network of 17 centers around the state.

Total Funds	\$5,117,573
Non-State Funds	\$5,117,573
Federal Funds Not Specifically Identified	\$5,117,573

**GEORGIA VIRTUAL SCHOOL**

The purpose of this program is to provide students enrollment in state funded courses via the Internet or in any other manner not involving on-site interaction with a teacher.

Total Funds	\$1,385,000
State Funds	\$1,385,000
State General Funds	\$1,385,000

**GEORGIA YOUTH SCIENCE AND TECHNOLOGY**

The purpose of this program is to increase interest and enthusiasm in science and the technologies, particularly among elementary and middle school teachers and students.

Total Funds	\$689,203
State Funds	\$689,203
State General Funds	\$689,203

**GOVERNOR'S HONORS PROGRAM**

The purpose of this program is to provide intellectually gifted and artistically talented high school students challenging and enriching educational opportunities not usually available during the regular school year.

Total Funds	\$1,416,743
State Funds	\$1,416,743
State General Funds	\$1,416,743

**INFORMATION TECHNOLOGY SERVICES**

The purpose is primarily responsible for the collection and reporting of accurate data through the development and maintenance of web-enabled applications.

Total Funds	\$7,496,550
State Funds	\$7,496,550
State General Funds	\$7,496,550

**NATIONAL BOARD CERTIFICATION**

National Board Certification is jointly administered between the Department of Education and the Professional Standards Commission. The Department of Education component provides the ten percent salary increase for national board certified teachers (based on the state salary) to local systems.

Total Funds	\$11,038,035
State Funds	\$11,038,035
State General Funds	\$11,038,035

**NATIONAL SCIENCE CENTER AND FOUNDATION**

The purpose of this program is to ignite and promote students' interest in Mathematics and Sciences, to develop new ways to use technology in teaching, and to deploy those methods in our schools.

Total Funds	\$1,416,750
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State Funds	\$1,416,750
State General Funds	\$1,416,750

**NON QUALITY BASIC EDUCATION FORMULA GRANTS**

The purpose of this program is to assure that sufficient funds are provided in order for the State's public school students to receive an effective education.

Total Funds	\$7,688,674
State Funds	\$7,688,674
State General Funds	\$7,688,674

**NUTRITION**

The purpose is to provide leadership, training, technical assistance, and resources, so local program personnel can deliver meals that support nutritional well-being and performance at school.

Total Funds	\$224,393,314
Non-State Funds	\$188,375,722
Federal Funds Not Specifically Identified	\$188,375,722
State Funds	\$36,017,592
State General Funds	\$36,017,592

**PRESCHOOL HANDICAPPED**

The purpose of this program is to provide early intervention so students with disabilities will enter schools with the skills to succeed.

Total Funds	\$24,008,490
State Funds	\$24,008,490
State General Funds	\$24,008,490

**PRINCIPAL SUPPLEMENTS**

The purpose of the program is to provide supplements to principals, the amount being determined by multiplying the amount per weighted full-time equivalent count by the weighted full-time equivalent count for each school.

Total Funds	\$5,361,125
State Funds	\$5,361,125
State General Funds	\$5,361,125

**QUALITY BASIC EDUCATION EQUALIZATION**

This program provides money to local school systems after assessing an equity breakdown of the Local Five Mill Share Program in order to narrow the gap (per pupil) between school systems.

Total Funds	\$371,657,510
State Funds	\$371,657,510
State General Funds	\$371,657,510

**QUALITY BASIC EDUCATION LOCAL FIVE MILL SHARE**

The state will pay 80% of QBE Formula funded costs and local school systems are required to pay 20%. The Local Five Mill Share is a required local effort and is based on five mills of tax on the equalized adjusted property tax digest.

Total Funds	(\$1,335,476,389)
State Funds	(\$1,335,476,389)
State General Funds	(\$1,335,476,389)

**QUALITY BASIC EDUCATION PROGRAM**

The purpose is to provide funds to school systems for the instruction of students in grades K-12 to ensure that Georgia's K-12 students are academically prepared for further education and the workplace.

Total Funds	\$6,677,381,942
State Funds	\$6,677,381,942
State General Funds	\$6,677,381,942

**REGIONAL EDUCATION SERVICE AGENCIES**

The purpose is to provide Georgia's 16 Regional Education Service Agencies with shared services to improve the effectiveness of educational programs and services to local school systems.

Total Funds	\$11,473,253
State Funds	\$11,473,253
State General Funds	\$11,473,253

**SCHOOL IMPROVEMENT**

The purpose is to design and implement a coherent and sustained statewide system of support and process for improvement, providing local education agencies and schools in Georgia with tools and resources as well as intensive support for schools not making Adequate Yearly Progress.

Total Funds	\$11,736,228
Non-State Funds	\$100,000
Other Non-State Funds	\$100,000
State Funds	\$11,636,228
State General Funds	\$11,636,228

**SCHOOL NURSES**

The purpose of this program is to provide appropriate health procedures to allow students to remain in school and increase opportunities for academic success.

Total Funds	\$30,000,000
Non-State Funds	\$30,000,000
Other Non-State Funds	\$30,000,000

**SEVERELY EMOTIONALLY DISTURBED**

The purpose is to provide statewide services to parents and educators of students with disabilities.

Total Funds	\$72,408,795
Non-State Funds	\$7,724,112
Federal Funds Not Specifically Identified	\$7,724,112
State Funds	\$64,684,683
State General Funds	\$64,684,683

**STATE INTERAGENCY TRANSFERS**

The purpose is to provide health insurance to retired teachers and non certified personnel and to pass through funding via a contract.

Total Funds	\$270,480,390
Non-State Funds	\$18,888,697
Federal Funds Not Specifically Identified	\$18,888,697
State Funds	\$251,591,693
State General Funds	\$251,591,693

**STATE READING AND MATH**

The purpose of this program is to improve academic proficiency in reading and math by funding research-based programs in grades K-3 and after-school programs in grades 4-8.

Total Funds	\$26,652,770
State Funds	\$26,652,770
State General Funds	\$26,652,770

**STATE SCHOOLS**

The purpose of the State Schools is to prepare sensory-impaired and multi-disabled students to become productive citizens by providing a learning environment addressing their academic, vocational, and social development.

Total Funds	\$19,808,038
Non-State Funds	\$932,715
Other Non-State Funds	\$932,715
State Funds	\$18,875,323
State General Funds	\$18,875,323

**TECHNOLOGY/CAREER EDUCATION**

The purpose is to equip students with academic, technical and leadership skills.

Total Funds	\$39,872,754
Non-State Funds	\$24,616,113
Other Non-State Funds	\$4,009,567
Federal Funds Not Specifically Identified	\$20,606,546
State Funds	\$15,256,641
State General Funds	\$15,256,641

**TESTING**

The purpose is to adopt a student assessment program consisting of instruments, procedures, and policies necessary to implement the program.

Total Funds	\$27,414,020
Non-State Funds	\$9,704,191
Federal Funds Not Specifically Identified	\$9,704,191
State Funds	\$17,709,829
State General Funds	\$17,709,829

**TRANSPORTATION**

This purpose of this program is to assist local school systems in their efforts to provide safe and efficient transportation for students to and from school and school related activities. Assistance is provided in the areas of driver training, funding, equipment specifications and purchases.

Total Funds	\$158,353,875
State Funds	\$158,353,875
State General Funds	\$158,353,875

**TUITION FOR MULTI-HANDICAPPED**

The purpose of this program is to provide funds to assist school systems that have multi-handicapped students. These funds are intended to assist systems in meeting the high cost of private residential placements and to provide a continuum of placements for such students as mandated by federal regulations.

Total Funds	\$1,658,859
State Funds	\$1,658,859
State General Funds	\$1,658,859

**Section 23: Employees' Retirement System of Georgia**

<b>Total Funds</b>	<b>\$22,198,378</b>
<b>Non State Funds</b>	<b>\$228,749</b>

Other Non-State Funds \$228,749

<b>State Funds</b>	<b>\$5,112,647</b>
State General Funds	\$5,112,647

<b>Intra-State Government Transfers</b>	<b>\$16,856,982</b>
Retirement Payments	\$16,856,982

It is the intent of the General Assembly that the employer contribution rate for the Employees' Retirement System shall not exceed 10.41% for New Plan Employees and 5.66% for Old Plan Employees for State Fiscal Year 2005.

It is the intent of the General Assembly that the employer contribution for Public School Employees' Retirement System shall not exceed \$23.35 per member for State Fiscal Year 2005.

**GEORGIA MILITARY PENSION FUND**

The purpose is to provide retirement allowances and other benefits for members of the Georgia National Guard.

Total Funds	\$890,651
State Funds	\$890,651
State General Funds	\$890,651

**SYSTEM ADMINISTRATION**

The purpose is to collect employee and employer contributions, invest the accumulated funds, and disburse retirement benefits to members and beneficiaries.

Total Funds	\$17,085,731
Non-State Funds	\$228,749
Other Non-State Funds	\$228,749
Intra-State Government Transfers	\$16,856,982
Retirement Payments	\$16,856,982

**PUBLIC SCHOOL EMPLOYEES RETIREMENT SYSTEM**

The purpose is to account for the receipt of retirement contributions, to ensure sound investing of system funds, and timely and accurate payment of retirement benefits.

Total Funds	\$4,221,996
State Funds	\$4,221,996
State General Funds	\$4,221,996

**Section 24: Forestry Commission, State**

<b>Total Funds</b>	<b>\$38,202,402</b>
<b>Non State Funds</b>	<b>\$6,270,129</b>
Federal Funds Not Specifically Identified	\$822,000
Agency Funds	\$5,448,129
<b>State Funds</b>	<b>\$31,932,273</b>
State General Funds	\$31,932,273
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COMMISSION ADMINISTRATION**

The purpose is to administer work force needs, handle purchasing, accounts receivable and payable, meet information technology needs, and provide oversight that emphasizes customer values and process innovation.

Total Funds	\$3,971,637
Non-State Funds	\$173,027
Agency Funds	\$173,027
State Funds	\$3,798,610
State General Funds	\$3,798,610

**FOREST MANAGEMENT**

The purpose is to survey 20% of permanently established forest survey plots annually to gather forest health and inventory data.

Total Funds	\$3,804,212
Non-State Funds	\$1,179,500
Agency Funds	\$627,500
Federal Funds Not Specifically Identified	\$552,000
State Funds	\$2,624,712
State General Funds	\$2,624,712

**FOREST PROTECTION**

The purpose is to protect the public and forest resources.

Total Funds	\$28,451,721
Non-State Funds	\$2,876,611
Agency Funds	\$2,676,611
Federal Funds Not Specifically Identified	\$200,000
State Funds	\$25,575,110
State General Funds	\$25,575,110

**TREE IMPROVEMENT**

The purpose is to provide quality, forest tree planting stock to Georgia landowners at reasonable prices without reliance on legislative appropriations.

Total Funds	\$119,123
State Funds	\$119,123
State General Funds	\$119,123

**TREE SEEDLING NURSERY**

The purpose is to provide quality, forest tree planting stock to Georgia landowners at reasonable prices without reliance on legislative appropriations.

Total Funds	\$1,855,709
Non-State Funds	\$2,040,991
Agency Funds	\$1,970,991
Federal Funds Not Specifically Identified	\$70,000
State Funds	(\$185,282)
State General Funds	(\$185,282)

**Section 25: Governor, Office of the**

<b>Total Funds</b>	<b>\$56,493,796</b>
<b>Non State Funds</b>	<b>\$6,493,772</b>
Federal Funds Not Specifically Identified	\$5,542,383
Agency Funds	\$890,545
Other Non-State Funds	\$60,844
<b>State Funds</b>	<b>\$50,000,024</b>

Tobacco Funds	\$10,482,554
State General Funds	\$39,517,470
<b>Intra-State Government Transfers</b>	<b>\$0</b>

There is hereby appropriated to the Office of the Governor the sum of \$400,000 of the moneys collected in accordance with O.C.G.A. Title 10, Chapter 1, Article 28. The sum of money is appropriated for use by the office of the Consumer Affairs for all the purposes for which such moneys may be appropriated pursuant to Article 28. The Mansion allowance shall be \$40,000.

#### **CHILD ADVOCATE, OFFICE OF THE**

The purpose is to provide independent oversight of persons, organizations, and agencies responsible for the protection and well-being of children.

Total Funds	\$716,356
State Funds	\$716,356
State General Funds	\$716,356

#### **GOVERNOR'S EMERGENCY FUND**

The purpose is to provide emergency funds to draw on when disasters create extraordinary demands on government.

Total Funds	\$3,469,576
State Funds	\$3,469,576
State General Funds	\$3,469,576

#### **GOVERNOR'S OFFICE**

The purpose is to provide numerous duties including, but not limited to: granting commissions, appointments and vacancies, maintaining order, and temporary transfer of institutions between departments or agencies.

Total Funds	\$5,056,367
State Funds	\$5,056,367
State General Funds	\$5,056,367

#### **OFFICE OF HOMELAND SECURITY**

Per Executive Order, the purpose is to lead and direct the preparation, employment and management of state resources to safeguard Georgia and its citizens against threats or acts of terrorism and natural disasters.

Total Funds	\$592,905
State Funds	\$592,905
State General Funds	\$592,905

#### **OFFICE OF THE STATE INSPECTOR GENERAL**

Per Executive Order, the purpose is to foster and promote accountability and integrity in state government by investigating and preventing fraud, waste and abuse.

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Total Funds	\$791,432
State Funds	\$791,432
State General Funds	\$791,432

#### **EMERGENCY MANAGEMENT AGENCY, GEORGIA**

The purpose is to provide a comprehensive and aggressive emergency preparedness, response, and recovery program for the citizens of Georgia in order to save lives, protect property, and reduce the effects of disasters.

Total Funds	\$6,424,580
Non-State Funds	\$4,435,412
Agency Funds	\$307,856
Federal Funds Not Specifically Identified	\$4,127,556
State Funds	\$1,989,168
State General Funds	\$1,989,168

#### **STUDENT ACHIEVEMENT, OFFICE OF**

The purpose is to improve student achievement and school completion in Georgia.

Total Funds	\$1,401,864
Non-State Funds	\$266,000
Federal Funds Not Specifically Identified	\$266,000
State Funds	\$1,135,864
State General Funds	\$1,135,864

#### **EQUAL OPPORTUNITY, GEORGIA COMMISSION ON**

The purpose is to enforce the Georgia Fair Employment Practices Act of 1978, as amended, and the Fair Housing Act which makes it unlawful for discrimination against any individual.

Total Funds	\$1,082,924
Non-State Funds	\$387,217
Federal Funds Not Specifically Identified	\$387,217
State Funds	\$695,707
State General Funds	\$695,707

#### **CONSUMER AFFAIRS, GOVERNOR'S OFFICE OF**

The Office of Consumer Affairs protects consumers and legitimate business enterprises from unfair and deceptive business practices through the enforcement of the Fair Business Practices Act and other related consumer protection statutes.

Total Funds	\$3,855,041
Non-State Funds	\$567,689
Agency Funds	\$567,689
State Funds	\$3,287,352
State General Funds	\$3,287,352

**ARTS, GEORGIA COUNCIL FOR THE**

The purpose is to provide general operation support and project support grants for art organizations.

Total Funds	\$4,626,070
Non-State Funds	\$725,524
Agency Funds	\$15,000
Other Non-State Funds	\$60,844
Federal Funds Not Specifically Identified	\$649,680
State Funds	\$3,900,546
State General Funds	\$3,900,546

**PROFESSIONAL STANDARDS COMMISSION, GEORGIA**

The purpose is to direct the preparation, certification, professional discipline and recruitment of educators in Georgia.

Total Funds	\$6,691,770
Non-State Funds	\$111,930
Federal Funds Not Specifically Identified	\$111,930
State Funds	\$6,579,840
State General Funds	\$6,579,840

**PAYMENTS TO THE GEORGIA CANCER COALITION**

The purpose is to provide funds to the Cancer Coalition for ongoing research and preventative measures.

Total Funds	\$10,482,554
State Funds	\$10,482,554
Tobacco Funds	\$10,482,554

**PLANNING AND BUDGET - ATTACHED AGENCY ADMINISTRATION**

The purpose is to provide administration services to various agencies.

Total Funds	\$4,961,364
State Funds	\$4,961,364
State General Funds	\$4,961,364

**PLANNING AND BUDGET - BUDGET MANAGEMENT AND FISCAL POLICY**

The purpose is to supply budgeting, policy management and revenue forecasting for the Office of the Governor.

Total Funds	\$2,331,824
State Funds	\$2,331,824
State General Funds	\$2,331,824

**PLANNING AND BUDGET - OFFICE ADMINISTRATION**

The purpose is to provide the governor with policymaking assistance in determining strategic and tactical plans for state agencies.

Total Funds	\$1,521,238
State Funds	\$1,521,238
State General Funds	\$1,521,238

**PLANNING AND BUDGET - PLANNING AND EVALUATION**

The purpose is to provide capital budget planning and review and to provide strategic and business planning services to the Office of the Governor.

Total Funds	\$899,456
State Funds	\$899,456
State General Funds	\$899,456

**PLANNING AND BUDGET - RESEARCH AND MANAGEMENT**

The purpose is to provide policy and program research for the Office of the Governor and to manage state Clearinghouse function and provide the Office of Planning and Budget database and technical support.

Total Funds	\$1,588,475
State Funds	\$1,588,475
State General Funds	\$1,588,475

**Section 26: Human Resources, Department of**

<b>Total Funds</b>	<b>\$2,799,962,234</b>
<b>Non State Funds</b>	<b>\$1,427,684,282</b>
Federal Funds Not Specifically Identified	\$523,424,950
Agency Funds	\$178,072,627
Other Non-State Funds	\$20,557,762
Temporary Assistance for Needy Families Block Grant	\$314,722,471
Social Services Block Grant	\$55,368,733
Child Care and Development Block Grant	\$74,026,303
Foster Care Title IV-E	\$66,740,935
Maternal/Child Health Services Block Grant	\$17,348,033
Preventive Health/Health Services Block	\$4,203,960
Block Grants for Community Mental Health Services	\$12,840,422
Block Grants for Prevention/Treatment of Substance Abuse	\$50,960,435
Community Services Block Grant	\$17,185,183
Low-Income Home Energy Assistance	\$18,929,972
TANF - Block Grant Unobligated Balance	\$20,000,000
TANF - Block Grant Transfers to Social Services Block Grant	\$23,602,496
TANF - Block Grant Transfers to Child Care Development Fund	\$29,700,000
<b>State Funds</b>	<b>\$1,372,277,952</b>
Tobacco Funds	\$35,033,479

Other State Funds	\$3,000,000
State General Funds	\$1,334,244,473
<b>Intra-State Government Transfers</b>	<b>\$0</b>

All Temporary Assistance for Needy Families benefit payments are calculated utilizing a factor of 66.0% of the standards of need; such payments shall be made from the date of certification and not from the date of application; and the following maximum benefits and maximum standards of need shall apply:

For an assistance group of one, the standards of need is \$235, and the maximum monthly amount is \$155.

For an assistance group of two, the standards of need is \$356, and the maximum monthly amount is \$235.

For an assistance group of three, the standards of need is \$424, and the maximum monthly amount is \$280.

For an assistance group of four, the standards of need is \$500, and the maximum monthly amount is \$330.

For an assistance group of five, the standards of need is \$573, and the maximum monthly amount is \$378.

For an assistance group of six, the standards of need is \$621, and the maximum monthly amount is \$410.

For an assistance group of seven, the standards of need is \$672, and the maximum monthly amount is \$444.

For an assistance group of eight, the standards of need is \$713, and the Maximum monthly amount is \$470.

For an assistance group of nine, the standards of need is \$751, and the maximum monthly amount is \$496.

For an assistance group of ten, the standards of need is \$804, and the maximum monthly amount is \$530.

For an assistance group of eleven, the standards of need is \$860, and the maximum monthly amount is \$568.

Provided, the Department of Human Resources is authorized to make supplemental payments on these maximum monthly amounts up to the amount that is equal to the minimum hourly wage for clients who are enrolled in subsidized work experience and subsidized employment.

The Office of Planning and Budget is hereby authorized to transfer funds to the appropriate departmental programs in amounts equal to the departmental remittances to the Office of Treasury and Fiscal Services from agency fund collections.

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#### **ADOLESCENT HEALTH AND YOUTH DEVELOPMENT**

The purpose is to prevent teenage pregnancy and out-of-wedlock births and promote male responsibility.

Total Funds	\$12,758,046
Non-State Funds	\$9,807,473
Federal Funds Not Specifically Identified	\$25,631
Temporary Assistance for Needy Families Block Grant	\$8,738,374
Maternal and Child Health Services Block Grant	\$1,043,468
State Funds	\$2,950,573
State General Funds	\$2,950,573

#### **ADOPTION SERVICES AND SUPPLEMENTS**

The purpose is to support and facilitate the permanent placement of children in safe and stable homes by providing financial assistance and supportive services.

Total Funds	\$53,938,698
Non-State Funds	\$26,119,516
Agency Funds	\$561,732
Temporary Assistance for Needy Families Block Grant	\$4,300,000
Foster Care Title IV-E	\$21,257,784
State Funds	\$27,819,182
State General Funds	\$27,819,182

#### **ADULT PROTECTIVE SERVICES**

The purpose is to protect disabled adults and elder persons who are not residents of long term care facilities from situations of domestic abuse, neglect and exploitation.

Total Funds	\$14,599,295
Non-State Funds	\$6,432,602
Federal Funds Not Specifically Identified	\$4,178,063
Social Services Block Grant	\$2,254,539
State Funds	\$8,166,693
State General Funds	\$8,166,693

#### **CANCER SCREENING AND PREVENTION**

The purpose is to reduce the morbidity and mortality from breast or cervical cancer.

Total Funds	\$6,261,931
State Funds	\$6,261,931
Tobacco Funds	\$2,725,113
State General Funds	\$3,536,818

#### **CHILD CARE AND PARENT SERVICES**

The purpose is to permit low income families to be self-reliant while protecting the safety and well-being of their children by ensuring access to child care.

Total Funds	\$208,761,492
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Non-State Funds	\$147,139,203
Agency Funds	\$832,728
Federal Funds Not Specifically Identified	\$32,580,082
Temporary Assistance for Needy Families Block Grant	\$10,000,000
Social Services Block Grant	\$90
Child Care and Development Block Grant	\$74,026,303
Temporary Assistance for Needy Families Block Grant	\$29,700,000
Transfers to Child Care Development Fund	
State Funds	\$61,622,289
State General Funds	\$61,622,289

**CHILD FATALITY REVIEW PANEL**

The purpose is to provide a confidential forum for local child fatality review committees to determine manner and cause of death and if the death was preventable.

Total Funds	\$332,125
State Funds	\$332,125
State General Funds	\$332,125

**CHILD PROTECTIVE SERVICES**

The purpose of this statewide program investigates allegations of child abuse and neglect; and provides services to protect the child and strengthen the family.

Total Funds	\$230,225,811
Non-State Funds	\$170,200,928
Agency Funds	\$13,490,604
Federal Funds Not Specifically Identified	\$67,475,534
Temporary Assistance for Needy Families Block Grant	\$50,669,658
Social Services Block Grant	\$5,018,743
Foster Care Title IV-E	\$13,431,881
Temporary Assistance for Needy Families Block Grant	\$20,114,508
Transfers to Social Services Block Grant	
State Funds	\$60,024,883
Tobacco Funds	\$2,069,048
State General Funds	\$57,955,835

**CHILD SUPPORT ESTABLISHMENT COLLECTION AND ENFORCEMENT**

The purpose is to enforce parental responsibility by paying financial support.

Total Funds	\$67,816,843
Non-State Funds	\$52,308,171
Agency Funds	\$9,060,828
Federal Funds Not Specifically Identified	\$43,127,343
Social Services Block Grant	\$120,000
State Funds	\$15,508,672
State General Funds	\$15,508,672

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#### **CHILDREN WITH SPECIAL NEEDS**

The purpose is to promote the optimal functioning of infants and toddlers with developmental delays or disabilities.

Total Funds	\$31,323,524
Non-State Funds	\$10,079,911
Federal Funds Not Specifically Identified	\$2,733,706
Maternal and Child Health Services Block Grant	\$7,292,025
Preventive Health and Health Services Block Grant	\$54,180
State Funds	\$21,243,613
State General Funds	\$21,243,613

#### **CHRONIC DISEASE REDUCTION - HEALTH PROMOTION**

The purpose is to provide education and health promotion related to chronic diseases.

Total Funds	\$1,694,590
State Funds	\$1,694,590
Tobacco Funds	\$1,340,644
State General Funds	\$353,946

#### **CHRONIC DISEASE TREATMENT AND CONTROL**

The purpose is to reduce the morbidity and mortality of cancer among low-income uninsured or underinsured Georgians.

Total Funds	\$9,323,489
Non-State Funds	\$1,210,877
Preventive Health and Health Services Block Grant	\$1,210,877
State Funds	\$8,112,612
Tobacco Funds	\$3,547,455
State General Funds	\$4,565,157

#### **COMMUNITY CARE SERVICES PROGRAM**

The purpose is to provide Georgians who need nursing home level of care the option of remaining in their own communities.

Total Funds	\$60,353,006
Non-State Funds	\$9,894,353
Federal Funds Not Specifically Identified	\$9,894,353
State Funds	\$50,458,653
Tobacco Funds	\$4,191,806
State General Funds	\$46,266,847

#### **COMMUNITY SERVICES - ADULT**

The purpose is to support adults with serious mental illness, developmental disabilities and addictive diseases in gaining the skills to live independently in the community while avoiding the need for hospitalization.

Total Funds	\$425,319,704
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Non-State Funds	\$111,804,851
Federal Funds Not Specifically Identified	\$17,873,979
Temporary Assistance for Needy Families Block Grant	\$26,016,392
Social Services Block Grant	\$30,636,459
Community Mental Health Services Block Grant	\$7,474,598
Prevention and Treatment of Substance Abuse Block Grant	\$26,315,435
Temporary Assistance for Needy Families Block Grant	\$3,487,988
Transfers to Social Services Block Grant	
State Funds	\$313,514,853
Tobacco Funds	\$10,255,138
State General Funds	\$303,259,715

#### **COMMUNITY SERVICES - CHILD AND ADOLESCENT**

The purpose is to help children and adolescents with serious emotional disturbances, developmental disabilities and addictive diseases participate in everyday life in the community with family and friends to the fullest extent possible by assisting them in gaining, keeping and improving community living skills.

Total Funds	\$100,487,731
Non-State Funds	\$22,950,333
Federal Funds Not Specifically Identified	\$3,131,597
Community Mental Health Services Block Grant	\$5,365,824
Prevention and Treatment of Substance Abuse Block Grant	\$14,452,912
State Funds	\$77,537,398
State General Funds	\$77,537,398

#### **CONTRACTED CLIENT TRANSPORTATION SERVICES**

The purpose is to provide essential transportation services in a safe, efficient and responsive manner.

Total Funds	\$29,070,806
Non-State Funds	\$24,898,482
Federal Funds Not Specifically Identified	\$6,744,243
Temporary Assistance for Needy Families Block Grant	\$8,467,213
Social Services Block Grant	\$9,687,026
State Funds	\$4,172,324
State General Funds	\$4,172,324

#### **DEPARTMENTAL ADMINISTRATION**

The purpose is to provide administration and support for the Divisions and Operating Office.

Total Funds	\$168,449,048
Non-State Funds	\$84,078,553
Agency Funds	\$5,872,044
Federal Funds Not Specifically Identified	\$67,960,097

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Temporary Assistance for Needy Families Block Grant	\$9,603,339
Social Services Block Grant	\$265,446
Preventive Health and Health Services Block Grant	\$31,070
Low-Income Home Energy Assistance	\$346,557
State Funds	\$84,370,495
Tobacco Funds	\$331,340
State General Funds	\$84,039,155

#### **ELDER ABUSE AND FRAUD PREVENTION**

The purpose is to heighten awareness of abuse of older individuals in community settings and to provide or facilitate access to programs and services for victims.

Total Funds	\$100,133
Non-State Funds	\$95,389
Federal Funds Not Specifically Identified	\$95,389
State Funds	\$4,744
State General Funds	\$4,744

#### **EMERGENCY PREPAREDNESS/BIOTERRORISM**

The purpose is to prevent, detect, investigate, and respond to bioterrorism, terrorism, and other public health emergencies.

Total Funds	\$2,566,602
State Funds	\$2,566,602
State General Funds	\$2,566,602

#### **ENERGY ASSISTANCE**

The purpose is to assist low-income households in meeting their immediate home energy needs.

Total Funds	\$19,367,500
Non-State Funds	\$18,623,684
Agency Funds	\$40,269
Low-Income Home Energy Assistance	\$18,583,415
State Funds	\$743,816
State General Funds	\$743,816

#### **EPIDEMIOLOGY**

The purpose is to monitor, investigate, and describe the burden of disease, injury, and other events of public health concern in Georgia.

Total Funds	\$5,077,992
Non-State Funds	\$372,341
Federal Funds Not Specifically Identified	\$175,591
Preventive Health and Health Services Block Grant	\$196,750
State Funds	\$4,705,651
Tobacco Funds	\$115,637

State General Funds	\$4,590,014
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### **FAMILY CONNECTION**

The purpose is to provide a statewide network of county collaboratives that work to improve conditions for children and families.

Total Funds	\$10,605,281
Non-State Funds	\$1,475,000
Federal Funds Not Specifically Identified	\$275,000
Temporary Assistance for Needy Families Block Grant	\$1,200,000
State Funds	\$9,130,281
State General Funds	\$9,130,281

### **FAMILY VIOLENCE SERVICES**

The purpose is to provide safe shelter and related services for victims of family violence and their dependents.

Total Funds	\$8,548,380
Non-State Funds	\$3,849,430
Agency Funds	\$3,617
Federal Funds Not Specifically Identified	\$122
Temporary Assistance for Needy Families Block Grant	\$3,565,244
Foster Care Title IV-E	\$280,447
State Funds	\$4,698,950
State General Funds	\$4,698,950

### **FOOD STAMP PROGRAM**

The purpose is to promote the nutritional well being of Georgia's low-income families and children.

Total Funds	\$53,044,951
Non-State Funds	\$29,693,542
Agency Funds	\$2,125,153
Federal Funds Not Specifically Identified	\$25,663,448
Foster Care Title IV-E	\$1,904,941
State Funds	\$23,351,409
State General Funds	\$23,351,409

### **HEALTH PROMOTION AND DISEASE PREVENTION (WELLNESS)**

The purpose is to improve or maintain the functional ability and health status of elderly Georgians.

Total Funds	\$480,015
Non-State Funds	\$480,015
Federal Funds Not Specifically Identified	\$480,015

**HIGH RISK PREGNANT WOMEN AND INFANTS**

The purpose is to ensure that low income pregnant women receive comprehensive, quality, prenatal services as early as possible in their pregnancy.

Total Funds	\$5,130,049
Non-State Funds	\$130,000
Maternal and Child Health Services Block Grant	\$130,000
State Funds	\$5,000,049
State General Funds	\$5,000,049

**HIV/AIDS**

The purpose is to provide treatment that addresses the unmet needs of Georgians with HIV disease.

Total Funds	\$24,881,339
Non-State Funds	\$6,879,211
Federal Funds Not Specifically Identified	\$6,795,345
Maternal and Child Health Services Block Grant	\$83,866
State Funds	\$18,002,128
Tobacco Funds	\$1,226,667
State General Funds	\$16,775,461

**HOME AND COMMUNITY BASED SERVICES**

The purpose is to support and assist older Georgians so that they may live in their homes and communities.

Total Funds	\$52,203,589
Non-State Funds	\$29,077,234
Federal Funds Not Specifically Identified	\$25,290,804
Social Services Block Grant	\$3,786,430
State Funds	\$23,126,355
Tobacco Funds	\$3,808,586
State General Funds	\$19,317,769

**IMMUNIZATION**

The purpose is to provide immunization, consultation, training, assessment, vaccines and technical assistance.

Total Funds	\$17,792,800
Non-State Funds	\$8,769,874
Federal Funds Not Specifically Identified	\$1,303,416
Maternal and Child Health Services Block Grant	\$6,762,746
Preventive Health and Health Services Block Grant	\$703,712
State Funds	\$9,022,926
State General Funds	\$9,022,926

**INDEPENDENT AND TRANSITIONAL LIVING SERVICES**

The purpose is to provide a systematic approach for transitioning eligible youth in foster care.

Total Funds	\$4,444,938
Non-State Funds	\$3,835,703
Agency Funds	\$160,495
Federal Funds Not Specifically Identified	\$1,593,827
Foster Care Title IV-E	\$2,081,381
State Funds	\$609,235
State General Funds	\$609,235

**INFANT AND CHILD HEALTH SERVICES**

The purpose is to provide leadership and resources to communities to improve the health and well being of infants and children and their families.

Total Funds	\$22,447,459
Non-State Funds	\$7,378,280
Agency Funds	\$70,688
Federal Funds Not Specifically Identified	\$5,567,508
Maternal and Child Health Services Block Grant	\$1,370,688
Preventive Health and Health Services Block Grant	\$369,396
State Funds	\$15,069,179
Tobacco Funds	\$2,000,000
State General Funds	\$13,069,179

**INJURY PREVENTION**

The purpose is to reduce injury-related morbidity and mortality through building injury surveillance systems to guide data-based decision making and strategic planning, building coalitions.

Total Funds	\$389,398
Non-State Funds	\$112,005
Preventive Health and Health Services Block Grant	\$112,005
State Funds	\$277,393
State General Funds	\$277,393

**LABORATORY SERVICES**

The purpose is to provide clinical and environmental testing necessary for public health programs, to assist in controlling infectious diseases and to identify conditions such as metabolic diseases and disorders.

Total Funds	\$10,876,056
Non-State Funds	\$696,104
Agency Funds	\$150,000
Federal Funds Not Specifically Identified	\$546,104
State Funds	\$10,179,952

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State General Funds	\$10,179,952
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#### **MEDICAID ELIGIBILITY DETERMINATION**

The purpose is to promote access to health care for low income families, children, and pregnant women.

Total Funds	\$49,861,214
Non-State Funds	\$24,377,800
Agency Funds	\$1,709,341
Federal Funds Not Specifically Identified	\$22,668,459
State Funds	\$25,483,414
State General Funds	\$25,483,414

#### **OUT OF HOME CARE**

The purpose is to provide safe and appropriate temporary substitute homes for children.

Total Funds	\$299,250,194
Non-State Funds	\$151,128,716
Agency Funds	\$32,925,589
Federal Funds Not Specifically Identified	\$38,054,686
Temporary Assistance for Needy Families Block Grant	\$52,892,799
Social Services Block Grant	\$3,600,000
Foster Care Title IV-E	\$23,655,642
State Funds	\$148,121,478
State General Funds	\$148,121,478

#### **OUTDOOR THERAPEUTIC PROGRAM**

The purpose is to serve children and youth with behavioral and/or emotional problems in therapeutic wilderness settings to promote positive changes in behavior that results in improved functioning in daily life and strengthens family or substitute family involvement and returns the child or adolescent to the community.

Total Funds	\$4,234,869
Non-State Funds	\$940,692
Agency Funds	\$937,587
Federal Funds Not Specifically Identified	\$3,105
State Funds	\$3,294,177
State General Funds	\$3,294,177

#### **POST ADOPTION SERVICES**

The purpose is for clarification of adoption policies, procedures, and provide support services to adopting families.

Total Funds	\$2,821,150
Non-State Funds	\$940,404
Foster Care Title IV-E	\$940,404
State Funds	\$1,880,746

State General Funds	\$1,880,746
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#### **PRE-ADOPTION SERVICES**

The purpose is to provide services that ensure the safe and appropriate placement of adoptable children.

Total Funds	\$5,391,629
Non-State Funds	\$1,872,356
Foster Care Title IV-E	\$1,872,356
State Funds	\$3,519,273
State General Funds	\$3,519,273

#### **REFUGEE HEALTH PROGRAM**

The purpose is to provide interpretation, outreach, information, and referrals for refugees who need health care.

Total Funds	\$3,775,026
Non-State Funds	\$118,690
Federal Funds Not Specifically Identified	\$118,690
State Funds	\$3,656,336
State General Funds	\$3,656,336

#### **REFUGEE RESETTLEMENT**

The purpose is to help refugees establish a new life that is founded on the dignity of economic self-support.

Total Funds	\$3,690,665
Non-State Funds	\$3,184,005
Agency Funds	\$80,538
Federal Funds Not Specifically Identified	\$3,103,467
State Funds	\$506,660
State General Funds	\$506,660

#### **REGULATORY COMPLIANCE**

The purpose is to protect children receiving care outside of their own homes in child-caring institutions, outdoor therapeutic programs, and child-placing agencies through licensing activities and regular inspections.

Total Funds	\$31,127,738
Non-State Funds	\$8,740,615
Agency Funds	\$515,075
Federal Funds Not Specifically Identified	\$6,546,561
Maternal and Child Health Services Block Grant	\$194,703
Preventive Health and Health Services Block Grant	\$1,484,276
State Funds	\$22,387,123
State General Funds	\$22,387,123

**SEXUALLY TRANSMITTED DISEASES TREATMENT AND CONTROL**

The purpose is to prevent and reduce the spread of sexually transmitted diseases through education, case reporting, health screening, partner notification, and treatment.

Total Funds	\$6,777,489
Non-State Funds	\$2,297,423
Federal Funds Not Specifically Identified	\$2,297,423
State Funds	\$4,480,066
State General Funds	\$4,480,066

**STATE HOSPITAL FACILITIES**

The purpose is to provide services that enhance functioning of consumers, including special therapies (speech, occupational therapy, physical therapy, activity therapy), pharmacy, volunteer services, dental, x-ray, medical records, housekeeping, laundry, lab, security, meal preparation, supplies, maintenance, and the fire safety.

Total Funds	\$72,986,460
Non-State Funds	\$8,656,220
Agency Funds	\$2,888,413
Other Non-State Funds	\$47,283
Federal Funds Not Specifically Identified	\$5,720,524
State Funds	\$64,330,240
State General Funds	\$64,330,240

**STATE HOSPITAL FACILITIES - DIRECT CARE AND SUPPORT**

The purpose is to provide facility support services and direct patient support therapies.

Total Funds	\$148,005,850
Non-State Funds	\$53,557,052
Agency Funds	\$49,057,399
Federal Funds Not Specifically Identified	\$4,499,653
State Funds	\$94,448,798
State General Funds	\$94,448,798

**STATE HOSPITAL FACILITIES - OTHER CARE**

The purpose is to provide inpatient psychiatric evaluation and treatment with an emphasis on stabilization and planning.

Total Funds	\$93,785,550
Non-State Funds	\$53,929,599
Agency Funds	\$53,257,253
Other Non-State Funds	\$510,479
Federal Funds Not Specifically Identified	\$161,867
State Funds	\$39,855,951
State General Funds	\$39,855,951

**STATE HOSPITAL FACILITIES - SPECIALTY CARE**

The purpose is to provide education and health promotion related to intentional and unintentional injuries.

Total Funds	\$3,057,285
Non-State Funds	\$1,561,791
Agency Funds	\$1,547,240
Federal Funds Not Specifically Identified	\$14,551
State Funds	\$1,495,494
State General Funds	\$1,495,494

**SUBSTANCE ABUSE PREVENTION**

The purpose is to promote the health and well-being of children, youth, families and communities through preventing the use and/or abuse of alcohol, tobacco and drugs.

Total Funds	\$12,182,090
Non-State Funds	\$11,512,485
Federal Funds Not Specifically Identified	\$320,397
Temporary Assistance for Needy Families Block Grant	\$1,000,000
Prevention and Treatment of Substance Abuse Block Grant	\$10,192,088
State Funds	\$669,605
State General Funds	\$669,605

**SUPPORT FOR NEEDY FAMILIES - ADMINISTRATION AND FAMILY ASSISTANCE**

The purpose is to supply block grants for temporary assistance for needy families.

Total Funds	\$70,896,751
Non-State Funds	\$54,126,845
Agency Funds	\$2,786,034
Federal Funds Not Specifically Identified	\$20,548,436
Temporary Assistance for Needy Families Block Grant	\$12,291,093
Foster Care Title IV-E	\$1,316,099
Community Services Block Grant	\$17,185,183
State Funds	\$16,769,906
State General Funds	\$16,769,906

**SUPPORT FOR NEEDY FAMILIES - BASIC ASSISTANCE**

The purpose is to supply block grants for temporary assistance for needy families.

Total Funds	\$129,188,339
Non-State Funds	\$114,788,339
Other Non-State Funds	\$20,000,000
Temporary Assistance for Needy Families Block Grant	\$74,788,339
Temporary Assistance for Needy Families Block Grant	\$20,000,000
Unobligated Balance	
State Funds	\$14,400,000

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State General Funds	\$14,400,000
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#### **SUPPORT FOR NEEDY FAMILIES - WORK ASSISTANCE**

The purpose is to supply block grants for temporary assistance for needy families.

Total Funds	\$65,331,497
Non-State Funds	\$39,331,497
Temporary Assistance for Needy Families Block Grant	\$39,331,497
State Funds	\$26,000,000
State General Funds	\$26,000,000

#### **TOBACCO USE PREVENTION**

The purpose is to reduce the number of youth and adults who smoke, reduce exposure to secondhand smoke, and decrease the occurrence of tobacco-related illness through prevention initiatives.

Total Funds	\$2,211,034
State Funds	\$2,211,034
Tobacco Funds	\$2,149,875
State General Funds	\$61,159

#### **TUBERCULOSIS TREATMENT AND CONTROL**

The purpose of the Georgia Tuberculosis Program is to control transmission, prevent illness and ensure treatment of disease due to tuberculosis.

Total Funds	\$9,017,338
Non-State Funds	\$1,613,061
Federal Funds Not Specifically Identified	\$1,613,061
State Funds	\$7,404,277
State General Funds	\$7,404,277

#### **VITAL RECORDS**

The purpose of this program is to register, code, enter, and archive all vital records and associated documents (birth, death, fetal death, induced termination of pregnancy, marriage).

Total Funds	\$2,352,294
Non-State Funds	\$288,204
Federal Funds Not Specifically Identified	\$288,204
State Funds	\$2,064,090
State General Funds	\$2,064,090

#### **WOMEN, INFANTS AND CHILDREN**

The purpose is an adjunct to prenatal and postpartum care during critical periods of growth.

Total Funds	\$84,978,869
Non-State Funds	\$84,978,869

Federal Funds Not Specifically Identified	\$84,978,869
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### **WOMEN'S HEALTH SERVICES**

The purpose is to reduce unintended pregnancies and improve the health of women, the partners, and infants.

Total Funds	\$28,008,811
Non-State Funds	\$19,098,161
Federal Funds Not Specifically Identified	\$6,727,407
Temporary Assistance for Needy Families Block Grant	\$11,858,523
Maternal and Child Health Services Block Grant	\$470,537
Preventive Health and Health Services Block Grant	\$41,694
State Funds	\$8,910,650
State General Funds	\$8,910,650

### **CHILDREN'S TRUST FUND COMMISSION**

The purpose is to support the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect.

Total Funds	\$6,930,886
State Funds	\$6,930,886
Tobacco Funds	\$1,272,170
State General Funds	\$5,658,716

### **DEVELOPMENTAL DISABILITIES, GOVERNOR'S COUNCIL ON**

The purpose is to promote quality services and support for people with developmental disabilities and their families.

Total Funds	\$2,277,634
Non-State Funds	\$2,248,393
Federal Funds Not Specifically Identified	\$2,248,393
State Funds	\$29,241
State General Funds	\$29,241

### **BRAIN AND SPINAL INJURY TRUST FUND**

The purpose is to provide disbursements from the Trust Fund to offset the costs of care and rehabilitative services to citizens of the state who have survived brain or spinal cord injuries.

Total Funds	\$3,000,000
State Funds	\$3,000,000
Other State Funds	\$3,000,000

### **COUNCIL ON AGING**

The purpose is to assist older individuals, at-risk adults, persons with disabilities, their families and caregivers in achieving safe, healthy, independent and self-reliant lives.

Total Funds	\$148,951
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State Funds	\$148,951
State General Funds	\$148,951

**Section 27: Insurance, Department of**

<b>Total Funds</b>	<b>\$17,850,908</b>
<b>Non State Funds</b>	<b>\$1,036,500</b>
Federal Funds Not Specifically Identified	\$954,555
Agency Funds	\$81,945
<b>State Funds</b>	<b>\$16,814,408</b>
State General Funds	\$16,814,408
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**DEPARTMENTAL ADMINISTRATION**

The purpose is to be responsible for protecting the rights of Georgia citizens in insurance and industrial loan transactions and maintain a fire safe environment.

Total Funds	\$2,203,831
State Funds	\$2,203,831
State General Funds	\$2,203,831

**ENFORCEMENT**

The purpose is to provide legal advice and to initiate legal proceedings with regard to enforcement of specific provisions of state law relating to insurance, industrial loan, fire safety and fraud.

Total Funds	\$767,482
State Funds	\$767,482
State General Funds	\$767,482

**FIRE SAFETY**

The purpose is to create a fire safe environment in the state that protects the public from fire and limits the loss of life and property.

Total Funds	\$5,991,673
Non-State Funds	\$1,036,500
Agency Funds	\$81,945
Federal Funds Not Specifically Identified	\$954,555
State Funds	\$4,955,173
State General Funds	\$4,955,173

**INDUSTRIAL LOAN**

The purpose is to protect consumers by licensing, regulating and examining finance companies that provide consumer loans of \$3,000 or less.

Total Funds	\$688,827
State Funds	\$688,827
State General Funds	\$688,827

**INSURANCE REGULATION**

The purpose is to ensure that licensed insurance entities maintain solvency, comply with state law and adopt rules, regulations, and standards.

Total Funds	\$5,396,059
State Funds	\$5,396,059
State General Funds	\$5,396,059

**SPECIAL FRAUD**

The purpose is to identify and take appropriate action to deter insurance fraud.

Total Funds	\$2,803,036
State Funds	\$2,803,036
State General Funds	\$2,803,036

**Section 28: Investigation, Georgia Bureau of**

<b>Total Funds</b>	<b>\$96,965,076</b>
<b>Non State Funds</b>	<b>\$34,554,925</b>
Federal Funds Not Specifically Identified	\$29,883,487
Agency Funds	\$4,671,438
<b>State Funds</b>	<b>\$62,410,151</b>
State General Funds	\$62,410,151
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**BUREAU ADMINISTRATION**

The purpose is to provide the highest quality investigative, scientific, information services, and resources for the purpose of maintaining law and order and protecting life and property.

Total Funds	\$9,870,707
Non-State Funds	\$6,812
Federal Funds Not Specifically Identified	\$6,812
State Funds	\$9,863,895
State General Funds	\$9,863,895

**CENTRALIZED SCIENTIFIC SERVICES**

The purpose is to provide analysis of illicit and licit drugs, unknown substances, and fire debris evidence.

Total Funds	\$12,460,701
State Funds	\$12,460,701
State General Funds	\$12,460,701

**CRIMINAL JUSTICE INFORMATION SERVICES**

The purpose is to provide fingerprint identification and processing of criminal history source documents to create and update criminal history records.

Total Funds	\$8,722,470
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State Funds	\$8,722,470
State General Funds	\$8,722,470

#### **GEORGIA INFORMATION SHARING AND ANALYSIS CENTER**

The purpose is to assist all officials and agencies of the criminal justice system in the fulfillment of their varied responsibilities on a statewide basis by providing round-the-clock access to needed information.

Total Funds	\$775,258
State Funds	\$775,258
State General Funds	\$775,258

#### **REGIONAL FORENSIC SERVICES**

The purpose is to provide pathology services to determine cause and manner of death.

Total Funds	\$7,040,106
State Funds	\$7,040,106
State General Funds	\$7,040,106

#### **REGIONAL INVESTIGATIVE SERVICES**

The purpose is to identify, collect, preserve, and process evidence located during crime scene examinations.

Total Funds	\$19,789,518
State Funds	\$19,789,518
State General Funds	\$19,789,518

#### **SPECIAL OPERATIONS UNIT**

Personnel respond on a statewide basis in order to render safe explosive devices of all types. Members of the unit also assist in the identification, arrest and prosecution of individuals.

Total Funds	\$673,951
State Funds	\$673,951
State General Funds	\$673,951

#### **STATE HEALTHCARE FRAUD UNIT**

The purpose is to identify, arrest and prosecute providers of health care services who defraud the Medicaid Program.

Total Funds	\$1,092,276
State Funds	\$1,092,276
State General Funds	\$1,092,276

#### **TASK FORCES**

The purpose is to provide the GBI supervisory support to 12 federally funded multi-jurisdictional drug task forces.

Total Funds	\$1,173,347
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State Funds	\$1,173,347
State General Funds	\$1,173,347

**CRIMINAL JUSTICE COORDINATING COUNCIL**

The purpose is to improve and coordinate criminal justice efforts throughout Georgia, help create safe and secure communities, and to award grants from the Local Law Enforcement and Firefighter Fund.

Total Funds	\$35,366,742
Non-State Funds	\$34,548,113
Agency Funds	\$4,671,438
Federal Funds Not Specifically Identified	\$29,876,675
State Funds	\$818,629
State General Funds	\$818,629

**Section 29: Juvenile Justice, Department of**

<b>Total Funds</b>	<b>\$305,705,494</b>
<b>Non State Funds</b>	<b>\$20,941,027</b>
Federal Funds Not Specifically Identified	\$2,570,056
Agency Funds	\$18,370,971
<b>State Funds</b>	<b>\$284,564,467</b>
State General Funds	\$284,564,467
<b>Intra-State Government Transfers</b>	<b>\$200,000</b>
Other Intra-State Government Payments	\$200,000

**COMMUNITY SUPERVISION**

The purpose is to protect the public, hold youth accountable for their actions, and assist youth in becoming law-abiding citizens.

Total Funds	\$41,050,899
Non-State Funds	\$4,347,003
Agency Funds	\$4,347,003
State Funds	\$36,703,896
State General Funds	\$36,703,896

**DEPARTMENTAL ADMINISTRATION**

The purpose is to protect and serve the citizens of Georgia by holding youthful offenders accountable for their actions through the delivery of effective services in appropriate settings.

Total Funds	\$25,769,483
Non-State Funds	\$198,219
Agency Funds	\$198,219
State Funds	\$25,571,264
State General Funds	\$25,571,264

**NON-SECURE COMMITMENT**

The purpose is to protect the public, hold youth accountable for their actions and assist youth in becoming law-abiding citizens by providing non-hardware secure community-based residential placement or services for committed youth.

Total Funds	\$49,296,263
Non-State Funds	\$10,002,619
Agency Funds	\$10,002,619
State Funds	\$39,293,644
State General Funds	\$39,293,644

**NON-SECURE DETENTION**

The purpose is to protect the public and hold youth accountable for their actions by providing temporary, non-secure, community-based placements and/or services for lower-risk youth.

Total Funds	\$7,954,669
State Funds	\$7,954,669
State General Funds	\$7,954,669

**SECURE COMMITMENT (YDCS)**

The purpose is to protect the public, hold youth accountable for their actions, and assist juvenile offenders in becoming law-abiding citizens.

Total Funds	\$88,945,239
Non-State Funds	\$3,151,226
Agency Funds	\$2,319,170
Federal Funds Not Specifically Identified	\$832,056
State Funds	\$85,594,013
State General Funds	\$85,594,013
Intra-State Government Transfers	\$200,000
Other Intra-State Government Payments	\$200,000

**SECURE DETENTION (RYDCS)**

The purpose is to protect the public and hold youth accountable for their actions by providing temporary, secure, safe care, and supervision of high-risk youth.

Total Funds	\$89,629,283
Non-State Funds	\$1,503,960
Agency Funds	\$1,503,960
State Funds	\$88,125,323
State General Funds	\$88,125,323

**CHILDREN AND YOUTH COORDINATING COUNCIL**

The purpose is to assist local communities in preventing and reducing juvenile delinquency.

Total Funds	\$3,059,658
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Non-State Funds	\$1,738,000
Federal Funds Not Specifically Identified	\$1,738,000
State Funds	\$1,321,658
State General Funds	\$1,321,658

**Section 30: Labor, Department of**

<b>Total Funds</b>	<b>\$354,639,446</b>
<b>Non State Funds</b>	<b>\$303,628,813</b>
Federal Funds Not Specifically Identified	\$260,744,594
Agency Funds	\$42,884,219
<b>State Funds</b>	<b>\$51,010,633</b>
State General Funds	\$51,010,633
<b>Intra-State Government Transfers</b>	<b>\$0</b>

Provided, from funds known as Reed Act funds credited to and held in this state's account in the Unemployment Trust Fund by the United States Secretary of the Treasury pursuant to the "Job Creation and Worker Assistance Act of 2002" (P.L. 107-147) and Section 903 (d) of the Social Security Act, as amended, \$49,339,507 is designated for administration of the unemployment compensation law and public employment offices, including workforce information service delivery, technology, resources, and equipment to support employment, workforce staff training, studies and reports, buildings, fixtures, furnishings, and supplies. The amount hereby appropriated shall not exceed the limitations provided in Code Section 34-8-85 of the Official Code of Georgia Annotated, and shall be obligated and expended in accordance with Section 903 (d) (4) of the Social Security Act. Provided further, that no funds shall be expended until approved by the Office of Planning and Budget.

The Office of Planning and Budget is hereby authorized to transfer funds to the appropriate departmental programs in amounts equal to the departmental remittances to the Office of Treasury and Fiscal Services from agency fund collections.

**BUSINESS ENTERPRISE PROGRAM**

The purpose is to assist people who are blind in becoming successful contributors to the state's economy.

Total Funds	\$1,649,973
Non-State Funds	\$1,310,253
Federal Funds Not Specifically Identified	\$1,310,253
State Funds	\$339,720
State General Funds	\$339,720

**DEPARTMENT OF LABOR ADMINISTRATION**

The purpose is to work with public and private partners in building a world-class workforce system that contributes to Georgia's economic prosperity.

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Total Funds	\$14,440,631
Non-State Funds	\$10,859,309
Federal Funds Not Specifically Identified	\$10,859,309
State Funds	\$3,581,322
State General Funds	\$3,581,322

#### **DISABILITY ADJUDICATION SECTION**

The purpose is to efficiently process applications for federal disability programs so that eligible Georgia citizens can obtain support.

Total Funds	\$55,598,820
Non-State Funds	\$55,598,820
Federal Funds Not Specifically Identified	\$55,598,820

#### **DIVISION OF REHABILITATION ADMINISTRATION**

The purpose is to help people with disabilities to become fully productive members of society by achieving independence and meaningful employment.

Total Funds	\$4,030,904
Non-State Funds	\$1,481,868
Federal Funds Not Specifically Identified	\$1,481,868
State Funds	\$2,549,036
State General Funds	\$2,549,036

#### **GEORGIA INDUSTRIES FOR THE BLIND**

The purpose is to employ people who are blind in manufacturing and packaging facilities in Bainbridge and Griffin.

Total Funds	\$11,791,723
Non-State Funds	\$11,099,375
Agency Funds	\$11,099,375
State Funds	\$692,348
State General Funds	\$692,348

#### **LABOR MARKET INFORMATION**

The purpose is to collect, analyze, and publish a wide array of information about the state's labor market.

Total Funds	\$2,921,144
Non-State Funds	\$2,249,873
Federal Funds Not Specifically Identified	\$2,249,873
State Funds	\$671,271
State General Funds	\$671,271

#### **ROOSEVELT WARM SPRINGS INSTITUTE**

The purpose is to empower individuals with disabilities to achieve personal independence.

Total Funds	\$30,311,411
Non-State Funds	\$24,169,628
Agency Funds	\$18,077,411
Federal Funds Not Specifically Identified	\$6,092,217
State Funds	\$6,141,783
State General Funds	\$6,141,783

**SAFETY INSPECTIONS**

The purpose is to promote and protect public safety, to provide training and information on workplace exposure to hazardous chemicals, and to promote industrial safety.

Total Funds	\$2,832,554
Non-State Funds	\$168,552
Federal Funds Not Specifically Identified	\$168,552
State Funds	\$2,664,002
State General Funds	\$2,664,002

**UNEMPLOYMENT INSURANCE**

The purpose is to enhance Georgia's economic strength by collecting unemployment insurance taxes from Georgia's employers and distributing unemployment benefits to eligible claimants.

Total Funds	\$46,666,872
Non-State Funds	\$36,610,816
Federal Funds Not Specifically Identified	\$36,610,816
State Funds	\$10,056,056
State General Funds	\$10,056,056

**VOCATIONAL REHABILITATION PROGRAM**

The purpose is to assist people with disabilities so that they may go to work.

Total Funds	\$86,044,134
Non-State Funds	\$69,464,924
Agency Funds	\$3,306,216
Federal Funds Not Specifically Identified	\$66,158,708
State Funds	\$16,579,210
State General Funds	\$16,579,210

**WORKFORCE DEVELOPMENT**

The purpose is to assist employers and job seekers with job matching services and to promote economic growth and development.

Total Funds	\$98,258,108
Non-State Funds	\$90,615,395
Agency Funds	\$10,401,217
Federal Funds Not Specifically Identified	\$80,214,178
State Funds	\$7,642,713

State General Funds	\$7,642,713
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### **COMMISSION ON WOMEN**

The purpose is to advance health, education, economic, social and legal status of women in Georgia.

Total Funds	\$93,172
State Funds	\$93,172
State General Funds	\$93,172

### **Section 31: Law, Department of**

<b>Total Funds</b>	<b>\$35,461,015</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$13,659,592</b>
State General Funds	\$13,659,592
<b>Intra-State Government Transfers</b>	<b>\$21,801,423</b>
Other Intra-State Government Payments	\$21,801,423

### **LAW, DEPARTMENT OF**

The purpose is to serve the citizens of the State of Georgia by providing legal representation of the highest quality to the agencies, officers and employees of state government.

Total Funds	\$35,461,015
State Funds	\$13,659,592
State General Funds	\$13,659,592
Intra-State Government Transfers	\$21,801,423
Other Intra-State Government Payments	\$21,801,423

### **Section 32: State Merit System of Personnel Administration**

<b>Total Funds</b>	<b>\$13,631,633</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$0</b>
<b>Intra-State Government Transfers</b>	<b>\$13,631,633</b>
Other Intra-State Government Payments	\$13,631,633

The Department is authorized to assess no more than \$147.00 per budgeted position for the cost of departmental operations and may roll forward any unexpended prior years Merit System Assessment balance to be expended in the current fiscal year.

### **RECRUITMENT AND STAFFING SERVICES**

The purpose is to provide a central point of contact for the general public.

Total Funds	\$1,317,922
Intra-State Government Transfers	\$1,317,922
Other Intra-State Government Payments	\$1,317,922

**SYSTEM ADMINISTRATION**

The purpose is to provide administrative and technical support to the agency.

Total Funds	\$4,081,054
Intra-State Government Transfers	\$4,081,054
Other Intra-State Government Payments	\$4,081,054

**TOTAL COMPENSATION AND REWARDS**

The purpose is to ensure fair and consistent employee compensation practices across state agencies.

Total Funds	\$5,031,196
Intra-State Government Transfers	\$5,031,196
Other Intra-State Government Payments	\$5,031,196

**WORKFORCE DEVELOPMENT AND ALIGNMENT**

The purpose is to provide continuous opportunities for state employees to grow and develop professionally resulting in increased productivity for state agencies and entities.

Total Funds	\$3,201,461
Intra-State Government Transfers	\$3,201,461
Other Intra-State Government Payments	\$3,201,461

**Section 33: Motor Vehicle Safety, Department of**

<b>Total Funds</b>	<b>\$88,872,507</b>
<b>Non State Funds</b>	<b>\$10,611,577</b>
Federal Funds Not Specifically Identified	\$2,561,998
Agency Funds	\$7,196,898
Other Non-State Funds	\$852,681
<b>State Funds</b>	<b>\$78,260,930</b>
State General Funds	\$78,260,930
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COMMERCIAL VEHICLE AND HOV ENFORCEMENT**

The purpose is to enforce high occupancy vehicle lane regulations and commercial vehicles.

Total Funds	\$13,688,255
Non-State Funds	\$9,758,896
Agency Funds	\$7,196,898
Federal Funds Not Specifically Identified	\$2,561,998
State Funds	\$3,929,359
State General Funds	\$3,929,359

**DEPARTMENTAL ADMINISTRATION**

The purpose is for administration of license issuance, motor vehicle registration, and commercial truck compliance.

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Total Funds	\$4,948,415
State Funds	\$4,948,415
State General Funds	\$4,948,415

#### LICENSE ISSUANCE

The purpose is for the issuance of Georgia drivers license renewals through alternative methods.

Total Funds	\$42,559,311
Non-State Funds	\$200,000
Other Non-State Funds	\$200,000
State Funds	\$42,359,311
State General Funds	\$42,359,311

#### MOTORCYCLE SAFETY

The purpose is to maintain and improve motorcycle safety.

Total Funds	\$100,000
State Funds	\$100,000
State General Funds	\$100,000

#### SALVAGE INSPECTION

The purpose is for the inspection of rebuilt salvage vehicles.

Total Funds	\$1,559,749
State Funds	\$1,559,749
State General Funds	\$1,559,749

#### TAG AND TITLE REGISTRATION

The purpose is to establish motor vehicle ownership.

Total Funds	\$26,016,777
Non-State Funds	\$652,681
Other Non-State Funds	\$652,681
State Funds	\$25,364,096
State General Funds	\$25,364,096

#### Section 34: Natural Resources, Department of

**Total Funds** \$194,199,329

**Non State Funds** \$95,661,246

Federal Funds Not Specifically Identified \$72,827,264

Agency Funds \$22,833,982

**State Funds** \$98,464,233

State General Funds \$98,464,233

**Intra-State Government Transfers** \$73,850

Other Intra-State Government Payments \$73,850

Provided, that to the extent State Parks and Historic Sites receipts are realized in excess of the amount of such funds contemplated in this Act, the Office of Planning and Budget is authorized to use up to 50 percent of the excess receipts to supplant State funds and the balance may be amended into the budget of the Parks, Recreation and Historic Sites Division for the most critical needs of the Division. This provision shall not apply to revenues collected from a state parks parking pass implemented by the Department.

The above appropriations reflect receipts from Lake Lanier Island Development Authority in an amount of \$1,331,931 for year 16 of 20 years; last payment being made June 15th, 2010, Jekyll Island State Park Authority - \$260,844 for year 17 of 20 years; last payment being made June 15th, 2009, Jekyll Island Convention Center and Golf Course - \$585,638 for year 12 of 20 years; last payment being made June 15th, 2014 and North Georgia Mountains Authority - \$1,434,982 for year 12 of 20 years; last payment being made June 15th, 2014.

#### **COASTAL RESOURCES**

The purpose is to balance economic development in Georgia's coastal zone with the preservation of natural, environmental, historic, archaeological, and recreational resources for the benefit of Georgia's present and future generations.

Total Funds	\$2,493,982
Non-State Funds	\$170,862
Federal Funds Not Specifically Identified	\$170,862
State Funds	\$2,323,120
State General Funds	\$2,323,120

#### **DEPARTMENTAL ADMINISTRATION**

The purpose of the program is to provide administrative support for all programs of the department.

Total Funds	\$8,719,847
Non-State Funds	\$53,814
Federal Funds Not Specifically Identified	\$53,814
State Funds	\$8,666,033
State General Funds	\$8,666,033

#### **ENVIRONMENTAL PROTECTION**

The purpose is to help provide Georgia's citizens with clean air, clean water, healthy lives and productive land by assuring compliance with environmental laws and by assisting others to do their part for a better environment.

Total Funds	\$86,317,486
Non-State Funds	\$60,109,698
Agency Funds	\$309,758
Federal Funds Not Specifically Identified	\$59,799,940
State Funds	\$26,207,788

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State General Funds	\$26,207,788
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#### **HAZARDOUS WASTE TRUST FUND**

Investigate and clean up abandoned hazardous sites.

Total Funds	\$7,673,850
Non-State Funds	\$73,850
Federal Funds Not Specifically Identified	\$73,850
State Funds	\$7,600,000
State General Funds	\$7,600,000

#### **HISTORIC PRESERVATION**

The purpose is to identify, protect and preserve Georgia's historical sites for the enjoyment of present and future generations.

Total Funds	\$2,449,060
Non-State Funds	\$544,351
Federal Funds Not Specifically Identified	\$544,351
State Funds	\$1,904,709
State General Funds	\$1,904,709

#### **LAND CONSERVATION**

The purpose is to provide a framework within which developed and rapidly developing counties, and their municipalities, can preserve community green space.

Total Funds	\$415,605
State Funds	\$415,605
State General Funds	\$415,605

#### **PARKS, RECREATION AND HISTORIC SITES**

The purpose is to increase the public awareness of the opportunities at the state parks and historic sites throughout Georgia.

Total Funds	\$38,995,511
Non-State Funds	\$21,506,940
Agency Funds	\$18,635,848
Federal Funds Not Specifically Identified	\$2,871,092
State Funds	\$17,488,571
State General Funds	\$17,488,571

#### **POLLUTION PREVENTION ASSISTANCE**

The purpose is to reduce pollution by providing non-regulatory assistance.

Total Funds	\$677,763
Non-State Funds	\$603,913
Agency Funds	\$603,913
Intra-State Government Transfers	\$73,850
Other Intra-State Government Payments	\$73,850

**SOLID WASTE TRUST FUND**

Provides a funding source to administer the Scrap Tire Management Program, enables emergency, preventative and corrective actions at solid waste disposal facilities, and promotes statewide recycling and waste reduction programs.

Total Funds	\$1,500,000
State Funds	\$1,500,000
State General Funds	\$1,500,000

**WILDLIFE RESOURCES**

The purpose is to regulate hunting, fishing, and the operation of watercraft in Georgia, protect non-game and endangered wildlife, and maintain public education and law enforcement programs.

Total Funds	\$41,629,517
Non-State Funds	\$12,265,605
Agency Funds	\$2,952,250
Federal Funds Not Specifically Identified	\$9,313,355
State Funds	\$29,363,912
State General Funds	\$29,363,912

**PAYMENTS TO GEORGIA AGRICULTURAL EXPOSITION AUTHORITY**

The purpose is to showcase the state's agriculture and agribusiness, promote the agricultural achievement of Georgia's young people, provide a center for diverse activities, and stage and promote a statewide fair.

Total Funds	\$1,601,868
State Funds	\$1,601,868
State General Funds	\$1,601,868

**PAYMENTS TO GEORGIA AGRIRAMA DEVELOPMENT AUTHORITY**

The purpose is to collect, display, and preserve material culture of Georgia's agriculture and rural history and present to general public and school groups.

Total Funds	\$820,514
State Funds	\$820,514
State General Funds	\$820,514

**CIVIL WAR COMMISSION**

The purpose is to coordinate planning, preservation, and promotion of structures, buildings, sites, and battlefields associated with the Civil War and to acquire or provide funds for the acquisition of Civil War battlefields, cemeteries and other historic properties associated with the Civil War.

Total Funds	\$50,000
State Funds	\$50,000
State General Funds	\$50,000

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#### **GEORGIA STATE GAMES COMMISSION**

The purpose is to improve the physical fitness of Georgians.

Total Funds	\$382,362
Non-State Funds	\$332,213
Agency Funds	\$332,213
State Funds	\$50,149
State General Funds	\$50,149

#### **PAYMENTS TO LAKE ALLATOONA PRESERVATION AUTHORITY**

Total Funds	\$100,000
State Funds	\$100,000
State General Funds	\$100,000

#### **PAYMENTS TO SOUTHWEST GEORGIA RAILROAD EXCURSION AUTHORITY**

The purpose is to construct, finance, operate, and develop a rail passenger excursion project utilizing any state owned railway in Crisp and Sumter counties and any nearby county which may be included within the service area.

Total Funds	\$371,964
State Funds	\$371,964
State General Funds	\$371,964

#### **Section 35: Pardons and Paroles, State Board of**

<b>Total Funds</b>	<b>\$47,727,215</b>
<b>Non State Funds</b>	<b>\$100,000</b>
Federal Funds Not Specifically Identified	\$0
Other Non-State Funds	\$100,000
<b>State Funds</b>	<b>\$47,627,215</b>
State General Funds	\$47,627,215
<b>Intra-State Government Transfers</b>	<b>\$0</b>

#### **BOARD ADMINISTRATION**

The purpose is to provide administrative support for the agency.

Total Funds	\$4,426,255
Non-State Funds	\$100,000
Other Non-State Funds	\$100,000
State Funds	\$4,326,255
State General Funds	\$4,326,255

#### **CLEMENCY DECISIONS**

The purpose is to investigate offenders when they enter the corrections system and make determinations about offender eligibility for parole.

Total Funds	\$9,769,111
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State Funds	\$9,769,111
State General Funds	\$9,769,111

**PAROLE SUPERVISION**

The purpose is for transitioning offenders from prison back into the community as productive, law abiding citizens.

Total Funds	\$33,015,382
State Funds	\$33,015,382
State General Funds	\$33,015,382

**VICTIM SERVICES**

The purpose of this program is to provide notification to victims of changes in offender status or placement, to conduct outreach and information gathering from victim during clemency proceedings and generally to act as a liaison to victims for the state corrections system.

Total Funds	\$516,467
State Funds	\$516,467
State General Funds	\$516,467

**Section 36: Public Safety, Department of**

<b>Total Funds</b>	<b>\$99,740,989</b>
<b>Non State Funds</b>	<b>\$4,801,010</b>
Federal Funds Not Specifically Identified	\$3,166,937
Agency Funds	\$1,634,073
<b>State Funds</b>	<b>\$91,788,544</b>
State General Funds	\$91,788,544
<b>Intra-State Government Transfers</b>	<b>\$3,151,435</b>
Other Intra-State Government Payments	\$3,151,435

**AVIATION**

The purpose is to provide air support to the Georgia State Patrol and other state, federal, and local agencies improving public safety for the citizens of Georgia.

Total Funds	\$2,307,130
State Funds	\$2,307,130
State General Funds	\$2,307,130

**CAPITOL POLICE SERVICES**

The purpose is to protect life and property, prevent and detect criminal acts, and enforce traffic regulations throughout the Capitol.

Total Funds	\$3,151,435
Intra-State Government Transfers	\$3,151,435
Other Intra-State Government Payments	\$3,151,435

**DEPARTMENTAL ADMINISTRATION**

The purpose is to work cooperatively with all levels of government to provide a safe environment for residents and visitors to our state.

Total Funds	\$10,997,239
State Funds	\$10,997,239
State General Funds	\$10,997,239

**EXECUTIVE SECURITY SERVICES**

The purpose is to provide facility security for the Governor's Mansion and personal security for the residents; and to provide continual security for the Governor, the Lieutenant Governor, the Speaker of the House and their families.

Total Funds	\$1,050,978
State Funds	\$1,050,978
State General Funds	\$1,050,978

**FIELD OFFICES AND SERVICES**

The purpose of the Criminal Interdiction Unit represents an active statewide commitment to reduce drug trafficking in the State of Georgia by networking with other state, federal and local law enforcement agencies.

Total Funds	\$59,086,195
State Funds	\$59,086,195
State General Funds	\$59,086,195

**SPECIALIZED COLLISION RECONSTRUCTION TEAM**

The purpose is to provide a means by which fatal crashes can be investigated thoroughly by specially trained investigators and properly document evidence in collisions to be used for successful court prosecution.

Total Funds	\$2,150,997
State Funds	\$2,150,997
State General Funds	\$2,150,997

**TROOP J SPECIALTY UNITS**

Charged with the responsibility of supporting the Forensics Science Division of the GBI by overseeing and maintaining the entire breath-alcohol program for the State of Georgia.

Total Funds	\$2,264,535
State Funds	\$2,264,535
State General Funds	\$2,264,535

**HIGHWAY SAFETY, OFFICE OF**

The purpose is to educate the public on highway safety issues and facilitate the implementation of programs to reduce crashes, injuries and fatalities on Georgia roadways.

Total Funds	\$3,652,813
Non-State Funds	\$3,166,937
Federal Funds Not Specifically Identified	\$3,166,937
State Funds	\$485,876
State General Funds	\$485,876

**PEACE OFFICER STANDARDS AND TRAINING COUNCIL, GEORGIA**

The purpose is to provide the citizens of Georgia with qualified, professionally trained, ethical and competent peace officers and criminal justice professionals.

Total Funds	\$1,905,971
State Funds	\$1,905,971
State General Funds	\$1,905,971

**FIREFIGHTER STANDARDS AND TRAINING COUNCIL, GEORGIA**

The purpose is to provide minimum certification standards for all firefighters and public safety professionals.

Total Funds	\$551,565
State Funds	\$551,565
State General Funds	\$551,565

**FIRE ACADEMY, GEORGIA**

The purpose is to provide professional training for firefighters.

Total Funds	\$1,146,453
Non-State Funds	\$152,680
Agency Funds	\$152,680
State Funds	\$993,773
State General Funds	\$993,773

**POLICE ACADEMY, GEORGIA**

The purpose is to research, develop, and deliver the mandated 40 hour basic coroner training and the 24 hour annual in-service training for all coroners and deputy coroners.

Total Funds	\$1,241,834
Non-State Funds	\$121,094
Agency Funds	\$121,094
State Funds	\$1,120,740
State General Funds	\$1,120,740

**PUBLIC SAFETY TRAINING CENTER, GEORGIA**

The department is charged with the development, delivery and facilitation of training that results in professional and competent public safety services for the people of Georgia.

Total Funds	\$10,233,844
Non-State Funds	\$1,360,299

Agency Funds	\$1,360,299
State Funds	\$8,873,545
State General Funds	\$8,873,545

**Section 37: Public Service Commission**

<b>Total Funds</b>	<b>\$8,516,774</b>
<b>Non State Funds</b>	<b>\$273,311</b>
Federal Funds Not Specifically Identified	\$273,311
<b>State Funds</b>	<b>\$8,243,463</b>
State General Funds	\$8,243,463
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COMMISSION ADMINISTRATION**

The purpose is to assist the Commissioners and staff in achieving the agency's goals.

Total Funds	\$1,401,396
State Funds	\$1,401,396
State General Funds	\$1,401,396

**FACILITY PROTECTION**

The purpose of this is to provide for the protection of the buried utility facility infrastructure within the State of Georgia.

Total Funds	\$938,475
Non-State Funds	\$273,311
Federal Funds Not Specifically Identified	\$273,311
State Funds	\$665,164
State General Funds	\$665,164

**UTILITIES REGULATION**

The purpose is to regulate intrastate telecommunications, natural gas, and electric utilities.

Total Funds	\$6,176,903
State Funds	\$6,176,903
State General Funds	\$6,176,903

**Section 38: Regents, University System of Georgia**

<b>Total Funds</b>	<b>\$4,466,365,855</b>
<b>Non State Funds</b>	<b>\$2,664,050,711</b>
Agency Funds	\$1,166,241,151
Other Non-State Funds	\$14,024,304
Research Funds	\$1,483,785,256
<b>State Funds</b>	<b>\$1,802,315,144</b>
Tobacco Funds	\$5,750,000
State General Funds	\$1,796,565,144

<b>Intra-State Government Transfers</b>	<b>\$0</b>
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**ADVANCED TECHNOLOGY DEVELOPMENT CENTER/ECONOMIC DEVELOPMENT INSTITUTE**

The purpose of this is to provide strategic business advice and connect its member companies to the people and resources they need to succeed.

Total Funds	\$22,346,381
Non-State Funds	\$13,493,757
Agency Funds	\$13,493,757
State Funds	\$8,852,624
State General Funds	\$8,852,624

**AGRICULTURAL EXPERIMENT STATION**

The purpose is to improve production, processing, new product development, food safety, storage and marketing to increase profitability and global competitiveness.

Total Funds	\$70,923,128
Non-State Funds	\$32,441,262
Agency Funds	\$10,441,262
Research Funds	\$22,000,000
State Funds	\$38,481,866
State General Funds	\$38,481,866

**ATHENS AND TIFTON VETERINARY LABORATORIES**

The purpose is to ensure the safety of our food supply and the health of animals (production, equine and companion) within the State of Georgia.

Total Funds	\$4,695,512
Non-State Funds	\$4,653,970
Research Funds	\$4,653,970
State Funds	\$41,542
State General Funds	\$41,542

**CENTER FOR ASSISTIVE TECHNOLOGY AND ENVIRONMENTAL ACCESS**

The purpose is to provide research and development activities to target the increase function and independence of persons with disabilities.

Total Funds	\$7,685,074
Non-State Funds	\$7,358,994
Other Non-State Funds	\$7,358,994
State Funds	\$326,080
State General Funds	\$326,080

**COOPERATIVE EXTENSION SERVICE**

The purpose is to enhance the quality of life for Georgia's citizens through service, learning and the adaptation of research based information.

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Total Funds	\$54,873,885
Non-State Funds	\$23,094,137
Agency Funds	\$10,094,137
Research Funds	\$13,000,000
State Funds	\$31,779,748
State General Funds	\$31,779,748

#### **FORESTRY COOPERATIVE EXTENSION**

The purpose of this program is to provide conservation and sustainable management of forests and other natural resources and to put into practice forestry and natural resources knowledge.

Total Funds	\$632,486
State Funds	\$632,486
State General Funds	\$632,486

#### **FORESTRY RESEARCH**

The purpose of this program is to provide to sustain competitiveness of Georgia's forest products industry and private land owners through research and meet environmental goals of sustainable forestry initiative.

Total Funds	\$3,011,535
State Funds	\$3,011,535
State General Funds	\$3,011,535

#### **GEORGIA RADIATION THERAPY CENTER**

The purpose is to provide patient care and education.

Total Funds	\$3,625,810
Non-State Funds	\$3,625,810
Other Non-State Funds	\$3,625,810

#### **GEORGIA TECH RESEARCH INSTITUTE**

The purpose is to aid in the promotion of scientific, engineering, and industrial research for the advancement of science, technology and education in Georgia.

Total Funds	\$129,760,053
Non-State Funds	\$122,917,958
Agency Funds	\$53,807,216
Research Funds	\$69,110,742
State Funds	\$6,842,095
State General Funds	\$6,842,095

#### **MARINE INSTITUTE**

The purpose is to understand the processes that affect the condition of the salt marsh and coastline.

Total Funds	\$1,690,798
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Non-State Funds	\$767,633
Agency Funds	\$67,633
Research Funds	\$700,000
State Funds	\$923,165
State General Funds	\$923,165

**MARINE RESOURCES EXTENSION CENTER**

The purpose is to transfer technology, provide training, and conduct applied research.

Total Funds	\$2,611,550
Non-State Funds	\$1,184,800
Agency Funds	\$584,800
Research Funds	\$600,000
State Funds	\$1,426,750
State General Funds	\$1,426,750

**MEDICAL COLLEGE OF GEORGIA HOSPITAL AND CLINICS**

The purpose is to care, teach, and refer clients.

Total Funds	\$31,703,580
Non-State Funds	\$193,500
Agency Funds	\$193,500
State Funds	\$31,510,080
State General Funds	\$31,510,080

**OFFICE OF MINORITY BUSINESS ENTERPRISE**

The purpose of this program is to provide assistance in the mitigation of factors that place minority businesses in a disadvantaged position.

Total Funds	\$860,499
State Funds	\$860,499
State General Funds	\$860,499

**PUBLIC LIBRARIES**

The purpose is to provide library services for Georgians and to award grants from the Public Library Fund.

Total Funds	\$38,257,751
Non-State Funds	\$2,509,208
Agency Funds	\$2,509,208
State Funds	\$35,748,543
State General Funds	\$35,748,543

**PUBLIC SERVICE / SPECIAL FUNDING INITIATIVES**

The purpose is to provide leadership, service, and education.

Total Funds	\$29,821,275
State Funds	\$29,821,275

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Tobacco Funds	\$5,000,000
State General Funds	\$24,821,275

#### **REGENTS CENTRAL OFFICE**

The purpose is to provide administrative support to all colleges and universities in the university system.

Total Funds	\$7,264,505
State Funds	\$7,264,505
State General Funds	\$7,264,505

#### **RESEARCH CONSORTIUM**

The purpose is to conduct research to further industry in the State of Georgia.

Total Funds	\$21,287,489
State Funds	\$21,287,489
Tobacco Funds	\$750,000
State General Funds	\$20,537,489

#### **SKIDAWAY INSTITUTE OF OCEANOGRAPHY**

The purpose is to provide a center of excellence in marine and ocean science research, which expands the body of knowledge on marine environments.

Total Funds	\$7,190,477
Non-State Funds	\$5,633,000
Agency Funds	\$1,520,000
Research Funds	\$4,113,000
State Funds	\$1,557,477
State General Funds	\$1,557,477

#### **STUDENT EDUCATION ENRICHMENT PROGRAM**

The purpose of this program is to provide underrepresented Georgia residents the opportunity to acquire educational experiences.

Total Funds	\$304,035
State Funds	\$304,035
State General Funds	\$304,035

#### **TEACHING**

The purpose is to establish all such schools of learning or art as may be useful to the state and to organize them in the way most likely to attain the ends desired.

Total Funds	\$3,983,814,634
Non-State Funds	\$2,425,252,391
Agency Funds	\$1,052,605,347
Other Non-State Funds	\$3,039,500
Research Funds	\$1,369,607,544
State Funds	\$1,558,562,243

State General Funds	\$1,558,562,243
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#### **VETERINARY MEDICINE EXPERIMENT STATION**

The purpose is to coordinate and conduct research on animal disease problems of present and potential concern to Georgia's livestock and poultry industries.

Total Funds	\$3,148,784
State Funds	\$3,148,784
State General Funds	\$3,148,784

#### **VETERINARY MEDICINE TEACHING HOSPITAL**

The purpose of the program is to provide state of the art capabilities in diagnostic imaging, including MRI, CT scanning, nuclear scintigraphy, and various methods of ultrasonography.

Total Funds	\$7,178,173
Non-State Funds	\$6,700,000
Agency Funds	\$6,700,000
State Funds	\$478,173
State General Funds	\$478,173

#### **PAYMENTS TO GEORGIA MILITARY COLLEGE**

The purpose is to provide quality basic education funding for the grades 6-12 middle school/high school.

Total Funds	\$2,500,092
State Funds	\$2,500,092
State General Funds	\$2,500,092

#### **PUBLIC TELECOMMUNICATIONS COMMISSION, GEORGIA**

The purpose is to create, produce and distribute high quality programs and services that educate, inform and entertain our audiences and enrich the quality of their lives.

Total Funds	\$31,178,349
Non-State Funds	\$14,224,291
Agency Funds	\$14,224,291
State Funds	\$16,954,058
State General Funds	\$16,954,058

#### **Section 39: Revenue, Department of**

<b>Total Funds</b>	<b>\$520,925,914</b>
<b>Non State Funds</b>	<b>\$6,352,667</b>
Agency Funds	\$5,925,898
Other Non-State Funds	\$426,769
<b>State Funds</b>	<b>\$514,573,247</b>
Tobacco Funds	\$150,000
State General Funds	\$514,423,247

<b>Intra-State Government Transfers</b>	<b>\$0</b>
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**CUSTOMER SERVICE**

The purpose is to assure that all state revenue collection activities proceed in a manner consistent with promoting voluntary compliance and the Taxpayer Bill of Rights.

Total Funds	\$11,749,607
Non-State Funds	\$2,110,135
Agency Funds	\$2,110,135
State Funds	\$9,639,472
State General Funds	\$9,639,472

**DEPARTMENTAL ADMINISTRATION**

The purpose is to administer and enforce the tax laws of the State of Georgia and provide general support services to the operating programs of the Department of Revenue.

Total Funds	\$3,858,865
State Funds	\$3,858,865
State General Funds	\$3,858,865

**GRANTS AND DISTRIBUTION**

The purpose is to administer, collect, and distribute all local sales taxes in Georgia and to provide state retirement benefits to local tax officials and their staffs.

Total Funds	\$8,825,027
State Funds	\$8,825,027
State General Funds	\$8,825,027

**HOMEOWNER TAX RELIEF GRANTS**

For purposes of homeowner tax relief grants to counties and local school districts, the eligible assessed value of each qualified homestead in the state shall be \$10,000 for the taxable year beginning January 1, 2005.

Total Funds	\$432,290,501
State Funds	\$432,290,501
State General Funds	\$432,290,501

**INDUSTRY REGULATION**

The purpose is to provide regulation of the distribution, sale, and consumption of alcoholic beverages, tobacco products and to ensure all coin operated amusement machines are properly licensed and decaled.

Total Funds	\$4,516,392
State Funds	\$4,516,392
Tobacco Funds	\$150,000
State General Funds	\$4,366,392

**REVENUE PROCESSING**

The purpose is to ensure that all tax payments are received, credited, and deposited according to sound business practices and the law, and to ensure that all tax returns are reviewed and recorded to accurately update taxpayer information.

Total Funds	\$29,140,099
Non-State Funds	\$426,769
Other Non-State Funds	\$426,769
State Funds	\$28,713,330
State General Funds	\$28,713,330

**STATE BOARD OF EQUALIZATION**

The purpose is to examine the proposed assessments of each class of taxpayers or property and the digest of proposed assessments as a whole to determine that they are reasonably apportioned among the several tax jurisdictions and reasonably uniform with the values set on other classes of property throughout the state.

Total Funds	\$5,000
State Funds	\$5,000
State General Funds	\$5,000

**TAX COMPLIANCE**

The purpose is to ensure that all taxpayers pay the correct amount of taxes owed under the law.

Total Funds	\$30,540,423
Non-State Funds	\$3,815,763
Agency Funds	\$3,815,763
State Funds	\$26,724,660
State General Funds	\$26,724,660

**Section 40: Secretary of State**

<b>Total Funds</b>	<b>\$35,531,729</b>
<b>Non State Funds</b>	<b>\$1,493,584</b>
Agency Funds	\$1,064,350
Other Non-State Funds	\$429,234
<b>State Funds</b>	<b>\$34,038,145</b>
State General Funds	\$34,038,145
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**ARCHIVES AND RECORDS**

The purpose is to assist State Agencies in adequately documenting their activities, administering their records management programs, scheduling their records and transferring their non-current records to the State Records Center.

Total Funds	\$6,360,254
Non-State Funds	\$504,234

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Agency Funds	\$75,000
Other Non-State Funds	\$429,234
State Funds	\$5,856,020
State General Funds	\$5,856,020

#### CAPITOL EDUCATION CENTER

The purpose of the Capitol Education Center is to educate Georgians on the importance of civic involvement, the functions of state government, and the history of the State Capitol.

Total Funds	\$151,672
State Funds	\$151,672
State General Funds	\$151,672

#### CORPORATIONS

The Corporations Division accepts and reviews filings made pursuant to the above enumerated statutes. The division issues certifications of records on file and provides general information to the public on approximately 590,000 filed entities.

Total Funds	\$2,052,284
Non-State Funds	\$739,350
Agency Funds	\$739,350
State Funds	\$1,312,934
State General Funds	\$1,312,934

#### ELECTIONS

The purpose is to administer all duties imposed upon the Secretary of State by the above cited Georgia federal laws by providing all required filing and public information services, performing all certification and commissioning duties required by law and assisting candidates, local governments, and citizens in interpreting and complying with all election, voter registration and financial disclosure laws.

Total Funds	\$5,671,597
Non-State Funds	\$20,000
Agency Funds	\$20,000
State Funds	\$5,651,597
State General Funds	\$5,651,597

#### OFFICE ADMINISTRATION

The purpose of the Administration Division is to provide administrative support to the Office of Secretary of State and its attached agencies.

Total Funds	\$4,672,318
Non-State Funds	\$30,000
Agency Funds	\$30,000
State Funds	\$4,642,318
State General Funds	\$4,642,318

**PROFESSIONAL LICENSING BOARDS**

The purpose is to protect the public health and welfare by supporting all operations of Boards which license professions.

Total Funds	\$9,468,609
Non-State Funds	\$150,000
Agency Funds	\$150,000
State Funds	\$9,318,609
State General Funds	\$9,318,609

**SECURITIES**

The purpose is to provide for registration, compliance and enforcement of the above provisions of the Georgia Codes, and to provide information to the public regarding subjects of such codes.

Total Funds	\$2,011,222
Non-State Funds	\$50,000
Agency Funds	\$50,000
State Funds	\$1,961,222
State General Funds	\$1,961,222

**DRUGS AND NARCOTICS AGENCY, GEORGIA**

The purpose is to protect the health, safety, and welfare of the general public by providing an enforcement presence to oversee all laws and regulations pertaining to controlled substances and dangerous drugs.

Total Funds	\$1,288,769
State Funds	\$1,288,769
State General Funds	\$1,288,769

**COMMISSION ON THE HOLOCAUST, GEORGIA**

The purpose is to teach the lessons of the Holocaust to present and future generations of Georgians in order to create an awareness of the enormity of the crimes of prejudice and inhumanity and a vigilance to prevent their recurrence.

Total Funds	\$245,915
State Funds	\$245,915
State General Funds	\$245,915

**REAL ESTATE COMMISSION**

The purpose is to administer the license law that regulates brokers, salespersons, and community association managers.

Total Funds	\$2,891,088
State Funds	\$2,891,088
State General Funds	\$2,891,088

**STATE ETHICS COMMISSION**

The purpose is to protect the integrity of the democratic process and to ensure fair elections with the public disclosure of campaign financing and significant private interests of public officers and candidates for public office.

Total Funds	\$718,001
State Funds	\$718,001
State General Funds	\$718,001

**Section 41: Soil and Water Conservation Commission**

<b>Total Funds</b>	<b>\$6,048,313</b>
<b>Non State Funds</b>	<b>\$2,342,117</b>
Federal Funds Not Specifically Identified	\$476,405
Agency Funds	\$1,865,537
Other Non-State Funds	\$175
<b>State Funds</b>	<b>\$3,706,196</b>
State General Funds	\$3,706,196
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**COMMISSION ADMINISTRATION**

The purpose is to protect, conserve, and improve the soil and water resources of the State of Georgia.

Total Funds	\$583,273
Non-State Funds	\$175
Other Non-State Funds	\$175
State Funds	\$583,098
State General Funds	\$583,098

**CONSERVATION OF AGRICULTURAL WATER SUPPLIES**

The purpose is to conserve the use of Georgia's ground and surface water by agricultural water users.

Total Funds	\$1,928,869
Non-State Funds	\$1,701,537
Agency Funds	\$1,701,537
State Funds	\$227,332
State General Funds	\$227,332

**CONSERVATION OF SOIL AND WATER RESOURCES**

The purpose is to conserve Georgia's rich natural resources through voluntary implementation of conservation best management practices on agricultural lands.

Total Funds	\$1,666,099
Non-State Funds	\$573,405
Agency Funds	\$164,000
Federal Funds Not Specifically Identified	\$409,405

State Funds	\$1,092,694
State General Funds	\$1,092,694

**U.S.D.A. FLOOD CONTROL WATERSHED STRUCTURES**

The purpose is to provide flood retarding, water quality, recreation, and water supply benefits to Georgia citizens.

Total Funds	\$19,655
State Funds	\$19,655
State General Funds	\$19,655

**WATER RESOURCES AND LAND USE PLANNING**

The purpose is to improve the understanding of water use and to develop plans that improve water management and efficiency.

Total Funds	\$1,850,417
Non-State Funds	\$67,000
Federal Funds Not Specifically Identified	\$67,000
State Funds	\$1,783,417
State General Funds	\$1,783,417

**Section 42: Student Finance Commission and Authority, Georgia**

<b>Total Funds</b>	<b>\$560,009,290</b>
<b>Non State Funds</b>	<b>\$520,653</b>
Federal Funds Not Specifically Identified	\$520,653
<b>State Funds</b>	<b>\$559,488,637</b>
Lottery Funds	\$521,548,450
State General Funds	\$37,940,187
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**ACCEL**

The purpose is to allow students to pursue post-secondary study at approved public and private post-secondary institutions, while receiving dual high school and college credit for courses successfully completed.

Total Funds	\$6,000,000
State Funds	\$6,000,000
Lottery Funds	\$6,000,000

**ENGINEER SCHOLARSHIP**

The purpose is to provide forgivable loans to Georgia residents who are engineering students at Mercer University (Macon campus) and retain those students as engineers in the State.

Total Funds	\$760,000
State Funds	\$760,000
Lottery Funds	\$760,000

**GEORGIA MILITARY COLLEGE SCHOLARSHIP**

The purpose is to provide outstanding students with a full scholarship to attend Georgia Military College, thereby strengthening Georgia's National Guard with their membership.

Total Funds	\$770,477
State Funds	\$770,477
Lottery Funds	\$770,477

**GOVERNOR'S SCHOLARSHIP PROGRAM**

The purpose is to recognize graduating Georgia High School seniors who are a valedictorian or STAR student of their class by providing a scholarship to attend an eligible post-secondary institution in Georgia.

Total Funds	\$2,329,200
State Funds	\$2,329,200
State General Funds	\$2,329,200

**GUARANTEED EDUCATIONAL LOANS**

The purpose is to provide service cancelable loans to students enrolled in critical fields of study, which include nursing, physical therapy and pharmacy.

Total Funds	\$3,799,883
State Funds	\$3,799,883
State General Funds	\$3,799,883

**HOPE ADMINISTRATION**

The purpose is to provide scholarships that reward students with financial assistance in degree, diploma, and certificate programs at eligible Georgia public and private colleges and universities, and public technical colleges.

Total Funds	\$5,111,697
State Funds	\$5,111,697
Lottery Funds	\$5,111,697

**HOPE GED**

The purpose is to award a \$500 voucher once to each student receiving a general educational development diploma awarded by the Georgia Department of Technical and Adult Education.

Total Funds	\$2,840,694
State Funds	\$2,840,694
Lottery Funds	\$2,840,694

**HOPE GRANT**

The purpose is to provide grants to students seeking a diploma or certificate at a public post-secondary institution.

Total Funds	\$122,784,173
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State Funds	\$122,784,173
Lottery Funds	\$122,784,173

**HOPE SCHOLARSHIPS - PRIVATE SCHOOLS**

The purpose is to provide merit scholarships to students seeking an associate or baccalaureate degree at an eligible private post-secondary institution.

Total Funds	\$45,751,850
State Funds	\$45,751,850
Lottery Funds	\$45,751,850

**HOPE SCHOLARSHIPS - PUBLIC SCHOOLS**

The purpose is to provide merit scholarships to students seeking an associate or baccalaureate degree at an eligible public post-secondary institution.

Total Funds	\$326,011,143
State Funds	\$326,011,143
Lottery Funds	\$326,011,143

**LAW ENFORCEMENT DEPENDENTS GRANT**

The purpose is to provide educational grant assistance to the children of Georgia law enforcement officers, firefighters, and prison guards who were permanently disabled or killed in the line of duty, to attend an eligible private or public post secondary institution in Georgia.

Total Funds	\$50,911
State Funds	\$50,911
State General Funds	\$50,911

**LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM**

The purpose is to provide educational grant assistance to residents of Georgia who demonstrate substantial financial need to attend eligible post-secondary institutions in Georgia.

Total Funds	\$1,487,410
Non-State Funds	\$520,653
Federal Funds Not Specifically Identified	\$520,653
State Funds	\$966,757
State General Funds	\$966,757

**NORTH GEORGIA MILITARY SCHOLARSHIP GRANTS**

The purpose is to provide outstanding students with a full scholarship to attend North Georgia College and State University, thereby strengthening Georgia's Army National Guard with their membership.

Total Funds	\$683,951
State Funds	\$683,951
State General Funds	\$683,951

**NORTH GEORGIA ROTC GRANTS**

The purpose is to provide Georgia residents with non-repayable financial assistance to attend North Georgia College and State University and to participate in the Reserve Officers Training Corps program.

Total Funds	\$432,479
State Funds	\$432,479
State General Funds	\$432,479

**PROMISE II SCHOLARSHIP**

The purpose is to assist paraprofessionals and instructional aides who worked in Georgia public schools throughout the 1999-2000 school year, by providing funds to assist with their educational expenses in the form of a service-obligation scholarship.

Total Funds	\$74,590
State Funds	\$74,590
Lottery Funds	\$74,590

**PROMISE SCHOLARSHIP**

The purpose is to provide forgivable loans to students in their junior and senior year who aspire to be teachers in Georgia public schools.

Total Funds	\$5,855,278
State Funds	\$5,855,278
Lottery Funds	\$5,855,278

**PUBLIC MEMORIAL SAFETY GRANT**

The purpose is to provide educational grant assistance to the children of Georgia law enforcement officers, fire fighters, EMTs, correctional officers, and prison guards who were permanently disabled or killed in the line of duty, to attend a public post-secondary institution in the State of Georgia.

Total Funds	\$255,850
State Funds	\$255,850
Lottery Funds	\$255,850

**TEACHER SCHOLARSHIP**

The purpose is to provide forgivable loans to teachers seeking advanced education degrees in critical shortage fields of study.

Total Funds	\$5,332,698
State Funds	\$5,332,698
Lottery Funds	\$5,332,698

**TUITION EQUALIZATION GRANTS**

The purpose is to promote the private segment of higher education in Georgia by providing non-repayable grant aid to Georgia residents who attend eligible private post-secondary institutions.

Total Funds	\$29,031,802
State Funds	\$29,031,802
State General Funds	\$29,031,802

**NONPUBLIC POSTSECONDARY EDUCATION COMMISSION**

The purpose is to authorize private post-secondary schools in Georgia; provide transcripts for students who attended schools that closed; resolve complaints.

Total Funds	\$645,204
State Funds	\$645,204
State General Funds	\$645,204

**Section 43: Teachers' Retirement System**

<b>Total Funds</b>	<b>\$21,318,384</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$1,980,000</b>
State General Funds	\$1,980,000
<b>Intra-State Government Transfers</b>	<b>\$19,338,384</b>
Retirement Payments	\$19,338,384

It is the intent of the General Assembly that the employer contribution rate for the Teachers' Retirement System shall not exceed 9.24% for S.F.Y. 2005.

**FLOOR/COLA, LOCAL SYSTEM FUND**

The purpose is to provide retirees from local retirement systems a minimum allowance upon retirement and a post-retirement benefit adjustment whenever such adjustment is granted to teachers who retired under the Teacher's Retirement System.

Total Funds	\$1,980,000
State Funds	\$1,980,000
State General Funds	\$1,980,000

**SYSTEM ADMINISTRATION**

The purpose is to provide all services to active members, including: service purchases, refunds, retirement counseling, and new retirement processing.

Total Funds	\$19,338,384
Intra-State Government Transfers	\$19,338,384
Retirement Payments	\$19,338,384

**Section 44: Technical Education, Department of**

<b>Total Funds</b>	<b>\$396,324,918</b>
<b>Non State Funds</b>	<b>\$75,747,117</b>
Federal Funds Not Specifically Identified	\$19,814,459
Agency Funds	\$55,932,658
<b>State Funds</b>	<b>\$320,577,801</b>
State General Funds	\$320,577,801

<b>Intra-State Government Transfers</b>	<b>\$0</b>
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**ADULT LITERACY**

The purpose is to enable every adult learner in Georgia to acquire the necessary basic skills — reading, writing, computation, speaking, and listening — to compete successfully in today's workplace, strengthen family foundations, and exercise full citizenship.

Total Funds	\$19,996,669
Non-State Funds	\$8,143,219
Agency Funds	\$1,121,886
Federal Funds Not Specifically Identified	\$7,021,333
State Funds	\$11,853,450
State General Funds	\$11,853,450

**DEPARTMENTAL ADMINISTRATION**

The purpose is to contribute to the economic, educational, and community development of Georgia by providing quality technical education, adult literacy education, continuing education, and customized business and industry workforce training to the citizens of Georgia.

Total Funds	\$4,728,848
State Funds	\$4,728,848
State General Funds	\$4,728,848

**QUICK START AND CUSTOMIZED SERVICES**

The purpose is to provide a number of programs and services designed to assist businesses and industries with their training needs.

Total Funds	\$11,889,779
State Funds	\$11,889,779
State General Funds	\$11,889,779

**TECHNICAL EDUCATION**

The purpose is to provide quality technical education and special workforce services. The primary role is to ensure that all programs and services excel in meeting the individual's need for career success and the community's need for continued economic growth and development.

Total Funds	\$359,709,622
Non-State Funds	\$67,603,898
Agency Funds	\$54,810,772
Federal Funds Not Specifically Identified	\$12,793,126
State Funds	\$292,105,724
State General Funds	\$292,105,724

<b><u>Section 45: Transportation, Department of</u></b>	
<b>Total Funds</b>	<b>\$1,768,233,578</b>
<b>Non State Funds</b>	<b>\$1,149,375,178</b>
Federal Funds Not Specifically Identified	\$6,000,000
Agency Funds	\$8,799,470
Other Non-State Funds	\$21,717,277
Fed Highway Admin - Highway Planning Construction	\$1,100,000,000
Fed Transit Admin - Capital Investment Grants	\$12,858,431
<b>State Funds</b>	<b>\$618,200,605</b>
Motor Fuel Funds	\$604,380,000
State General Funds	\$13,820,605
<b>Intra-State Government Transfers</b>	<b>\$657,795</b>
Other Intra-State Government Payments	\$657,795

It is the intent of this General Assembly that the following provisions apply:

- a.) In order to meet the requirements for projects on the Interstate System, the Office of Planning and Budget is hereby authorized and directed to give advanced budgetary authorization for letting and execution of Interstate Highway Contracts not to exceed the amount of Motor Fuel Tax Revenues actually paid into the Fiscal Division of the Department of Administrative Services.
- b.) Programs financed by Motor Fuel Tax Funds may be adjusted for additional appropriations or balances brought forward from previous years with prior approval by the Office of Planning and Budget.
- c.) Interstate rehabilitation funds may be used for four-laning and passing lanes. Funds appropriated for on-system resurfacing, four-laning and passing lanes may be used to match additional Federal aid.
- d.) The Fiscal Officers of the State are hereby directed as of July 1st of each fiscal year to determine the collection of Motor Fuel Tax in the immediately preceding year less refunds, rebates and collection costs and enter this amount as being the appropriation payable in lieu of the Motor Fuel Tax Funds appropriated in this Bill, in the event such collections, less refunds, rebates and collection costs, exceed such Motor Fuel Tax Appropriation.
- e.) Functions financed with General Fund appropriations shall be accounted for separately and shall be in addition to appropriations of Motor Fuel Tax revenues required under Article III, Section IX, Paragraph VI, Subsection (b) of the State Constitution.

f.) Bus rental income may be retained to operate, maintain and upgrade department-owned buses, and air transportation service income may be retained to maintain and upgrade the quality of air transportation equipment.

#### **AIR TRANSPORTATION**

The purpose is to provide transportation to state officials and companies considering a move to Georgia and conducting aerial photography flights.

Total Funds	\$2,012,623
State Funds	\$1,354,828
State General Funds	\$1,354,828
Intra-State Government Transfers	\$657,795
Other Intra-State Government Payments	\$657,795

#### **AIRPORT AID**

The purpose is to support statewide economic development by providing the infrastructure for a safe, efficient, and adequate air transportation system and to award grants from the Airport Fund.

Total Funds	\$11,459,409
Non-State Funds	\$6,000,000
Federal Funds Not Specifically Identified	\$6,000,000
State Funds	\$5,459,409
State General Funds	\$5,459,409

#### **DATA COLLECTION, COMPLIANCE AND REPORTING**

The purpose is to provide quality transportation data products in the appropriate format within an acceptable timeframe that meets the needs of the state's business partners.

Total Funds	\$5,581,135
Non-State Funds	\$4,013,605
Agency Funds	\$62,257
Other Non-State Funds	\$52,844
Federal Highway Administration Highway Planning and Construction	\$3,898,504
State Funds	\$1,567,530
State Motor Fuel	\$1,567,530

#### **DEPARTMENTAL ADMINISTRATION**

The purpose is to plan, construct, maintain, and improve the state's roads and bridges; provide planning and financial support for other modes of transportation such as mass transit and airports; provide airport and air safety planning; and provide air travel to state departments.

Total Funds	\$52,901,044
Non-State Funds	\$11,521,996
Agency Funds	\$816,960

Other Non-State Funds	\$1,393,081
Federal Highway Administration Highway Planning and Construction	\$9,311,955
State Funds	\$41,379,048
State Motor Fuel	\$41,279,048
State General Funds	\$100,000

**LOCAL ROAD ASSISTANCE**

The purpose is for contracts with local governments to assist in the construction and reconstruction of their road, bridge, and street systems.

Total Funds	\$159,922,919
Non-State Funds	\$71,157,997
Agency Funds	\$677,243
Other Non-State Funds	\$3,001,277
Federal Highway Administration Highway Planning and Construction	\$67,479,477
State Funds	\$88,764,922
State Motor Fuel	\$88,764,922

**PORTS AND WATERWAYS**

The purpose is to maintain the navigability of the Atlantic Intracoastal Waterway and Georgia's deep water ports to promote international trade.

Total Funds	\$1,119,230
State Funds	\$1,119,230
State General Funds	\$1,119,230

**RAIL**

The purpose is to oversee the construction, financing, operation, and development of rail passenger, freight service, and other public transportation projects within and without the state of Georgia.

Total Funds	\$657,658
State Funds	\$657,658
State General Funds	\$657,658

**STATE HIGHWAY SYSTEM CONSTRUCTION AND IMPROVEMENT**

The purpose is to ensure a safe and efficient transportation system.

Total Funds	\$1,080,409,721
Non-State Funds	\$856,780,997
Agency Funds	\$165,000
Other Non-State Funds	\$10,404,488
Federal Highway Administration Highway Planning and Construction	\$846,211,509
State Funds	\$223,628,724

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State Motor Fuel	\$223,628,724
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#### **STATE HIGHWAY SYSTEM MAINTENANCE**

The purpose is to coordinate all statewide maintenance activities.

Total Funds	\$335,754,789
Non-State Funds	\$157,794,621
Agency Funds	\$3,049,770
Other Non-State Funds	\$6,286,801
Federal Highway Administration Highway Planning and Construction	\$148,458,050
State Funds	\$177,960,168
State Motor Fuel	\$177,960,168

#### **STATE HIGHWAY SYSTEM OPERATIONS**

The purpose is to ensure a safe and efficient transportation system statewide by traffic engineering and traffic management.

Total Funds	\$46,424,679
Non-State Funds	\$29,245,531
Agency Funds	\$4,026,240
Other Non-State Funds	\$578,786
Federal Highway Administration Highway Planning and Construction	\$24,640,505
State Funds	\$17,179,148
State Motor Fuel	\$17,179,148

#### **TRANSIT**

The purpose is to preserve and enhance the state's urban and rural public transit programs by providing financial and technical assistance to Georgia's transit systems.

Total Funds	\$17,989,911
Non-State Funds	\$12,860,431
Agency Funds	\$2,000
Federal Transit Administration Capital Investment Grants	\$12,858,431
State Funds	\$5,129,480
State General Funds	\$5,129,480

#### **PAYMENTS TO THE STATE ROAD AND TOLLWAY AUTHORITY**

The purpose is to provide funds through State Road and Tollway Authority for Bond Trustees for debt service payments on Guaranteed Revenue Bonds.

Total Funds	\$54,000,460
State Funds	\$54,000,460
State Motor Fuel	\$54,000,460

**Section 46: Veterans Service, Department of**

<b>Total Funds</b>	<b>\$32,084,071</b>
<b>Non State Funds</b>	<b>\$10,743,716</b>
Federal Funds Not Specifically Identified	\$10,743,716
<b>State Funds</b>	<b>\$21,340,355</b>
State General Funds	\$21,340,355
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**DEPARTMENTAL ADMINISTRATION**

The purpose is to coordinate, manage and supervise all aspects of department operations to include financial, public information, personnel, accounting, purchasing, supply, mail, records management, and information technology.

Total Funds	\$755,909
Non-State Funds	\$79,875
Federal Funds Not Specifically Identified	\$79,875
State Funds	\$676,034
State General Funds	\$676,034

**GEORGIA VETERANS MEMORIAL CEMETERY**

The purpose is to provide for the interment of eligible Georgia Veterans who served faithfully and honorably in the military service of our country.

Total Funds	\$297,683
State Funds	\$297,683
State General Funds	\$297,683

**GEORGIA WAR VETERANS NURSING HOME - AUGUSTA**

The purpose is to provide skilled nursing care to aged and infirmed Georgia Veterans; and to also serve as a teaching facility for the Medical College of Georgia.

Total Funds	\$7,541,980
Non-State Funds	\$3,104,750
Federal Funds Not Specifically Identified	\$3,104,750
State Funds	\$4,437,230
State General Funds	\$4,437,230

**GEORGIA WAR VETERANS NURSING HOME - MILLEDGEVILLE**

The purpose is to provide both skilled nursing and domiciliary care to aged and infirmed Georgia war veterans.

Total Funds	\$17,617,375
Non-State Funds	\$7,225,135
Federal Funds Not Specifically Identified	\$7,225,135
State Funds	\$10,392,240
State General Funds	\$10,392,240

**VETERANS BENEFITS**

The purpose is to serve Georgia's veterans, their dependents and survivors in all matters pertaining to veterans benefits by informing the veterans and their families about veterans benefits, and directly assisting and advising them in securing the benefits to which they are entitled.

Total Funds	\$5,871,124
Non-State Funds	\$333,956
Federal Funds Not Specifically Identified	\$333,956
State Funds	\$5,537,168
State General Funds	\$5,537,168

**Section 47: Workers' Compensation, State Board of**

<b>Total Funds</b>	<b>\$15,937,280</b>
<b>Non State Funds</b>	<b>\$240,000</b>
Agency Funds	\$240,000
<b>State Funds</b>	<b>\$15,697,280</b>
State General Funds	\$15,697,280
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**ADMINISTER THE WORKERS' COMPENSATION LAWS**

The purpose is to provide exclusive remedy for resolution of disputes in the Georgia Workers' Compensation law.

Total Funds	\$9,366,793
State Funds	\$9,366,793
State General Funds	\$9,366,793

**BOARD ADMINISTRATION**

The purpose is to provide superior access to the Georgia Workers' Compensation program for injured workers and employers in a manner that is sensitive, responsive, and effective.

Total Funds	\$6,570,487
Non-State Funds	\$240,000
Agency Funds	\$240,000
State Funds	\$6,330,487
State General Funds	\$6,330,487

**Section 48: General Obligation Debt Sinking Fund**

<b>Total Funds</b>	<b>\$937,910,340</b>
<b>Non State Funds</b>	<b>\$0</b>
<b>State Funds</b>	<b>\$937,910,340</b>
Motor Fuel Funds	\$185,620,000
State General Funds	\$752,290,340
<b>Intra-State Government Transfers</b>	<b>\$0</b>

**GENERAL OBLIGATION DEBT SINKING FUND - ISSUED**

Total Funds	\$749,590,893
State Funds	\$749,590,893
State Motor Fuel	\$155,000,000
State General Funds	\$594,590,893

**GENERAL OBLIGATION DEBT SINKING FUND - NEW**

Total Funds	\$83,712,589
State Funds	\$83,712,589
State Motor Fuel	\$30,620,000
State General Funds	\$53,092,589

Bond #1: From the appropriation designated "State General Funds (New)", \$4,252,920 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$50,630,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #2: From the appropriation designated "State General Funds (New)", \$420,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$5,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #3: From the appropriation designated "State General Funds (New)", \$85,050 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,012,500 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #4: From the appropriation designated "State General Funds (New)", \$226,464 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property,

highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,696,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #5: From the appropriation designated "State General Funds (New)", \$172,116 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,049,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #6: From the appropriation designated "State General Funds (New)", \$106,344 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,266,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #7: From the appropriation designated "State General Funds (New)", \$348,075 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,575,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #8: From the appropriation designated "State General Funds (New)", \$176,800 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$800,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #9: From the appropriation designated "State General Funds (New)", \$335,920 is specifically appropriated for the purpose of financing projects and facilities for the

Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,520,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #10: From the appropriation designated "State General Funds (New)", \$546,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$6,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #11: From the appropriation designated "State General Funds (New)", \$420,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$5,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #12: From the appropriation designated "State General Funds (New)", \$192,360 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,290,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #13: From the appropriation designated "State General Funds (New)", \$411,600 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$4,900,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #14: From the appropriation designated "State General Funds (New)", \$411,600 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$4,900,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #15: From the appropriation designated "State General Funds (New)", \$336,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$4,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #16: From the appropriation designated "State General Funds (New)", \$420,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$5,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #17: From the appropriation designated "State General Funds (New)", \$420,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$5,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #18: From the appropriation designated "State General Funds (New)", \$67,200 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$800,000 in principal amount of General Obligation Debt, the instruments of which shall have

maturities not in excess of two hundred and forty months.

Bond #19: From the appropriation designated "State General Funds (New)", \$420,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$5,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #20: From the appropriation designated "State General Funds (New)", \$416,640 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$4,960,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #21: From the appropriation designated "State General Funds (New)", \$243,600 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents, University System of Georgia by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,900,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #22: From the appropriation designated "State General Funds (New)", \$86,940 is specifically appropriated to the Board of Regents of the University System of Georgia to provide public library facilities by grant to the governing board of the Henry County McDonough Public Library for that library, through the issuance of not more than \$1,035,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #23: From the appropriation designated "State General Funds (New)", \$68,040 is specifically appropriated to the Board of Regents of the University System of Georgia to provide public library facilities by grant to the governing board of the Auburn Public Library for that library, through the issuance of not more than \$810,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #24: From the appropriation designated "State General Funds (New)", \$148,260 is specifically appropriated to the Board of Regents of the University System of Georgia to provide public library facilities by grant to the governing board of the Tifton-Tift County Public Library for that library, through the issuance of not more than \$1,765,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #25: From the appropriation designated "State General Funds (New)", \$168,000 is specifically appropriated to the Board of Regents of the University System of Georgia to provide public library facilities by grant to the governing board of the Gilmer County Public Library for that library, through the issuance of not more than \$2,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #26: From the appropriation designated "State General Funds (New)", \$84,000 is specifically appropriated to the Board of Regents of the University System of Georgia to provide public library facilities by grant to the governing board of the Hall County Public Library for that library, through the issuance of not more than \$1,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #27: From the appropriation designated "State General Funds (New)", \$106,680 is specifically appropriated to the Board of Regents of the University System of Georgia to provide public library facilities by grant to the governing board of the Tyrone Public Library for that library, through the issuance of not more than \$1,270,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #28: From the appropriation designated "State General Funds (New)", \$1,657,500 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$7,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #29: From the appropriation designated "State General Funds (New)", \$53,340 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$635,000 in

principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #30: From the appropriation designated "State General Funds (New)", \$100,800 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,200,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #31: From the appropriation designated "State General Funds (New)", \$44,200 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$200,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #32: From the appropriation designated "State General Funds (New)", \$537,600 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$6,400,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #33: From the appropriation designated "State General Funds (New)", \$15,960 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$190,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #34: From the appropriation designated "State General Funds (New)", \$2,013,060 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters,

property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$23,965,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #35: From the appropriation designated "State General Funds (New)", \$120,960 is specifically appropriated for the purpose of financing projects and facilities for the Technical and Adult Education, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,440,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #36: From the appropriation designated "State General Funds (New)", \$255,780 is specifically appropriated for the purpose of financing projects and facilities for the Natural Resources, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$3,045,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #37: From the appropriation designated "State General Funds (New)", \$640,900 is specifically appropriated for the purpose of financing projects and facilities for the State Forestry Commission by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,900,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #38: From the appropriation designated "State General Funds (New)", \$84,000 is specifically appropriated for the purpose of financing projects and facilities for the State Forestry Commission by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #39: From the appropriation designated "State General Funds (New)", \$2,226,000 is specifically appropriated for the purpose of financing projects and facilities for the

Georgia Ports Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$26,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #40: From the appropriation designated "State General Funds (New)", \$588,000 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Ports Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$7,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #41: From the appropriation designated "State General Funds (New)", \$1,228,500 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Ports Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$14,625,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #42: From the appropriation designated "State General Funds (New)", \$489,515 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Ports Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,215,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #43: From the appropriation designated "State General Funds (New)", \$552,500 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Ports Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #44: From the appropriation designated "State General Funds (New)", \$446,880 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Ports Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$5,320,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #45: From the appropriation designated "State General Funds (New)", \$7,039,200 is specifically appropriated for the purpose of financing projects and facilities for the Transportation, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$83,800,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #46: From the appropriation designated "State General Funds (New)", \$543,480 is specifically appropriated for the purpose of financing projects and facilities for the Transportation, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$6,470,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #47: From the appropriation designated "State Motor Fuel Funds (New)", \$26,100,000 is specifically appropriated for the purpose of financing projects and facilities for the Transportation, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$300,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #48: From the appropriation designated "State Motor Fuel Funds (New)", \$4,520,000 is specifically appropriated for the purpose of financing projects and facilities for the Transportation, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than

\$20,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #49: From the appropriation designated "State General Funds (New)", \$627,640 is specifically appropriated for the purpose of financing projects and facilities for the Juvenile Justice, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,840,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #50: From the appropriation designated "State General Funds (New)", \$30,940 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$140,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #51: From the appropriation designated "State General Funds (New)", \$15,470 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$70,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #52: From the appropriation designated "State General Funds (New)", \$25,415 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$115,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #53: From the appropriation designated "State General Funds (New)", \$8,840 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property,

highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$40,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #54: From the appropriation designated "State General Funds (New)", \$22,100 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$100,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #55: From the appropriation designated "State General Funds (New)", \$17,680 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$80,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #56: From the appropriation designated "State General Funds (New)", \$26,520 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$120,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #57: From the appropriation designated "State General Funds (New)", \$19,890 is specifically appropriated for the purpose of financing projects and facilities for the Veterans Services, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$90,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #58: From the appropriation designated "State General Funds (New)", \$230,945 is specifically appropriated for the purpose of financing projects and facilities for the

Corrections, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,045,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #59: From the appropriation designated "State General Funds (New)", \$168,000 is specifically appropriated for the purpose of financing projects and facilities for the Corrections, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #60: From the appropriation designated "State General Funds (New)", \$1,722,420 is specifically appropriated for the purpose of financing projects and facilities for the Corrections, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$20,505,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #61: From the appropriation designated "State General Funds (New)", \$382,200 is specifically appropriated for the purpose of financing projects and facilities for the Corrections, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$4,550,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #62: From the appropriation designated "State General Funds (New)", \$314,580 is specifically appropriated for the purpose of financing projects and facilities for the Corrections, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$3,745,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #63: From the appropriation designated "State General Funds (New)", \$151,620 is specifically appropriated for the purpose of financing projects and facilities for the Defense, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,805,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #64: From the appropriation designated "State General Funds (New)", \$196,690 is specifically appropriated for the purpose of financing projects and facilities for the Public Safety, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$890,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #65: From the appropriation designated "State General Funds (New)", \$75,140 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Bureau of Investigation by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$340,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #66: From the appropriation designated "State General Funds (New)", \$294,000 is specifically appropriated for the Georgia Environmental Facilities Authority for the purposes of financing loans to local government and local government entities for water or sewerage facilities or systems, through the issuance of not more than \$3,500,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #67: From the appropriation designated "State General Funds (New)", \$322,660 is specifically appropriated for the purpose of financing projects and facilities for the Georgia Building Authority by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$1,460,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #68: From the appropriation designated "State General Funds (New)", \$663,000 is specifically appropriated for the purpose of financing projects and facilities for the Revenue, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$3,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #69: From the appropriation designated "State General Funds (New)", \$2,169,115 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$9,815,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

Bond #70: From the appropriation designated "State General Funds (New)", \$520,800 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$6,200,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #71: From the appropriation designated "State General Funds (New)", \$18,060 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$215,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #72: From the appropriation designated "State General Funds (New)", \$3,214,260 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$38,265,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #73: From the appropriation designated "State General Funds (New)", \$5,310,060 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$63,215,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #74: From the appropriation designated "State General Funds (New)", \$627,480 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$7,470,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #75: From the appropriation designated "State General Funds (New)", \$728,280 is specifically appropriated for the purpose of financing educational facilities for county and independent school systems through the State Board of Education through the issuance of not more than \$8,670,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #76: From the appropriation designated "State General Funds (New)", \$4,368,000 is specifically appropriated for the Georgia Environmental Facilities Authority for the purposes of financing loans to local government and local government entities for water or sewerage facilities or systems, through the issuance of not more than \$52,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #77: From the appropriation designated "State General Funds (New)", \$168,000 is specifically appropriated for the purpose of financing projects and facilities for the Agriculture, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$2,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

Bond #78: From the appropriation designated "State General Funds (New)", \$924,000 is specifically appropriated for the purpose of financing projects and facilities for the Economic Development, Department of by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$11,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

**GENERAL OBLIGATION DEBT SINKING FUND - NEW: AUTHORIZED  
UNDER PREVIOUS APPROPRIATIONS ACTS**

Total Funds	\$104,606,858
State Funds	\$104,606,858

State General Funds	\$104,606,858
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1. The following paragraph of Section 61 of the Amended General Appropriations Act for state fiscal year 2001-2002 (Ga. L. 2002, p. 11) is hereby repealed in its entirety:

From the appropriation designated "State General Funds (New)," \$155,940 is specifically appropriated for the purpose of financing projects and facilities for the Department of Technical and Adult Education, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$690,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

2. The following paragraph of Section 65 of the Amended General Appropriations Act for state fiscal year 2002-2003 (Ga. L. 2003, p. 29), which reads as follows:

"From the appropriation designated "State General Funds (New)," \$60,900 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents of the University System of Georgia, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$700,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

is hereby amended to read as follows:

"From the appropriation designated "State General Funds (New)," \$24,304 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents of the University System of Georgia, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$300,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

3. The following paragraph of the General Appropriations Act for state fiscal year 2004-2005 (Section 63 of Ga. L. 2004, p. 994, 1046, 1053 as carried forward in Section 63 of House Bill 84 of the 2005 Regular Session), which reads as follows:

"From the appropriation designated "State General Funds (New)," \$1,377,993 is specifically appropriated for the purpose of financing projects and facilities for the

Department of Technical and Adult Education, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$15,839,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

is hereby amended to read as follows:

"From the appropriation designated "State General Funds (New)," \$1,237,314 is specifically appropriated for the purpose of financing projects and facilities for the Department of Technical and Adult Education, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$14,222,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

4. The following paragraph of the General Appropriations Act for state fiscal year 2004-2005 (Section 63 of Ga. L. 2004, p. 994, 1046, 1054 as carried forward in Section 63 of House Bill 84 of the 2005 Regular Session), which reads as follows:

"From the appropriation designated "State General Funds (New)," \$1,805,250 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents of the University System of Georgia, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$20,750,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

is hereby amended to read as follows:

"From the appropriation designated "State General Funds (New)," \$1,305,000 is specifically appropriated for the purpose of financing projects and facilities for the Board of Regents of the University System of Georgia, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$15,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

5. The following paragraph of the General Appropriations Act for state fiscal year 2004-

2005 (Section 63 of Ga. L. 2004, p. 994, 1046, 1053 as carried forward in Section 63 of House Bill 84 of the 2005 Regular Session), which reads as follows:

"From the appropriation designated "State General Funds (New)," \$1,655,784 is specifically appropriated for the purpose of financing projects and facilities for the Department of Technical and Adult Education, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$19,032,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

is hereby amended to read as follows:

"From the appropriation designated "State General Funds (New)," \$667,290 is specifically appropriated for the purpose of financing projects and facilities for the Department of Technical and Adult Education, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$7,670,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months."

**Section 49.**

From the appropriation designated "State General Funds (New): Authorized Under Previous Appropriations Acts," \$4,510,000 is specifically appropriated for the Georgia State Financing and Investment Commission to acquire, construct, develop, extend, enlarge, or improve land, waters, property, highways, buildings, structures, equipment, or facilities of the state, its agencies, departments, institutions, and of those state authorities which were created and activated prior to November 8, 1960, through the issuance of not more than \$50,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

**Section 50.**

The following paragraph of the General Appropriations Act for state fiscal year 2004-2005 (Section 63 of Ga. L. 2004, pp. 994, 1046, 1050-1051, as carried forward in Section 63 of House Bill 84 of the 2005 Regular Session) is hereby repealed in its entirety:

From the appropriation designated "State General Funds (New)," \$384,200 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection

therewith, through the issuance of not more than \$1,700,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

**Section 51.**

The following paragraph of the Amended General Appropriations Act for state fiscal year 2004-2005 (House Bill 84 of the 2005 Regular Session) is hereby repealed in its entirety:

From the appropriation designated "State General Funds (New)," \$198,040 is specifically appropriated for the purpose of financing projects and facilities for the Department of Corrections, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$876,283 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

**Section 52.**

To the extent to which Federal Funds become available in amounts in excess of those contemplated in this Appropriations Act, such excess Federal funds shall be applied as follows, whenever feasible: First, to supplant State funds which have been appropriated to supplant Federal funds, which such supplanted State funds shall thereupon be removed from the annual operating budgets; and Second, to further supplant State funds to the extent necessary to maintain the effective matching ratio experienced in the immediately preceding fiscal year, which such supplanted State funds shall thereupon be removed from the annual operating budgets. The Office of Planning and Budget shall utilize its budgetary and fiscal authority so as to accomplish the above stated intent to the greatest degree feasible. At the end of this fiscal year, said Office of Planning and Budget shall provide written notice to the members of the Appropriations Committees of the Senate and House of Representatives of the instances of noncompliance with the stated intent of this Section.

**Section 53.**

In addition to all other appropriations, there is hereby appropriated as needed, a specific sum of money equal to each refund authorized by law, which is required to make refund of taxes and other monies collected in error, farmer gasoline tax refund and any other refunds specifically authorized by law.

**Section 54.**

No State appropriations authorized under this Act shall be used to continue programs currently funded entirely with Federal funds.

**Section 55.**

In accordance with the requirements of Article IX, Section VI, Paragraph Ia of the Constitution of the State of Georgia, as amended, there is hereby appropriated payable to each department, agency, or institution of the State sums sufficient to satisfy the payments required to be made in each year, under existing lease contracts between any department, agency, or institution of the State, and any authority created and activated at the time of the effective date of the aforesaid constitutional provision, as amended, or appropriated for the State fiscal year addressed within this Act. If for any reason any of the sums herein provided under any other provision of this Act are insufficient to make the required payments in full, there shall be taken from other funds appropriated to the department, agency or institution involved, an amount sufficient to satisfy such deficiency in full and the lease payment constitutes a first charge on all such appropriations.

**Section 56.**

The provisions in this paragraph may be known collectively as "flex". When an agency receives appropriations of a particular fund source for more than one program ,object or class, the appropriation of the particular fund source for each program, object or class of the agency is the amount stated, and the program, object or class shall also be authorized the lesser of an additional \$250,000 or two percent (2%) of the stated amount. However, if the additional authority is used, the appropriation of the same fund source for one or more of the other appropriations to that agency is reduced in the same amount, such that the stated total in appropriations from that fund source within the Section is not exceeded. However, the additional amount must be from a fund source which is lawfully available for the purpose to which it is added. This paragraph does not:

- (1) apply to the appropriations for the "MEDICAID: LOW-INCOME MEDICAID" and "MEDICAID: AGED, BLIND, AND DISABLED" programs of the Department of Community Health;
- (2) permit an agency to include within its flex the appropriations for an agency attached to it for administrative purposes;
- (3) apply to appropriations for local assistance grants in which recipient, purpose and amount are specified under O.C.G.A. § 50-8-8(a) or O.C.G.A. § 28-5-121(1).

**Section 57.**

The General Assembly has distributed and included in the agency appropriations listed above State funds for the following purposes:

- 1.) To provide a general salary adjustment of 2% for officers and employees of the Judicial, Legislative and Executive branches, excluding those provided for separately in the numbered items below, with the amount of the appropriation for this purpose calculated according to an effective date of January 1, 2006. The proposed salary adjustment for Executive branch employees will be in conformance with the

compensation and performance management plans promulgated by the State Personnel Board or as otherwise provided by law.

- 2.) To provide for the cost-of-living adjustment authorized by O.C.G.A. § 45-7-4(b), in the amount of 2% for each state officer whose salary is set by Code Sections 45-7-4(a), except members of the General Assembly. The amount of the appropriation for this purpose is calculated according to an effective date of January 1, 2006.
- 3.) To provide for the cost-of-living adjustment authorized by O.C.G.A. § 45-7-4(b), in the amount of 2% for members of the General Assembly. The amount of the appropriation for this purpose is calculated according to an effective date of January 1, 2006, subject to further provisions of O.C.G.A. § 45-7-4(b).
- 4.) To provide for a 2% increase in the state base salary on the local teacher salary schedule for the State Board of education. This proposed 2% salary improvement is in addition to the salary increases awarded to certificated personnel through normal progression on the teacher salary schedule for the State Board of Education. The amount of the appropriation for this purpose is calculated according to an effective date of September 1, 2005.
- 5.) To provide for a 2% increase for local school bus drivers and lunchroom workers with the amount of the appropriation for this purpose calculated according to an effective date of July 1, 2005.
- 6.) To provide a 2% funding level for merit increases for Regents faculty and non-academic personnel, with the amount of the appropriation for this purpose calculated to commence with winter semester, 2006, for Regents faculty and calculated to commence January 1, 2006, for non-academic personnel.
- 7.) To provide a 2% salary increase for public librarians with the amount of the appropriation for this purpose calculated according to an effective date of January 1, 2006.
- 8.) To provide for a 2% salary increase for teachers with the Department of Technical and Adult Education with the amount of the appropriation for this purpose calculated according to an effective date of January 1, 2006, and to provide for a 2% salary increase for support personnel, with the amount of the appropriation for this purpose calculated according to an effective date of January 1, 2006.

**Section 58.**

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

**Section 59.**

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

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.

Senator Hill of the 4th moved that the Senate adopt the Conference Committee Report on HB 85.

On the motion, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	E Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
E Henson	Y Shafer,D	

On the motion, the yeas were 36, nays 13; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 85.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House insists on its position in disagreeing to the Senate substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

TUESDAY, MARCH 29, 2005

2883

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Geisinger of the 48th, O'Neal of the 146th and Scott of the 2nd.

Mr. President:

The House insists on its position in substituting the following Bill of the Senate:

SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following bill was taken up to consider House action thereto:

SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Hamrick of the 30th asked unanimous consent that the Senate adhere to its disagreement to the House substitute to SB 230 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Hamrick of the 30th, Mullis of the 53rd and Grant of the 25th.

The following bill was taken up to consider House action thereto:

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Schaefer of the 50th asked unanimous consent that the Senate adhere to its substitute to HB 374 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Cagle of the 49th, Balfour of the 9th and Schaefer of the 50th.

The Calendar was resumed.

HB 460. By Representative Bridges of the 10th:

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 make numerous changes throughout said title to ensure that Georgia's public retirement systems are in compliance with the federal Internal Revenue Code and regulations promulgated thereunder; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Schaefer of the 50th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

TUESDAY, MARCH 29, 2005

2885

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

February 7, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 460 (LC 21 8154)

Dear Representative Bridges:

This bill would amend provisions throughout Title 47 of the Official Code of Georgia Annotated. The changes included in this bill would ensure that the Georgia Public Retirement Systems are in compliance with the Federal Internal Revenue Code and corresponding regulations, would correct inconsistencies within the Code, and would clarify terms.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 17, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 460 (LC 21 8211S)

Dear Representative Bridges:

This substitute bill would amend provisions throughout Title 47 of the Official Code of Georgia Annotated. The changes included in this bill would ensure that the Georgia Public Retirement Systems are in compliance with the Federal Internal Revenue Code and corresponding regulations, would correct inconsistencies within the Code, and would clarify terms.

This is to certify that this substitute 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

TUESDAY, MARCH 29, 2005

2887

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

HB 460, having received the requisite constitutional majority, was passed.

HB 492. By Representatives Cummings of the 16th and Bridges of the 10th:

A BILL to be entitled an Act to amend Article 3 of Chapter 23 of Title 47 of the Official Code of Georgia Annotated, relating to membership in the Georgia Judicial Retirement System, so as to change the dates of election for participation; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Tate of the 38th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 4, 2005

The Honorable Bill Cummings  
State Representative  
Legislative Office Building, Room 604-A  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 492 (LC 21 8118)

Dear Representative Cummings:

This bill would amend provisions relating to membership under the Georgia Judicial Retirement System. If this legislation is enacted, persons who become employed by the Office of Legislative Counsel or the Attorney General's Office, and are employed in full-time positions requiring admission to the State Bar of Georgia, would no longer be eligible to join the Georgia Judicial Retirement System. Membership in the Georgia Judicial Retirement System would be closed to these groups effective October 1, 2005, and such members would be required to participate in the Employees' Retirement System. It should be noted that persons who are in such positions and elected

membership in the Georgia Judicial Retirement System prior to that date would be authorized to remain members of that System.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 22, 2005

The Honorable Bill Cummings  
State Representative  
Legislative Office Building, Room 604-A  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
Substitute to House Bill 492

Dear Representative Cummings:

This substitute bill would amend provisions relating to membership under the Georgia Judicial Retirement System. Specifically, this legislation would affect persons who become employed by the Office of Legislative Counsel or the Attorney General's Office on or after July 1, 2005, and who are employed in full-time positions requiring admission to the State Bar of Georgia. If this legislation is enacted, such persons would no longer be eligible to elect membership in the Georgia Judicial Retirement System, and would be required to participate in the Employees' Retirement System. Under the provisions of this bill, persons who are in such positions on June 30, 2005 would retain all rights and obligations outlined in this code section.

TUESDAY, MARCH 29, 2005

2889

This is to certify that this substitute 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

HB 492, having received the requisite constitutional majority, was passed.

Senator Smith of the 52nd asked unanimous consent that Senator Mullis of the 53rd be excused. The consent was granted, and Senator Mullis was excused.

HB 505. By Representatives Royal of the 171st, Stephens of the 164th and Channell of the 116th:

A BILL to be entitled an Act to amend Article 3 of Chapter 48 of the Official Code of Georgia Annotated, relating to the excise tax on rooms, lodgings, and accommodations, so as to change certain provisions regarding county and municipal levies on public accommodations; to change certain provisions regarding the Hotel Motel Tax Performance Review Board; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	E Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 505, having received the requisite constitutional majority, was passed.

Senator Seay of the 34th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

HB 526. By Representatives Bryant of the 160th, Stephens of the 164th, Carter of the 159th, Jackson of the 161st, Day of the 163rd and others:

A BILL to be entitled an Act to amend an Act creating the Georgia International and Maritime Trade Center Authority, approved April 21, 1995 (Ga. L. 1995, p. 4499), as amended by an Act approved April 4, 1997 (Ga. L. 1997, p. 3791), so as to change the provisions relating to the membership of such authority; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Johnson of the 1st.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans Golden	Pearson	Y Unterman
Y Grant	Y Powell	E Walker
Y Hamrick	Y Reed	Y Weber
Y Harbison	Y Rogers	Y Whitehead
Y Harp	Y Schaefer	Y Wiles
Y Heath	Y Seabaugh	Y Williams
E Henson	Y Seay	Y Zamarripa
	Y Shafer,D	

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

HB 526, having received the requisite constitutional majority, was passed.

HB 613. By Representatives Wix of the 33rd, Ehrhart of the 36th and Lord of the 142nd:

A BILL to be entitled an Act to amend Code Section 40-5-27 of the Official Code of Georgia Annotated, relating to the examination of applicants for driver's licenses, so as to change the renewal period of licenses for bioptic drivers from two to four years; to eliminate the need for a road test upon renewal; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Carter of the 13th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Shafer,D	

On the passage of the bill, the yeas were 48, nays 1.

HB 613, having received the requisite constitutional majority, was passed.

HB 669. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Code Section 50-14-1 of the Official Code of Georgia Annotated, relating to open meetings requirements, so as to revise a definition; to provide that certain associations of school districts in this state are subject to the open meetings statute; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Moody of the 56th.

Senators Thompson of the 33rd, Meyer von Bremen of the 12th and Reed of the 35th offered the following amendment:

Amend HB 669 by adding a new subsection (D) to read as follows;

All meetings of the General Assembly, and renumbering the remaining language accordingly.

Senator Balfour of the 9th moved that HB 669 be placed on the Table.

Senator Adelman of the 42nd objected.

On the motion, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	E Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	Y Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	E Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
E Henson	Y Shafer,D	

On the motion, the yeas were 33, nays 18; the motion prevailed, and HB 669 was placed on the Table.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has adopted the report of the Committee of Conference on the following Bill of the House:

HB 85. By Representatives Richardson of the 19th, Golick of the 34th, Harbin of the 118th, Roberts of the 154th and Keen of the 179th:

A BILL to be entitled an Act to make and provide appropriations for the State Fiscal Year beginning July 1, 2005, and ending June 30, 2006; and for other purposes.

Mr. President:

The House insists on its position in disagreeing to the Senate substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government; local government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Wilkinson of the 52nd, Fleming of the 117th and Golick of the 34th.

The following bill was taken up to consider House action thereto:

- HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government; local government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

Senator Unterman of the 45th asked unanimous consent that the Senate adhere to its substitute to HB 48 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Wiles of the 37th, Balfour of the 9th and Unterman of the 45th.

The Calendar was resumed.

- HB 470. By Representatives Lunsford of the 110th, Golick of the 34th, Smith of the 129th, Roberts of the 154th, Lewis of the 15th and others:

A BILL to be entitled an Act to amend the following provisions of the O.C.G.A., so as to change all references to "911" emergency numbers to read 9-1-1; Article 2 of Chapter 10 of Title 20, relating to obstruction of public administration; Article 2 of Chapter 5 of Title 46, relating to telephone service; Code Section 19-13-51, relating to definitions relative to the "Family Violence and Stalking Protective Order Registry Act"; Code Section 31-11-1, relating to findings and declaration of policy relative to emergency services; Code Section 33-9-39, relating to restrictions on motor vehicle insurance surcharges relating to accidents involving law enforcement officers, firefighters, or emergency medical technicians; Code Section 36-60-19, relating to dispatch centers, required training for communications officers, exceptions, and penalty for noncompliance; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Seabaugh of the 28th.

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 470:

**A BILL TO BE ENTITLED  
AN ACT**

To amend the following provisions of the Official Code of Georgia Annotated, so as to change all references to "911" emergency numbers to read 9-1-1; Article 2 of Chapter 10 of Title 20, relating to obstruction of public administration; Article 2 of Chapter 5 of Title 46, relating to telephone service; Code Section 19-13-51, relating to definitions relative to the "Family Violence and Stalking Protective Order Registry Act,"; Code Section 31-11-1, relating to findings and declaration of policy relative to emergency services; Code Section 33-9-39, relating to restrictions on motor vehicle insurance surcharges relating to accidents involving law enforcement officers, firefighters, or emergency medical technicians; Code Section 36-60-19, relating to dispatch centers, required training for communications officers, exceptions, and penalty for noncompliance; Code Section 38-3-20, relating to presentation of boundary dispute by grand jury, certification to Governor, appointment of surveyor to define line, and return of survey and plat to Secretary of State; Code Section 38-3-27, relating to local organizations for emergency management, creation, structure, powers, directors, appointment, qualifications, and compensation, state to provide financial assistance, and entitlement for funding; and Code Section 50-18-72, relating to when public disclosure not required and disclosure of exempting legal authority; to amend Article 2 of Chapter 5 of Title 46, relating to telephone service, so as to define certain terms; to change references to "911" numbers to read 9-1-1; to change the membership of the 9-1-1 Advisory Committee; to provide for the update of information in a certain report; to provide a penalty; to provide for the use of a wireless customer's place of primary use; to provide for a maximum administrative fee; to provide for the administration of certain funds; to provide for the recovery of costs; to provide for a state plan governing 911 enhanced systems; to provide for a reporting of the expenditure of funds; to amend Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions relative to sales and use tax, so as to define certain terms; to provide for a method of making a notification of billing error; to provide for the identification of the place of primary use for wireless customers; to provide for the provision of certain customer information to certain state agencies; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Article 2 of Chapter 10 of Title 16 of the Official Code of Georgia Annotated, relating to obstruction of public administration and related offenses, is amended by striking in its entirety Code Section 16-10-24.3, relating to obstructing or hindering persons making emergency telephone calls, and inserting in lieu thereof the following:

"16-10-24.3.

Any person who verbally or physically obstructs, prevents, or hinders another person with intent to cause or allow physical harm or injury to another person from making or completing a ~~911~~ 9-1-1 telephone call or a call to any law enforcement agency to request police protection or to report the commission of a crime is guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed 12 months, or both."

## SECTION 2.

Code Section 19-13-51 of the Official Code of Georgia Annotated, relating to definitions relative to the "Family Violence and Stalking Protective Order Registry Act," is amended by striking in its entirety paragraph (4) and inserting in lieu thereof the following:

"(4) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the following: state or local officer, sheriff, deputy sheriff, dispatcher, ~~911~~ 9-1-1 operator, police officer, prosecuting attorney, member of the State Board of Pardons and Paroles, a hearing officer and parole officer of the State Board of Pardons and Paroles, and a probation officer of the Department of Corrections."

## SECTION 3.

Code Section 31-11-1 of the Official Code of Georgia Annotated, relating to 31-11-1, findings and declaration of policy relative to emergency services, is amended by striking in its entirety paragraph (4) of subsection (a) and inserting in lieu thereof the following:

"(a)(4) That the administration of an emergency medical systems communications program should be the responsibility of the Department of Human Resources, acting upon the recommendations of the local entity which coordinates the program; all ambulance services shall be a part of this system even if this system is the ~~911~~ 9-1-1 emergency telephone number;"

## SECTION 4.

Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated external defibrillator program, establishment, regulations, and liability, is amended by striking in its entirety paragraph (3) of subsection (b) and inserting in lieu thereof the following:

"(b)(3) All persons who use an automated external defibrillator shall activate the emergency medical services system as soon as reasonably possible by calling ~~911~~ 9-1-1 or the appropriate emergency telephone number upon use of the automated external defibrillator; and"

**SECTION 5.**

Code Section 33-9-39 of the Official Code of Georgia Annotated, relating to restrictions on motor vehicle insurance surcharges relating to accidents involving law enforcement officers, firefighters, or emergency medical technicians, is amended by striking in its entirety paragraph (2) and inserting in lieu thereof the following:

"(2) For which the law enforcement officer, firefighter, or emergency medical technician furnishes proof, in the form of copies of the accident report, ~~911~~ 9-1-1 emergency dispatch log, or the employing agency's documents, to the insurer of the condition provided in paragraph (1) of this Code section."

**SECTION 6.**

Code Section 36-60-19 of the Official Code of Georgia Annotated, relating to dispatch centers, required training for communications officers, exceptions, and penalty for noncompliance, is amended by striking in its entirety subsection (b) and inserting in lieu thereof the following:

"(b) On and after January 1, 1999, no monthly '~~911~~ 9-1-1' charge provided for in Code Section 46-5-133 may be imposed for the support of any dispatch center unless such dispatch center is in compliance with the requirements of this Code section."

**SECTION 7.**

Code Section 38-3-20 of the Official Code of Georgia Annotated, relating to the creation of the Georgia Emergency Management Agency, director, staff, offices, director's duties, and disaster coordinator, is amended by striking subsections (c) and (e) and inserting in lieu thereof, respectively, the following:

"(c) The director may employ such professional, technical, clerical, stenographic, and other personnel, may fix their compensation, and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of Article 1, this article, and Article 3 of this chapter, the duties of the agency and the director described in Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency Telephone Number "~~911~~ 9-1-1 Service Act of 1977,' as amended."

"(e) The director, subject to the direction and control of the Governor, shall be the executive head of the Georgia Emergency Management Agency and shall be responsible to the Governor for carrying out the program for emergency management in this state. He or she shall coordinate the activities of all organizations for emergency management within the state, shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by Article 1, this article, and Article 3 of this chapter as may be prescribed by the Governor and such additional authority, duties, and responsibilities as described in Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency Telephone Number "~~911~~ 9-1-1 Service Act of 1977,' as amended."

**SECTION 8.**

Code Section 38-3-27 of the Official Code of Georgia Annotated, relating to local organizations for emergency management, creation, structure, powers, directors, appointment, qualifications, compensation, state to provide financial assistance, and entitlement for funding, is amended by striking in its entirety paragraph (5) of subsection (a) and inserting in lieu thereof the following:

"(a)(5) The political subdivision shall designate an office in a building owned or leased by the political subdivision as the office of emergency management. Such office of emergency management shall have appropriate equipment and supplies, including but not limited to telephone and communication equipment, ~~connections access~~ to the '911' 9-1-1 system if such system is operational in the political subdivision, desks, typewriters, file cabinets, and necessary office supplies. No such equipment or supplies shall be used for personal business. The local director shall post on the front door of the office the schedule of hours of the work week in which he will be attending to emergency management matters. The citizens of a political subdivision shall have accessibility to the office of emergency management and the local director or his designee shall be available or on call at all times beyond working hours."

**SECTION 9.**

Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service is amended by striking in its entirety Part 4, the "Georgia Emergency Telephone Number '911' Service Act of 1977," and inserting in lieu thereof the following:

**"Part 4****46-5-120.**

This part shall be known and may be cited as the 'Georgia Emergency Telephone Number "911" 9-1-1 Service Act of 1977.'

**46-5-121.**

(a) The General Assembly finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There currently exist numerous different emergency phone numbers throughout the state. Provision for a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public service efforts by making it easier to notify public safety personnel. Such a simplified means of procuring emergency services will result in the saving of lives, a reduction in the destruction of property, and quicker apprehension of criminals. It is the intent of the General Assembly to establish and implement a cohesive state-wide emergency telephone number '911' 9-1-1 system which will provide citizens with rapid, direct access to public safety agencies by dialing telephone number '911' 9-1-1 with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(b) The General Assembly further finds and declares that the benefits of '911' 9-1-1' service should be widely available, regardless of whether a '911' 9-1-1' call is placed from a traditional landline telephone or from a wireless telephone. It is also in the public interest that users of wireless telephones should bear some of the cost of providing this life-saving service, as users of landline telephones currently do. It is the intent of the General Assembly to bring wireless telephone service within the scope of this part and to establish a means by which local public safety agencies may provide enhanced '911' 9-1-1' service to wireless telephone users.

46-5-122.

As used in this part, the term:

(1) 'Addressing' means the assigning of a numerical address and street name (the name may be numerical) to each location within a local government's geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the '911' 9-1-1' data base and facilitates quicker response by public safety agencies.

~~(1.1)~~(2) 'Agency' means the Georgia Emergency Management Agency established pursuant to Code Section 38-3-20 unless the context clearly requires otherwise.

~~(2)~~(3) 'Director' means the director of emergency management appointed pursuant to Code Section 38-3-20.

~~(4)~~ 'Cost recovery' means the mechanism by which service suppliers may recover the recurring and nonrecurring costs they expend on the implementation of wireless 9-1-1 services.

~~(3)~~(5) 'Emergency "911' 9-1-1 system' means a local exchange telephone service or wireless service which facilitates the placing of calls by persons in need of emergency services to a public safety answering point by dialing the telephone number '911' 9-1-1' and under which calls to '911' 9-1-1' are answered by public safety answering points established and operated by the local government subscribing to the '911' 9-1-1' service. The term 'emergency "911' 9-1-1 system' also includes 'enhanced "911' 9-1-1 service,' which means an emergency telephone system that provides the caller with emergency '911' 9-1-1' system service and, in addition, directs '911' 9-1-1' calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

~~(6)~~ 'Enhanced ZIP code' means a United States postal ZIP code of 9 or more digits.

~~(4)~~(7) 'Exchange access facility' means the access from a particular telephone subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by tariffs of the telephone companies as approved by the Georgia Public Service Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Services (WATS), Foreign Exchange (FX), or incoming only lines.

(8) 'FIPS' means the Federal Information Processing Standard (FIPS) 55-3 or any future enhancement.

~~(5)~~(9) 'Local government' means any city, county, military base, or political subdivision of Georgia and its agencies.

(10) 'Mobile telecommunications service' means commercial mobile radio service, as such term is defined in 47 C.F.R. Section 20.3 as in effect on June 1, 1999, or as subsequently amended.

~~(6)~~(11) "'911' 9-1-1 charge' means a contribution to the local government for the '911' 9-1-1 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing '911' 9-1-1 service pursuant to this part, and costs associated with the hiring, training, and compensating of dispatchers employed by the local government to operate said '911' 9-1-1 system at the public safety answering points.

(12) 'Place of primary use' means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer.

~~(7)~~(13) 'Public agency' means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides or has authority to provide fire-fighting, law enforcement, ambulance, medical, or other emergency services.

~~(8)~~(14) 'Public safety agency' means a functional division of a public agency which provides fire-fighting, law enforcement, emergency medical, suicide prevention, ~~civil defense~~ emergency management dispatching, poison control, drug prevention, child abuse, spouse abuse, or other emergency services.

~~(8.1)~~(15) 'Public safety answering point' means the public safety agency which receives incoming '911' 9-1-1 telephone calls and dispatches appropriate public safety agencies to respond to such calls.

~~(9)~~(16) 'Service supplier' means a person or entity who provides local exchange telephone service or wireless service to a telephone subscriber.

~~(10)~~(17) 'Telephone subscriber' means a person or entity to whom local exchange telephone service or wireless service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription. When the same person, business, or organization has several wireless telephones, each wireless telecommunications connection shall constitute a separate connection.

~~(11)~~(18) 'Wireless enhanced '911' 9-1-1 charge' means a contribution to the local government for the following:

(A) The costs to the local government of implementing or upgrading, and maintaining, an emergency '911' 9-1-1 system which is capable of receiving and utilizing the following information, as it relates to '911' 9-1-1 calls made from a

wireless telecommunications connection: automatic number identification, the location of the base station or cell site which receives the '911' 9-1-1' call, and the location of the wireless telecommunications connection;

(B) Nonrecurring and recurring installation, maintenance, service, and network charges of a wireless service supplier to provide the information described in subparagraph (A) of this paragraph; and

(C) Other costs which may be paid with money from the Emergency Telephone System Fund, pursuant to subsection (e) of Code Section 46-5-134.

~~(12)~~(19) 'Wireless service' means 'commercial mobile service' as defined under Section 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.), regulations of the Federal Communications Commission, and the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected voice service which is provided over networks which utilize intelligent switching capability and offer seamless handoff to customers. The term does not include one-way signaling service, data transmission service, nonlocal radio access line service, or a private telecommunications service.

~~(13)~~(20) 'Wireless service supplier' means a provider of wireless service.

~~(14)~~(21) 'Wireless telecommunications connection' means any mobile station for wireless service that connects a provider of wireless service to a provider of local exchange telephone service.

#### 46-5-123.

(a) For the purposes of the development and implementation of a plan for the state-wide emergency telephone number '911' 9-1-1' system, there is created the '911' 9-1-1' Advisory Committee to be composed of the director of emergency management, who shall serve as chairperson; the ~~commissioner of administrative services~~ ~~director of the Georgia Technology Authority~~ or his or her designee; and ~~ten~~ 12 other members appointed by the Governor, as follows:

(1) Three members appointed from nominees of the Georgia Municipal Association;

(2) Three members appointed from nominees of the Association County Commissioners of Georgia;~~and~~

(3) Four members who are experienced in and currently involved in the management of emergency telephone systems;~~and~~

~~(4) Two members who are representatives of the telecommunications industry, one of whom shall be a representative of a wireless service supplier and one of whom shall be a representative of a land based service supplier.~~

(b) When appointments are made, the associations making nominations pursuant to this Code section shall submit at least three times as many nominees as positions to be filled at that time by nominees of the association.

(c) The appointed members of the committee shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment.

## 46-5-124.

- (a) The agency shall develop guidelines for implementing a state-wide emergency telephone number ~~'911'~~ 9-1-1 system. The guidelines shall provide for:
- (1) Steps of action necessary for public agencies to effect the necessary coordination, regulation, and development preliminary to a ~~'911'~~ 9-1-1 system that will incorporate the requirements of each public service agency in each local government of Georgia;
  - (2) Identification of mutual aid agreements necessary to effect the ~~'911'~~ 9-1-1 system, including coordination on behalf of the State of Georgia with any federal agency to secure financial assistance or other desirable activities in connection with the receipt of funding that may be provided to communities for the planning, development, or implementation of the ~~'911'~~ 9-1-1 system;
  - (3) The coordination necessary between local governments planning or developing a ~~'911'~~ 9-1-1 system and other state agencies, the Public Service Commission, all affected utility and telephone companies, wireless service suppliers, and other agencies;
  - (4) The actions to establish emergency telephone communications necessary to meet the requirements for each local government, including law enforcement, fire-fighting, medical, suicide prevention, rescue, or other emergency services; and
  - (5) The actions to be taken by a local government desiring to provide wireless enhanced ~~'911'~~ 9-1-1 service, including requirements contained in 47 Code of Federal Regulations Section 20.18.
- (b) The agency shall be responsible for encouraging and promoting the planning, development, and implementation of local ~~'911'~~ 9-1-1 system plans. The agency shall develop any necessary procedures to be followed by public agencies for implementing and coordinating such plans and shall mediate whenever disputes arise or agreements cannot be reached between the local political jurisdiction and other ~~public agencies~~ entities involving the ~~'911'~~ 9-1-1 system.
- (c) Subject to the approval of the Governor, the director shall be authorized to promulgate rules and regulations to establish minimum standards relating to training and equipment. Such training standards shall not be inconsistent with the training course or certification required for communications officers under Code Section 35-8-23. Notwithstanding any other law to the contrary, no communications officer hired to the staff of a ~~'911'~~ 9-1-1 communications center shall be required to complete his or her training pursuant to Code Section 35-8-23 prior to being hired or employed for such position.
- (d) The agency shall maintain the registry of wireless service suppliers provided for in Code Section 46-5-124.1.

## 46-5-124.1.

- (a) ~~Any service provider doing business~~ Any wireless service supplier that provides wireless service or is authorized to provide wireless service in Georgia shall register the following information with the director:

- (1) The name, address, and telephone number of the representative of the wireless service supplier to whom the resolution adopted pursuant to Code Section 46-5-133 or other notification of intent to provide automatic number identification or automatic location identification, or both, of a wireless telecommunications connection should be submitted;
  - (2) The name, address, and telephone number of the representative of the wireless service supplier with whom a local government must coordinate to implement automatic number identification or automatic location identification, or both, of a wireless telecommunications connection;
  - (3) The counties in Georgia in which the wireless service supplier is authorized to provide wireless service at the time the filing is made; and
  - (4) Every corporate name under which the wireless service supplier is authorized to provide wireless service in Georgia.
- (b) ~~A wireless service supplier shall notify the director of any change to the information described in subsection (a) of this Code section within 30 days of such change. After the initial submission by each service supplier doing business in this state, the information required by subsection (a) of this Code section shall be updated and submitted to the director by the tenth day of January and the tenth day of July of each year or such other semiannual schedule as the director may establish.~~
- (c) The director shall send a notice of delinquency to any service provider which fails to comply with subsection (b) of this Code section. Such notice shall be sent by certified mail or statutory overnight delivery. Any service provider which fails to register and provide the information required by this Code section within 30 days after receipt of a notice of delinquency shall not be eligible to receive cost recovery funds as provided in subsection (e) of Code Section 46-5-134 until the service provider is in compliance with subsection (b) of this Code section.

46-5-125.

Nothing in this part shall be construed to prohibit or discourage the formation of multijurisdictional or regional '911' 9-1-1 systems; and any system established pursuant to this part may include the jurisdiction, or any portion thereof, of more than one public agency.

46-5-126.

The agency shall coordinate its activities with those of the Public Service Commission, which shall encourage the Georgia telephone industry to activate facility modification plans for a timely '911' 9-1-1 implementation.

46-5-127.

After January 1, 1978, no emergency telephone number '911' 9-1-1 system shall be established, and no existing system shall be expanded to provide wireless enhanced

'911' 9-1-1 service, without written confirmation by the agency that the local plan conforms to the guidelines and procedures provided for in Code Section 46-5-124.

46-5-128.

All public agencies shall assist the agency in its efforts to carry out the intent of this part; and such agencies shall comply with the guidelines developed pursuant to Code Section 46-5-124 by furnishing a resolution of intent regarding an emergency telephone number '911' 9-1-1 system.

46-5-129.

The agency may develop a '911' 9-1-1 emblem which may be utilized on marked vehicles used by public safety agencies participating in a local '911' 9-1-1 system.

46-5-130.

The agency is authorized to apply for and accept federal funding assistance in the development and implementation of a state-wide emergency telephone number '911' 9-1-1 system.

46-5-131.

(a) Whether participating in a state-wide emergency '911' 9-1-1 system or an emergency '911' 9-1-1 system serving one or more local governments, neither the state nor any local government of the state nor any emergency '911' 9-1-1 system provider, its employees, directors, officers, and agents, except in cases of wanton and willful misconduct or bad faith, shall be liable for death or injury to the person or for damage to property as a result of either developing, adopting, establishing, participating in, implementing, maintaining, or carrying out duties involved in operating the '911' 9-1-1 emergency telephone system or in the identification of the telephone number, address, or name associated with any person accessing an emergency '911' 9-1-1 system.

(b) No local government of the State of Georgia shall be required to release, indemnify, defend, or hold harmless any emergency '911' 9-1-1 system provider from any loss, claim, demand, suit, or other action or any liability whatsoever which arises out of subsection (a) of this Code section, unless the local government agrees or has agreed to assume such obligations.

46-5-132.

It shall be unlawful for any wireless service supplier to assess or charge any fee for an emergency telephone call placed on a '911' 9-1-1 emergency telephone system. The prohibition provided for in this Code section shall only apply to actual emergency telephone calls made on such system and shall not apply to nor prohibit any fee assessed or charged for the implementation or enhancement of such system.

46-5-133.

(a) Subject to the provisions of subsection (b) of this Code section, the governing authority of any local government which operates or which contracts for the operation of an emergency '911' 9-1-1 system is authorized to adopt a resolution to impose a monthly '911' 9-1-1 charge upon each exchange access facility subscribed to by telephone subscribers whose exchange access lines are in the areas served or which would be served by the '911' 9-1-1 service. Subject to the provisions of subsection (b) of this Code section and of subparagraphs (a)(2)(A) and (a)(2)(B) of Code Section 46-5-134, the governing authority of any local government which operates or contracts for the operation of an emergency '911' 9-1-1 system which is capable of providing or provides enhanced '911' 9-1-1 service to persons or entities with a wireless telecommunications connection, excluding a military base, is authorized to adopt a resolution to impose a monthly wireless enhanced '911' 9-1-1 charge upon each wireless telecommunications connection subscribed to by telephone subscribers whose billing address place of primary use is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency '911' 9-1-1 system. Such resolution, or any amendment to such resolution, shall fix a date on which such resolution and the imposition and collection of the '911' 9-1-1 charge or wireless enhanced '911' 9-1-1 charge, as provided in the resolution, shall become effective; provided, however, that such effective date shall be at least 120 days following the date of the adoption of such resolution or any amendment to such resolution by the local government. The '911' 9-1-1 charge must be uniform, may not vary according to the type of exchange access facility used, and may be billed on a monthly or quarterly basis. The wireless enhanced '911' 9-1-1 charge must be uniform, not vary according to the type of wireless telecommunications connection used, and may be billed on a monthly or quarterly basis.

(b)(1) Except as provided in paragraph (2) of this subsection, no local government shall be authorized to exercise the power conferred by this Code section unless either:

(A) A majority of the voters residing in that political subdivision who vote in an election called for such purpose shall vote to authorize the implementation of this Code section. Such election shall be called and conducted as other special elections are called and conducted in such local government when requested by such local government authority. The question or questions on the ballot shall be as prescribed by the election superintendent, provided that separate questions may be posed regarding implementation of a '911' 9-1-1 charge and of a wireless enhanced '911' 9-1-1 charge; or

(B) After a public hearing held upon not less than ten days' public notice.

(2) The provisions of paragraph (1) of this subsection shall not apply with respect to a local government if the governing authority of such local government has on or before March 7, 1988, contracted with a local exchange telephone service supplier for the purchase or operation, or both, of a local exchange telephone '911' 9-1-1 system.

(c) On and after January 1, 1999, no monthly '911' 9-1-1 charge provided for in this Code section may be imposed or continue to be imposed unless each dispatch center

funded in whole or in part from such charges is in compliance with Code Section 36-60-19, relating to required TDD training for communications officers.

46-5-134.

(a)(1) The subscriber of an exchange access facility may be billed for the monthly '911' 9-1-1' charge, if any, imposed with respect to that facility by the service supplier. Such '911' 9-1-1' charge may not exceed \$1.50 per month per exchange access facility provided to the telephone subscriber. All exchange access facilities billed to federal, state, or local governments shall be exempt from the '911' 9-1-1' charge. Each service supplier shall, on behalf of the local government, collect the '911' 9-1-1' charge from those telephone subscribers to whom it provides exchange telephone service in the area served by the emergency '911' 9-1-1' system. As part of its normal billing process, the service supplier shall collect the '911' 9-1-1' charge for each month an exchange access facility is in service, and it shall list the '911' 9-1-1' charge as a separate entry on each bill. If a service supplier receives a partial payment for a bill from a telephone subscriber, the service supplier shall apply the payment against the amount the telephone subscriber owes the service supplier first.

(2)(A) If the governing authority of a local government operates or contracts for the operation of an emergency '911' 9-1-1' system which is capable of providing or provides automatic number identification of a wireless telecommunications connection and the location of the base station or cell site which receives a '911' 9-1-1' call from a wireless telecommunications connection, the subscriber of a wireless telecommunications connection whose billing address is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency '911' 9-1-1' system may be billed for the monthly wireless enhanced '911' 9-1-1' charge, if any, imposed with respect to that connection by the wireless service supplier. Such wireless enhanced '911' 9-1-1' charge may not exceed the amount of the monthly '911' 9-1-1' charge imposed upon subscribers of exchange access facilities pursuant to paragraph (1) of this subsection ~~and, in no event, shall such wireless enhanced '911' charge nor~~ exceed \$1.00 per month per wireless telecommunications connection provided to the telephone subscriber.

(B) ~~If On and after October 1, 2001,~~ if the governing authority of a local government operates or contracts for the operation of an emergency '911' 9-1-1' system which is capable of providing or provides automatic number identification and automatic location identification of a wireless telecommunications connection, the subscriber of a wireless telecommunications connection whose ~~billing address place of primary use~~ is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency '911' 9-1-1' system may be billed for the monthly wireless enhanced '911' 9-1-1' charge, if any, imposed with respect to that connection by the wireless service supplier. Such wireless enhanced '911' 9-1-1' charge may not exceed the amount of the monthly '911' 9-1-1' charge imposed upon subscribers of exchange

access facilities pursuant to paragraph (1) of this subsection and shall be imposed on a monthly basis for each wireless telecommunications connection provided to the telephone subscriber.

(C) All wireless telecommunications connections billed to federal, state, or local governments shall be exempt from the wireless enhanced '911' 9-1-1' charge. Each wireless service supplier shall, on behalf of the local government, collect the wireless enhanced '911' 9-1-1' charge from those telephone subscribers whose billing address place of primary use is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency '911' 9-1-1' system. As part of its normal billing process, the wireless service supplier shall collect the wireless enhanced '911' 9-1-1' charge for each month a wireless telecommunications connection is in service, and it shall list the wireless enhanced '911' 9-1-1' charge as a separate entry on each bill. If a wireless service supplier receives partial payment for a bill from a telephone subscriber, the wireless service supplier shall apply the payment against the amount the telephone subscriber owes the wireless service supplier first.

(D) Notwithstanding the foregoing, the application of any '911' 9-1-1' service charge with respect to a mobile telecommunications service, as defined in 4 U.S.C. Section 124(7), shall be governed by the provisions of Code Section 48-8-6.

(b) Every telephone subscriber in the area served by the emergency '911' 9-1-1' system shall be liable for the '911' 9-1-1' and the wireless enhanced '911' 9-1-1' charges imposed under this Code section until it has been paid to the service supplier. A service supplier shall have no obligation to take any legal action to enforce the collection of the '911' 9-1-1' or wireless enhanced '911' 9-1-1' charge. The service supplier shall provide the governing authority within 60 days with the name and address of each subscriber who has refused to pay the '911' 9-1-1' or wireless enhanced '911' 9-1-1' charge after such '911' 9-1-1' or wireless enhanced '911' 9-1-1' charge has become due. A collection action may be initiated by the local government that imposed the charges, and reasonable costs and attorneys' fees associated with that collection action may be awarded to the local government collecting the '911' 9-1-1' or wireless enhanced '911' 9-1-1' charge.

(c) The local government contracting for the operation of an emergency '911' 9-1-1' system shall remain ultimately responsible to the service supplier for all emergency '911' 9-1-1' system installation, service, equipment, operation, and maintenance charges owed to the service supplier. Any taxes due on emergency '911' 9-1-1' system service provided by the service supplier will be billed to the local government subscribing to the service. State and local taxes do not apply to the '911' 9-1-1' or wireless enhanced '911' 9-1-1' charge billed to telephone subscribers under this Code section.

(d)(1) Each service supplier that collects '911' 9-1-1' or wireless enhanced '911' 9-1-1' charges on behalf of the local government is entitled to retain as an administrative fee an amount equal to 3 percent of the gross '911' 9-1-1' or wireless enhanced '911' 9-1-1' charge receipts to be remitted to the local government; provided, however, that such amount shall not exceed 3¢ for every dollar so remitted. The remaining amount shall

be due quarterly to the local government and shall be remitted to it no later than 60 days after the close of a calendar quarter.

(2) The '911' 9-1-1 and the wireless enhanced '911' 9-1-1 charges collected by the service supplier shall be deposited and accounted for in a separate restricted revenue fund known as the Emergency Telephone System Fund maintained by the local government. The local government may invest the money in the fund in the same manner that other moneys of the local government may be invested and any income earned from such investment shall be deposited into the Emergency Telephone System Fund.

(2)(A) ~~Before July 1, 2002, 30¢ of the monthly wireless enhanced '911' charge imposed pursuant to subparagraph (a)(2)(A) of this Code section shall be deposited in a separate restricted reserve account of the Emergency Telephone System Fund, which shall be designated as the Wireless Phase I Reserve Account. Money from the Wireless Phase I Reserve Account shall be used only to pay the nonrecurring and recurring installation, maintenance, service, and network charges of a wireless service supplier which are associated with providing automatic number identification of a wireless telecommunications connection and the location of the base station or cell site which receives a '911' call from a wireless telecommunications connection; provided, however, that if the local government has not, by July 1, 2002, begun operation or contracted for the operation of an emergency '911' system which is capable of providing or provides automatic location identification of a wireless telecommunications connection, the funds in the Wireless Phase I Reserve Account on July 1, 2002, shall be transferred into an appropriate unrestricted account or accounts of the Emergency Telephone System Fund and may be used for any purpose authorized under subsection (e) of this Code section. No wireless enhanced '911' charge may be imposed pursuant to subparagraph (a)(2)(B) of this Code section for a period of 24 months following the transfer of funds from the Wireless Phase I Reserve Account pursuant to this subparagraph. On and after July 1, 2002, 15¢ of the monthly wireless enhanced '911' charge imposed pursuant to subparagraph (a)(2)(A) of this Code section shall be deposited in the Wireless Phase I Reserve Account.~~

(B) ~~Thirty cents of the monthly wireless enhanced '911' charge imposed pursuant to subparagraph (a)(2)(B) of this Code section shall be deposited in a separate restricted reserve account of the Emergency Telephone System Fund, which shall be designated as the Wireless Phase II Reserve Account. Money from the Wireless Phase II Reserve Account shall be used only to pay the nonrecurring and recurring installation, maintenance, service, and network charges of a wireless service supplier which are associated with providing automatic number identification and automatic location identification of a wireless telecommunications connection. Any funds which are in the Wireless Phase I Reserve Account at the time when the wireless enhanced '911' charge is first imposed pursuant to subparagraph (a)(2)(B) of this Code section shall be transferred to the Wireless Phase II Reserve Account.~~

(3) ~~The governing authority of a local government operating or contracting for the operation of an emergency '911' system shall, by resolution, reaffirm the necessity for the '911' and the wireless enhanced '911' charges beginning with the thirteenth month following the month in which emergency '911' system service is first provided in the political subdivision and during such month annually thereafter. On or before July 1, 2005, any funds that may have been deposited in a separate restricted wireless reserve account required by this Code section prior to such date shall be transferred to the Emergency Telephone System Fund required by paragraph (2) of this subsection.~~

(4) ~~The local government may on an annual basis, and at its expense, audit or cause to be audited the books and records of service suppliers with respect to the collection and remittance of 9-1-1 charges.~~

~~(4)(5) Such monthly '911' 9-1-1 and wireless enhanced '911' 9-1-1 charges may be reduced at any time by the governing authority by resolution; provided, however, that the said governing authority shall be required to reduce such monthly '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge at any time the projected revenues from '911' 9-1-1 or wireless enhanced '911' 9-1-1 charges will cause the unexpended revenues in the Emergency Telephone System Fund at the end of the fiscal year to exceed by one and one-half times the unexpended revenues in such fund at the end of the immediately preceding fiscal year or at any time the unexpended revenues in such fund at the end of the fiscal year exceed by one and one-half times the unexpended revenues in such fund at the end of the immediately preceding fiscal year. Such reduction in the '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge shall be in an amount which will avert the accumulation of revenues in such fund at the end of the fiscal year which will exceed by one and one-half times the amount of revenues in the fund at the end of the immediately preceding fiscal year. Funds in the Wireless Phase I Reserve Account and the Wireless Phase II Account shall not be considered in making the calculations described in this paragraph.~~

(e) ~~A wireless service supplier may recover its costs expended on the implementation and provision of wireless enhanced 9-1-1 services to subscribers in an amount not to exceed 30¢ of each 9-1-1 charge collected from a place of primary use that is within the geographic area that is served by the local government or would be served by the local government for the purpose of such emergency 9-1-1 system. Such cost recovery amount shall be based on the actual cost incurred by the wireless service supplier in providing wireless enhanced 9-1-1 services. Disputes arising from the collection of such cost recovery fees shall be heard by the 9-1-1 Advisory Committee as provided in Code Section 46-5-124 and as further provided in subsection (d) of Code Section 46-5-123. The method for filing a notice of a dispute concerning the collection of the cost recovery fees shall be determined by the 9-1-1 Advisory Committee.~~

(f) ~~In addition to cost recovery as provided in subsection (e) of this Code section, money Money from the Emergency Telephone System Fund shall be used only to pay for:~~

- (1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and data base provisioning; addressing; and nonrecurring costs of establishing a '911' 9-1-1 system;
  - (2) The rates associated with the service supplier's '911' 9-1-1 service and other service supplier's recurring charges;
  - (3) The actual cost of salaries, including benefits, of employees hired by the local government solely for the operation and maintenance of the emergency '911' 9-1-1 system and the actual cost of training such of those employees who work as dispatchers;
  - (4) Office supplies of the public safety answering points used directly in providing emergency '911' 9-1-1 system services;
  - (5) The cost of leasing or purchasing a building used as a public safety answering point. Moneys from the fund cannot be used for the construction or lease of an emergency '911' 9-1-1 system building until the local government has completed its street addressing plan;
  - (6) The lease, purchase, or maintenance of computer hardware and software used at a public safety answering point, including computer-assisted dispatch systems;
  - (7) Supplies directly related to providing emergency '911' 9-1-1 system services, including the cost of printing emergency '911' 9-1-1 public education materials; and
  - (8) The lease, purchase, or maintenance of logging recorders used at a public safety answering point to record telephone and radio traffic.
- (g) All 9-1-1 and communication systems provided pursuant to this part shall conform to the two-step state plan governing 9-1-1 enhanced communications as follows:
- (1) In step one, the governing authority of a local government shall operate or contract for the operation of an emergency 9-1-1 system that provides or is capable of providing automatic number identification of a wireless telecommunications connection and the location of the base station or cell site which received a 9-1-1 call from a wireless telecommunications connection; and
  - (2) In step two, the governing authority of a local government shall operate or contract for the operation of an emergency 9-1-1 system that provides or is capable of providing automatic number identification and automatic location of a wireless telecommunications connection.
- (f)(h) The local government may contract with a service supplier for any term negotiated by the service supplier and the local government for an emergency '911' 9-1-1 system and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract, subject to the limitations provided by subsection (e) of this Code section.
- (g)(i) The service supplier shall maintain records of the amount of the '911' 9-1-1 and wireless enhanced '911' 9-1-1 charges collected for a period of at least three years from the date of collection. The local government may, at its expense, require an annual audit of the service supplier's books and records with respect to the collection and remittance of the '911' 9-1-1 and wireless enhanced '911' 9-1-1 charges.

~~(h)(j)~~ In order to provide additional funding for the local government for emergency '911' 9-1-1 system purposes, the local government may receive federal, state, municipal, or private funds which shall be expended for the purposes of this part.

~~(h)(k)~~ Subject to the provisions of Code Section 46-5-133, a telephone subscriber may be billed for the monthly '911' 9-1-1 or wireless enhanced '911' 9-1-1 charge for up to 18 months in advance of the date on which the '911' 9-1-1 service becomes fully operational.

~~(h)(l)~~ In the event the local government is a federal military base providing emergency services to local exchange telephone subscribers residing on the base, a local exchange telephone service supplier is authorized to apply the '911' 9-1-1 charges collected to the bill for '911' 9-1-1 service rather than remit the funds to an Emergency Telephone System Fund.

(m)(1) Any local government collecting or expending any 9-1-1 charges or wireless enhanced 9-1-1 charges in any fiscal year beginning on or after July 1, 2005, shall file an annual report of its collections and expenditures in conjunction with the annual audit required under Code Section 36-81-7. The form shall be designed by the state auditor and shall be distributed to local governments administering such funds. The annual report shall require certification by the recipient local government and by the local government auditor that funds were expended in compliance with the expenditure requirements of this Code section.

(2) Any local government which makes expenditures not in compliance with this Code section may be held liable for pro rata reimbursement to telephone and wireless telecommunications subscribers of amounts improperly expended. Such liability may be established in judicial proceedings by any aggrieved party. The noncompliant local government shall be solely financially responsible for the reimbursement and for any costs associated with the reimbursement. Such reimbursement shall be accomplished by the service providers abating the imposition of the 9-1-1 charges and 9-1-1 wireless enhanced charges until such abatement equals the total amount of the rebate.

#### 46-5-134.1.

(a) This Code section shall apply in counties where the governing authorities of more than one local government have adopted a resolution to impose a wireless enhanced '911' 9-1-1 charge in accordance with the provisions of subsection (a) of Code Section 46-5-133 and notwithstanding any contrary provision of Code Section 46-5-133 or 46-5-134.

(b) A wireless service supplier may certify to any of the governing authorities described in subsection (a) of this Code section that the wireless service supplier is unable to determine whether the billing addresses of its subscribers are within the geographic area that is served by such local government. Upon such certification, the wireless service supplier shall be authorized to collect the wireless enhanced '911' 9-1-1 charge from any of its subscribers whose billing address is within the county and is within an area that is as close as reasonably possible to the geographic area that is served by such local government. The wireless service supplier shall notify such

subscribers that if such subscriber's billing address is not within the geographic area served by such local government, such subscriber is not obligated to pay the wireless enhanced '911' 9-1-1 charge.

(c) Unless otherwise provided in an agreement among the governing authorities described in subsection (a) of this Code section, the charges collected by a wireless service supplier pursuant to this Code section shall be remitted to such governing authorities based upon the number of calls from wireless telecommunications connections that each such individual local government receives and counts relative to the total number of calls from wireless telecommunications connections that are received and counted by all of such local governments.

(d) The authority granted to a wireless service supplier pursuant to this Code section shall terminate (1) on the date that the wireless service supplier certifies to a governing authority described in subsection (a) of this Code section that the wireless service supplier is able to determine whether the billing addresses of its subscribers are within the geographic area that is served by such governing authority or (2) on the date which is 180 days from the date that any of its subscribers were first billed under this Code section, whichever is earlier. Upon termination of such authority, the wireless service supplier shall collect the wireless enhanced '911' 9-1-1 charge as provided in Code Section 46-5-134.

#### 46-5-135.

A service supplier, including any telephone company and its employees, directors, officers, and agents, is not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or any of its employees, directors, officers, or agents, except for willful or wanton misconduct, either in connection with developing, adopting, implementing, maintaining, or operating any emergency '911' 9-1-1 system or in the identification of the telephone number, address, or name associated with any person accessing an emergency '911' 9-1-1 system.

#### 46-5-136.

(a) The governing authority of a local government by resolution shall create an advisory board consisting of the sheriff, representatives from other public safety agencies which respond to emergency calls under the system, and other individuals knowledgeable of emergency '911' 9-1-1 systems and the emergency needs of the citizens of the local government, provided that such advisory board shall not exceed 13 members.

(b) The advisory board shall assist the local government in:

- (1) Reviewing and analyzing the progress by public safety agencies in developing '911' 9-1-1 system requirements;
- (2) Recommending steps of action to effect the necessary coordination, regulation, and development of a '911' 9-1-1 system;
- (3) Identifying mutual aid agreements necessary to effect the '911' 9-1-1 system;

- (4) Assisting in the promulgation of necessary rules, regulations, operating procedures, schedules, and other such policy and administrative devices as shall be deemed necessary and appropriate; and
  - (5) Providing other services as may be deemed appropriate by the local government.
- (c) The members of the advisory board shall not be compensated from moneys deposited into the Emergency Telephone System Fund.

46-5-137.

This part shall not be construed as affecting the jurisdiction or powers of the Public Service Commission to establish rates, charges, or tariffs.

46-5-138.

- (a)(1) By proper resolution of the local governing bodies, an authority may be created and activated by:
    - (A) Any two or more municipal corporations;
    - (B) Any two or more counties; or
    - (C) One or more municipal corporations and one or more counties.
  - (2) The resolutions creating and activating a joint authority shall specify the number of members of the authority, the number to be appointed by each participating county or municipal corporation, their terms of office, and their residency requirements.
  - (3) The resolutions creating and activating joint authorities may be amended by appropriate concurrent resolutions of the participating governing bodies.
- (b) The public authority shall be authorized to contract with the counties or municipalities which formed the authority to operate an emergency ~~'911'~~ 9-1-1 system for such local governments throughout the corporate boundaries of such local governments. Pursuant to such contracts, the local governments shall be authorized to provide funding to the authority from the Emergency Telephone System Fund, including the Wireless Phase I and Phase II Reserve Accounts, maintained by each local government. No authority shall be formed until each local government forming the authority has imposed a monthly ~~'911'~~ 9-1-1 charge or a monthly wireless enhanced ~~'911'~~ 9-1-1 charge.
- (c) Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including, but without limiting the generality of the foregoing, the power:
- (1) To bring and defend actions;
  - (2) To adopt and amend a corporate seal;
  - (3) To make and execute contracts and other instruments necessary to exercise the powers of the authority;
  - (4) To receive and administer gifts, grants, and devises of any property;
  - (5) To operate emergency call answering services for law enforcement, emergency management, fire, and emergency medical service agencies 24 hours a day, seven days a week, 365 days a year;

- (6) To acquire, by purchase, gift, or construction, any real or personal property desired to be acquired to operate the emergency '911' 9-1-1 system;
  - (7) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, or grant options for any real or personal property or interest therein for any such purposes; and
  - (8) To mortgage, convey, pledge, or assign any properties, revenues, income, tolls, charges, or fees owned or received by the authority.
- (d) The authority shall elect a chairperson and such other officers as deemed necessary by the authority. The authority shall select a director who shall be responsible for establishing operating standards and procedures and overseeing the operations of the emergency '911' 9-1-1 system. The director may be an employee working in the operation of the emergency '911' 9-1-1 system. The authority shall be responsible for hiring, training, supervising, and disciplining employees working in the operation of the emergency '911' 9-1-1 system. An appropriate number of full-time and part-time employees shall be hired to operate the emergency '911' 9-1-1 system. The authority shall determine the compensation of such employees and shall be authorized to provide other employee benefits. The authority shall submit its annual budget and a report of its financial records to the local governments which created the authority.
- (e) The authority may contract with a service supplier in the same manner that local governments are so authorized under the provisions of this part.
- (f) Notwithstanding subsection (i) of Code Section 46-5-134, if the joint authority and each local governing body activating the joint authority certify to the service provider in writing prior to the end of the 18 month period in advance of the date on which the '911' 9-1-1 service was to have become fully operational that the system cannot be placed in operation on the date originally projected but that all parties are proceeding in a diligent and timely fashion to implement such service, the service provider shall continue to collect the monthly '911' 9-1-1 charge for an additional period of 18 months or until the '911' 9-1-1 service becomes fully operational, whichever occurs first.

#### 46-5-138.1.

- (a) Notwithstanding any provision of paragraph (1) of subsection (a) of Code Section 46-5-134 to the contrary, where two or more counties, none of which offers emergency '911' 9-1-1 services on May 1, 1998, and any participating municipalities within such counties, if any, agree by intergovernmental contract to initiate or contract for the joint operation of an emergency '911' 9-1-1 system for the first time after May 1, 1998, such local governments may impose a monthly '911' 9-1-1 charge which exceeds \$1.50 per exchange access facility but only so long as the following procedure is followed:
- (1) The participating local governments shall, with input from a local exchange service supplier, prepare an estimated budget for the implementation of the joint emergency '911' 9-1-1 system with costs limited to items eligible for funding through the Emergency Telephone System Fund;
  - (2) An estimate of the revenue to be generated by the '911' 9-1-1 charge authorized by paragraph (1) of subsection (a) of Code Section 46-5-134 during the first 18 months of collection shall be prepared;

(3) If the total amount necessary for implementation of the emergency '911' 9-1-1 system in paragraph (1) of this subsection exceeds the estimated revenue from imposition of the '911' 9-1-1 charge specified in paragraph (2) of this subsection, the monthly '911' 9-1-1 charge per exchange access facility may be increased on a pro rata basis during the first 18 months of collection to the extent necessary to provide revenue sufficient to pay the amount specified in paragraph (1) of this subsection, but in no case shall such monthly charge be greater than \$2.50 per exchange access facility. Notwithstanding subsection (i) of Code Section 46-5-134, if each local governing body which is a party to an intergovernmental contract certifies to the service provider in writing prior to the end of the 18 month period in advance of the date on which the '911' 9-1-1 service was to have become fully operational that the system cannot be placed in operation on the date originally projected but that all parties are proceeding in a diligent and timely fashion to implement such service, the service provider shall continue to collect the monthly '911' 9-1-1 charge for an additional period of 18 months or until the '911' 9-1-1 service becomes fully operational, whichever occurs first; and

(4) Such local governments comply with the requirements of Code Section 46-5-133 which relate to the imposition of a monthly '911' 9-1-1 charge.

Nothing in this subsection shall be construed to authorize the imposition of any charge upon a wireless telecommunications connection. Except as otherwise provided in this subsection, the requirements of Code Section 46-5-134 which relate to monthly '911' 9-1-1 charges on exchange access facilities shall apply to charges imposed pursuant to this subsection.

(b) The increased monthly '911' 9-1-1 charge authorized by subsection (a) of this Code section shall also be available to any joint '911' 9-1-1 authority created pursuant to Code Section 46-5-138 after May 1, 1998.

**46-5-139.**

~~Following the conclusion of the 2002 session of the General Assembly, the President of the Senate and the Speaker of the House of Representatives shall each appoint no fewer than three members of their respective bodies to serve as members of the Joint Study Committee on Wireless Enhanced '911' Charges. Such joint study committee shall make any recommendations it considers appropriate to the General Assembly no later than December 31, 2002. The General Assembly may implement the provisions of this Code section by appropriate resolution."~~

**SECTION 10.**

Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions relative to sales and use tax, is amended by striking in its entirety Code Section 48-8-13, relating to taxing jurisdictions for mobile telecommunications services, and inserting in lieu thereof the following:

"48-8-13.

- (a) For purposes of this Code section, the terms and corresponding definitions set forth in 4 U.S.C. Section 124 shall apply. In addition, as used in this Code section, the term:
- (1) 'Enhanced ZIP code' means a United States postal ZIP code of 9 or more digits.
- (2) 'Fee' shall include, without limitation, any emergency 9-1-1 charge imposed pursuant to Part 4 of Article 2 of Chapter 5 of Title 46.
- (3) 'FIPS' means the Federal Information Processing Standard (FIPS) 55-3 or any future enhancement.
- (4) 'Home service provider' means the facilities based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.
- (5) 'Mobile telecommunications service' means commercial mobile radio service, as such term is defined in 47 C.F.R. Section 20.3 as in effect on June 1, 1999, or as subsequently amended.
- (6) 'Place of primary use' means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. At such time as the state certifies a master street address data base covering all or a portion of the state, addresses within the area so covered shall be identified by FIPS code. If the state has not designated such a data base, a home service provider desiring to be held harmless from any tax, charge, or fee liability under the provisions of 4 U.S.C. Section 120 shall employ an enhanced ZIP code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercise due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced ZIP code overlaps boundaries of taxing jurisdictions of the same level, the home service provider shall designate one specific jurisdiction within such enhanced ZIP code for use in taxing the activity for such enhanced ZIP code for each level of taxing jurisdiction.
- (7) 'Taxing jurisdiction' means the state or any municipality or county.
- (b) Subject to the provisions of 4 U.S.C. Section 116(c), the tax levied by this chapter shall apply only to those charges for mobile telecommunications services subject to tax that are deemed to be provided to a customer by a home service provider pursuant to 4 U.S.C. Section 117(a) if the customer's place of primary use is located within this state, regardless of where the mobile telecommunications services originate, terminate, or pass through.
- (c) If a customer believes that an amount of tax, charge, or fee or an assignment of place of primary use or taxing jurisdiction included on a bill under the provisions of this Code section is erroneous, the customer shall notify the home service provider in writing to the address provided as required by subsection (g) of this Code section. The customer shall include in this written notification the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within 60 days of receiving a notice under this subsection, the home service provider

shall review its records to determine the customer's taxing jurisdiction. If this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge, or fee erroneously collected from the customer for a period of up to two years. If this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer. The procedures in this subsection shall be the first course of remedy available to customers seeking correction of assignment of place of primary use or taxing jurisdiction or a refund of or other compensation for taxes, charges, or fees erroneously collected by the home service provider, and no cause of action based upon a dispute arising from such taxes, charges, or fees shall accrue until a customer has exhausted the remedies set forth in this subsection.

(d)(1) If a mobile telecommunications service is not subject to the tax levied by this chapter, and if the amount charged for such mobile telecommunications service is aggregated with and not separately stated from the amount paid or charged for any service that is subject to such tax, then the nontaxable mobile telecommunications service shall be treated as being subject to such tax unless the home service provider can reasonably identify the amount paid or charged for the mobile telecommunications service not subject to such tax from its books and records kept in the regular course of business.

(2) If a mobile telecommunications service is not subject to the tax levied by this chapter, a customer may not rely upon the nontaxability of such mobile telecommunications service unless the customer's home service provider separately states the amount charged for such nontaxable mobile telecommunications service or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identify the amount charged for such nontaxable mobile telecommunications service.

(e)(1) A mobile telecommunications services provider who is obligated to remit or pay the tax levied by this chapter shall be held harmless from any liability, including tax, interest, and penalties, which would otherwise be due solely as a result of an assignment of a place of primary use to an incorrect jurisdiction, if the mobile telecommunications services provider satisfies the requirements of 4 U.S.C. Section 120(a).

(2)(A) The department may elect to provide an electronic data base that satisfies the requirements of 4 U.S.C. Section 119. If the department provides such data base, a home service provider using the data contained in such data base shall be held harmless from any liability, including tax, interest, and penalties, which would otherwise be due solely as a result of an assignment of a place of primary use to an incorrect local jurisdiction.

- (B) Paragraph (1) of this subsection shall apply to a home service provider who is in compliance with the terms of such paragraph until the later of:
- (i) Eighteen months after the approval described in 4 U.S.C. Section 119(a); or
  - (ii) Six months after the department provides an electronic data base that satisfies the requirements of 4 U.S.C. Section 119.
- (3) A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use. Subject to paragraph (5) of this subsection, if the home service provider's reliance on information provided by its customer is in good faith:
- (A) The home service provider shall be entitled to rely on the applicable residential or business street address supplied by such customer; and
  - (B) The home service provider shall be held harmless from liability for any additional tax, including any related interest or penalties, which is based on a different determination of such customer's place of primary use.
- (4) Except as provided in paragraph (5) of this subsection, a home service provider shall be allowed to treat the address used for purposes of the tax levied by this chapter for any customer under a service contract in effect on August 1, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement.
- (5)(A) If the department determines that the address used by a home service provider as a customer's place of primary use does not meet the definition of 'place of primary use,' the department shall notify such customer of such determination and provide such customer an opportunity to demonstrate that such address satisfies such definition.
- (B) If the customer fails to demonstrate that the address meets the definition of such customer's place of primary use, the department shall provide the home service provider with the proper address to be used as such customer's place of primary use, and the home service provider shall begin using the address provided by the department as such customer's place of primary use in the next full billing period.
- (6)(A) If the department determines that the assignment of a taxing jurisdiction by a home service provider does not reflect the correct taxing jurisdiction, the department shall notify the home service provider of such determination and provide such home service provider an opportunity to demonstrate that the assignment represents the correct taxing jurisdiction.
- (B) If the home service provider fails to demonstrate that the assignment reflects the correct taxing jurisdiction, the department shall provide the home service provider with the correct taxing jurisdiction to be used, and the home service provider shall begin using the taxing jurisdiction provided by the department in the next full billing period.
- (f) A home service provider shall identify each customer's place of primary use and shall provide at least quarterly a complete listing of the total number of customers to the Georgia Emergency Management Agency. The home service provider shall indicate in such report whether it is employing an enhanced ZIP Code to assign each street address

to a specific taxing jurisdiction so as to qualify for the safe harbor provisions of 4 U.S.C. Section 120. Further, each home service provider shall, upon request, provide information showing the total number of billings and the amount of fees collected to any taxing jurisdiction as to the customers whose place of primary use is within the jurisdiction of such taxing jurisdiction; provided, however, that in no event shall customer identification be required to be released. Such information shall initially be made available not later than July 1, 2006.

(g) A home service provider shall clearly state on each customer bill or invoice the following information:

(1) The taxing jurisdiction to which each tax and fee charged to the customer is paid and the amount paid to each taxing jurisdiction; provided, however, that such information shall initially be made available not later than July 1, 2006; and

(2) An address, telephone number, or electronic method for the customer to send the notification required by subsection (c) of this Code section or otherwise."

## SECTION 11.

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure not required and disclosure of exempting legal authority, is amended by striking in its entirety paragraph (16) of subsection (a) and inserting in lieu thereof the following:

"(16) Unless the request is made by the accused in a criminal case or by his or her attorney, public records of an emergency '911' 9-1-1 system, as defined in paragraph (3) of Code Section 46-5-122, containing information which would reveal the name, address, or telephone number of a person placing a call to a public safety answering point, which information may be redacted from such records if necessary to prevent the disclosure of the identity of a confidential source, to prevent disclosure of material which would endanger the life or physical safety of any person or persons, or to prevent the disclosure of the existence of a confidential surveillance or investigation; or"

## SECTION 12.

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

Senators Seabaugh of the 28th and Stoner of the 6th offered the following amendment #1:

Amend the Senate Regulated Industries and Utilities Committee substitute to HB 470 by striking lines 30 through 36 of page 17 and inserting in lieu thereof the following:

"government for the purpose of such emergency 9-1-1 system; provided, however, that such amount may be increased to 45¢ upon implementation of step two of the state plan governing 9-1-1 enhanced communications as provided in subsection (g) of this Code section. Such cost recovery amount shall be based on the actual cost incurred by the wireless service supplier in providing wireless enhanced 9-1-1 services."

On the adoption of the amendment, the yeas were 36, nays 0, and the Seabaugh, Stoner amendment #1 was adopted.

Senators Williams of the 19th and Goggans of the 7th offered the following amendment #2:

Amend the Senate Regulated Industries and Utilities Committee substitute to HB 470 by inserting on line 23 of page 1, following the words and symbol "of funds;", the following:

"to provide for exemptions with respect to certain taxation; to provide for legislative findings and determinations;" .

By inserting immediately following line 6 of page 23 the following:

"(g) It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of this state and constitute a public purpose and that the authority will be performing an essential governmental function in the exercise of the power conferred upon it by this Code section. This state covenants that the authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision, or upon its activities in the operation or maintenance of the buildings erected or acquired by it, or upon any fees, rentals, or other charges for the use of such buildings, or upon other income received by the authority. The exemption provided in this Code section shall include an exemption from state and local sales and use tax on property purchased by the authority for use exclusively by the authority."

On the adoption of the amendment, the yeas were 40, nays 0, and the Williams, Goggans amendment #2 was adopted.

Senator Butler of the 55th offered the following amendment #3 to HB 470:

Amend HB 470 (LC 21 8424S) by inserting the words and symbols 'To amend Code Section 46-5-134 of the Official Code of Georgia Annotated, relating to the establishment of the Emergency Telephone System Fund, so as to authorize the use of 9-1-1 Emergency Telephone System Fund money to establish and operate a 3-1-1 nonemergency phone system' after 'funds;' on line 23 of page 1.

By inserting the following between lines 32 and 33 of page 19:

'(n) A governing authority of a local government which operates a 9-1-1 emergency system may receive funds from the Emergency Telephone System Fund to pay for the establishment and continuing operation of a 3-1-1 phone system, which 3-1-1 system shall be a three digit phone number that can be dialed to reach help for nonemergency

services provided by a local government or as a 9-1-1 backup system; provided, however, that no revenue from a local government's Emergency Telephone System Fund may be used for this purpose unless the local government is fully funding an operational local emergency 9-1-1 system that meets all state standards required by this part; and provided, further, that no more than one-third of the revenue within a local government's Emergency Telephone System Fund may be delegated to establish and operate a nonemergency 3-1-1 system.'

On the adoption of the amendment, Senator Johnson of the 1st, called for the yeas and nays; the call was sustained, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	E Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	E Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
E Henson	Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 30, and the Butler amendment #3 was lost.

On the adoption of the substitute, the yeas were 36, nays 1, 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:

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Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 470, having received the requisite constitutional majority, was passed by substitute.

Senator Staton of the 18th asked unanimous consent that Senator Williams of the 19th be excused. The consent was granted, and Senator Williams was excused.

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

The Senate Judiciary Committee offered the following substitute to HB 106:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to general provisions for penal institutions, so as to change certain provisions relating to the

state sexual offender registry; to change provisions relating to registration requirements for offenders changing residency to this state; to change and add certain definitions; 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 1 of Title 42 of the Official Code of Georgia Annotated, relating to general provisions for penal institutions, is amended by striking in its entirety Code Section 42-1-12, relating to the state sexual offender registry, and inserting in lieu thereof the following:

"42-1-12.

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

(1) 'Appropriate state official' means:

(A) With respect to an offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to an offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee; and

(C) With respect to an offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and

(D) With respect to an offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(2) 'Board' means the Sexual Offender Registration Review Board.

(2.1) 'Change in enrollment status' or 'change in employment status' means the commencement or termination of enrollment or employment.

(2.2) 'Change in vocation status' means the commencement or termination of a vocation.

(3) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant being adjudicated guilty. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section upon the defendant's discharge.

(4)(A) 'Criminal offense against a victim who is a minor' with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution; or
- (vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) 'Criminal offense against a victim who is a minor' with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution;
- (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;
- (viii) Creating, publishing, selling, distributing, or possessing any material depicting a minor or a portion of a minor's body engaged in sexually explicit conduct;
- (ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct;
- (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors engaged in sexually explicit conduct; or
- (xi) Any conduct which, by its nature, is a sexual offense against a minor.

(C) For purposes of this paragraph, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(D) ~~For purposes of this paragraph, 'criminal offense against a victim who is a minor' shall not include conduct which, by its nature, is a sexual offense against a victim who is 13 years of age or older when the defendant enters a first offender plea pursuant to Article 3 of Chapter 8 of this title.~~

(4.1) 'Institution of higher education' means a community college, state university, state college, or independent postsecondary institution.

(5) 'Mental abnormality' means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(5.1) 'Minor' means any person under the age of 18 years and any person that the offender believed at the time of the offense was under the age of 18 years if such person was the victim of an offense.

(6) 'Predatory' means an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) 'Sexually violent offense' means a conviction for violation of Code Section 16-6-1, relating to rape; Code Section 16-6-2, relating to aggravated sodomy; Code Section 16-6-4, relating to aggravated child molestation; or Code Section 16-6-22.2, relating to aggravated sexual battery; or ~~an offense that has as its element engaging in physical contact with another person with intent to commit such an offense~~ Code Section 16-5-21, relating to aggravated assault with intent to rape; or a conviction in a federal court, military court, tribal court, or court of another state or territory for any offense which under the laws of this state would be classified as a violation of a Code section listed in this paragraph.

(8) 'Sexually violent predator' means a person who has been convicted on or after July 1, 1996, of a sexually violent offense and who suffers from a mental abnormality or personality disorder or attitude that places the person at risk of perpetrating any future predatory sexually violent offenses.

(9) 'Vocation' means any sort of full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.

(b)(1)(A)(i) On and after July 1, 1996, a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense shall register as a sex offender within ten days after his or her release from prison or placement on parole, supervised release, or probation his or her name and current address; place of employment and vocation, if any; the crime of which convicted; school name and address, if any; and the date released from prison or placed on parole, supervised release, or probation with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside for the time period specified in subsection (g) of this Code section.

(ii) A person who has previously been convicted of a criminal offense against a victim who is a minor or who has previously been convicted of a sexually violent offense and who is released from prison or placed on parole, supervised release, or probation on or after July 1, 1996, shall register within ten days after such release or placement his or her name and current address; place of employment and vocation, if any; the crime of which convicted; school name and address, if any; and the date released from prison or placed on parole, supervised release, or

probation with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside for the time period specified in subsection (g) of this Code section.

(iii) On and after July 1, 1999, any resident of Georgia who is convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a sexually violent offense or a criminal offense against a victim who is a minor shall register within ten days after his or her release from prison or placement on parole, supervised release, or probation. The information such an offender is required to register shall include his or her name and current address; place of employment and vocation, if any; the crime of which convicted; school name and address, if any; and the date released from prison or placed on parole, supervised release, or probation. Such an offender shall register with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside for the time period specified in subsection (g) of this Code section.

(B) A person who is a sexually violent predator shall register within ten days after his or her release from prison or placement on parole, supervised release, or probation the information required under subparagraph (A) of this paragraph with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside. The sheriff may prepare a list of such sexual predators providing each person's name, address, and photograph. The sheriff shall update the list periodically and may post such list in a prominent and visible location in the sheriff's office and each city hall or primary administration building of every incorporated municipality within the county. Such list shall also be made available upon request to any public or private elementary, secondary, or postsecondary school or educational institution located in the county.

(2)(A) Upon a determination that an offender is guilty of a sexually violent offense, the court may request a report from the Sexual Offender Registration Review Board as to the likelihood that the offender suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense. The report shall be requested as a matter of course for any offender with a history of sexually violent offenses. The court shall provide the Sexual Offender Registration Review Board with any information available to assist the board in rendering an opinion. The board shall have 60 days from receipt of the court's request to respond with its report. After receiving a recommendation from the Sexual Offender Registration Review Board that a convicted sexually violent offender be classified as a sexually violent predator, the sentencing court shall so inform the offender and shall set a date to conduct a hearing affording the offender the opportunity to present testimony or evidence relevant to the recommended classification. After the hearing and within 60 days of receiving the report, the court shall issue a ruling as to whether or not the offender shall be classified as a sexually violent predator. If the court determines the offender to be a sexually violent

predator, such fact shall be communicated in writing to the appropriate state official and to the Georgia Bureau of Investigation.

(B) The Sexual Offender Registration Review Board shall be composed of three professionals licensed under Title 43 and knowledgeable in the field of the behavior and treatment of sexual offenders; at least one representative from a victims' rights advocacy group or agency; and at least two representatives from law enforcement, each of whom is either employed by a law enforcement agency as a certified peace officer under Title 35 or retired from such employment. The members of such board shall be appointed by the commissioner of human resources for terms of four years. Members of the board shall take office on the first day of September immediately following the expired term of that office and shall serve for a term of four years and until the appointment of their respective successors. No member shall serve on the board more than two consecutive terms. Vacancies occurring on the board, other than those caused by expiration of a term of office, shall be filled in the same manner as the original appointment to the position vacated for the remainder of the unexpired term and until a successor is appointed. Members shall be entitled to an expense allowance and travel cost reimbursement the same as members of certain other boards and commissions as provided in Code Section 45-7-21.

(C) The Sexual Offender Registration Review Board shall be attached to the Department of Human Resources for administrative purposes and provided there is adequate funding provided shall:

- (i) Exercise its quasi-judicial, rule-making, or policy-making functions independently of the department and without approval or control of the department;
- (ii) Prepare its budget, if any, and submit its budgetary requests, if any, through the department; and
- (iii) Hire its own personnel if authorized by the Constitution of this state or by statute or if the General Assembly provides or authorizes the expenditure of funds therefor.

(3)(A) If a person who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate state official shall:

- (i) Inform the person of the duty to register and obtain the information required under subparagraph (A) of paragraph (1) of this subsection for such registration;
- (ii) Inform the person that, if the person changes residence address, employment address, vocation address, school name, school address, or enrollment status, the person shall give the new information to the sheriff or sheriffs with whom the person last registered and the sheriff or sheriffs of the county to which the person is changing residence address, employment address, vocation address, school name, school address, or enrollment status, not later than ten days after the change of information. Following such notification, the sheriff's office shall notify immediately the Georgia Bureau of Investigation through the Criminal Justice Information System (CJIS) of each change of information;

- (iii) Inform the person that the person must register in any state where the person is employed or carries on a vocation or is a student;
  - (iv) Inform the person that, if the person changes residence to another state, the person shall register the new address with the sheriff or sheriffs with whom the person last registered, and that the person shall also register with a designated law enforcement agency in the new state not later than ten days after establishing residence in the new state;
  - (v) Obtain fingerprints and a photograph of the person if such fingerprints and photograph have not already been obtained in connection with the offense that triggered the initial registration; and
  - (vi) Require the person to read and sign a form stating that the duty of the person to register under this Code section has been explained. A copy of this form and any other registration information furnished by the Department of Corrections shall be forwarded to the Georgia Bureau of Investigation.
- (B) In addition to the requirements of subparagraph (A) of this paragraph, for a person required to register under subparagraph (B) of paragraph (1) of this subsection, the appropriate state official shall obtain the name of the person; descriptive physical and behavioral information to assist law enforcement personnel in identifying the person; known current or proposed residence addresses of the person; place of employment, if any; offense history of the person; and documentation of any treatment received for any mental abnormality or personality disorder of the person; provided, however, that the appropriate state official shall not be required to obtain any information already on the Criminal Justice Information System of the Georgia Crime Information Center.
- (C) The Georgia Crime Information Center shall create the Criminal Justice Information System network transaction screens by which appropriate state officials shall enter original data required by this Code section including residence address, school name, school address, enrollment status, and employment and vocation address and status. Screens shall also be created for sheriffs' offices for the entry of record confirmation data; employment; changes of residence, school, or employment; or other pertinent data and to assist in offender identification.
- (D) Any person changing residence from another state or territory of the United States to Georgia ~~who is required to register under federal law or the laws of another state, territory, or tribal authority or who has been convicted of an offense in another state, territory, or tribal authority which would require registration under this Code section if committed in this state shall comply with the registration requirements of this Code section. Such person shall register the new address, employment, and vocation information with the appropriate sheriff of the county as specified in subsection (c) of this Code section not later than ten days after the date of establishing residency in this state. Upon the person's registration with the sheriff of the county of new residence, the sheriff or his or her designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or his or her designee shall obtain any needed information concerning the registrant,~~

~~including fingerprints and a photograph of the person if such fingerprints and photograph have not previously been obtained within the State of Georgia. In addition, the sheriff or his or her designee shall inform the person of the duty to report any change of address as otherwise required in this Code section. The Georgia Bureau of Investigation shall forward such information in the manner described in subsection (c) of this Code section. shall be subject to the following registration requirements:~~

- (i) Any person changing residence from another state or territory of the United States to Georgia who is required to register under federal law or the laws of another state, territory, or tribal authority shall comply with the registration requirements of this Code section and register in this state regardless of when the conviction occurred.
- (ii) Any person changing residence from another state or territory of the United States to Georgia who has been convicted of an offense in another state, territory, or tribal authority which would require registration under this Code section if committed in this state shall comply with the registration requirements of this Code section regardless of when the conviction occurred.
- (iii) Any person who is subject to the registration requirements of this Code section shall register the new address, employment, and vocation information with the appropriate sheriff of the county as specified in subsection (c) of this Code section not later than ten days after the date of establishing residency in this state.
- (iv) Upon the person's registration with the sheriff of the county of new residence, the sheriff or the sheriff's designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or the sheriff's designee shall obtain any needed information concerning the registrant, including fingerprints and a photograph of the person if such fingerprints and photograph have not previously been obtained within the State of Georgia. In addition, the sheriff or the sheriff's designee shall inform the person of the duty to report any change of address as otherwise required in this Code section. The Georgia Bureau of Investigation shall forward such information in the manner described in subsection (c) of this Code section.
- (v) Any person who is subject to the registration requirements of this Code section shall be required to register in Georgia for the remaining period of time established by the state of last registration, or for the period of time as set forth in subsection (g) of this Code section, whichever is longer.
- (vi) Any person who is designated in another state as a sexually violent predator and changes residency to Georgia shall also be designated as a sexually violent predator in this state and subject to subsection (g) of this Code section.

(E) The following persons are also required to register:

- (i) Any nonresident who enters this state for the purpose of employment for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year and who is required to register under federal law,

military law, tribal law, or the laws of another state or territory, which, based on an act, would require registration under this Code section; or

(ii) Any nonresident who enters this state for the purpose of attending school as a full-time or part-time student and who is required to register under federal law, military law, tribal law, or the laws of another state or territory, which, based on an act, would require registration under this Code section.

Any person required to register by this subparagraph shall not later than ten days after the person enters the state register with the sheriff of the county of his or her temporary address, with the sheriff of the county of his or her employment, and with the sheriff of the county in which the person is attending school. The information registered shall include the person's temporary address, permanent address in the person's state of residence, employment and vocation address and status, and school name, school address, and enrollment status. Upon the person's registration, the sheriff or the sheriff's designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or the sheriff's designee shall obtain the fingerprints and photograph of the person, if the person's fingerprints and photograph have not previously been obtained in Georgia. The sheriff or the sheriff's designee shall inform the person of his or her duty to report any change in temporary residence, permanent residence, employment and vocation address and status, school name, school address, or enrollment status.

(4) A person who is required to register under any provision of this Code section shall:

(A) Report in person within ten days of release from prison, placement on probation, parole, or supervised release to the appropriate sheriff's office of the county or counties where the person resides, is employed, or attends school. A person who is so required to register must provide his or her street address to the sheriff of the person's county of residence;

(B) Report in person within ten days to the appropriate sheriff or sheriffs if the person changes residence address, employment address, vocation address, school name, school address, or enrollment status;

(C) In the event of a move to a new state, advise the sheriff of the county where the person last registered of his or her impending move within ten days of moving. He or she shall also report to the designated law enforcement agency in the new state of residence within ten days of arrival at the new residence;

(D) Read and sign the offender registration notification form at the time of registration; and

(E) Report in person to the sheriff of the person's county of residence within ten days of the anniversary date of the original registration with the offender's verification form from the Georgia Bureau of Investigation.

(c)(1) The appropriate state official shall, within three days after receipt of information described in paragraph (3) of subsection (b) of this Code section, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the Criminal Justice Information System by the appropriate state official or sheriff,

the Georgia Crime Information Center, where appropriate, shall immediately notify the sheriff of the person's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the person attends school. The Georgia Bureau of Investigation shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation. It shall be the duty of the sheriff of each county within this state to maintain a register of the names and addresses of all registered offenders within the sheriff's jurisdiction whose names have been provided by the Georgia Bureau of Investigation to the sheriff under this Code section. The Georgia Bureau of Investigation shall establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation and shall perform mail out and verification duties on a quarterly basis. The Georgia Bureau of Investigation shall send each month Criminal Justice Information System network messages to sheriffs listing offenders due for verification. The bureau shall also create a photo image file from original entries and provide such entries to sheriffs to assist in offender identification and verification.

(2) Any person who is required to register under this Code section and who is enrolled, employed, or carries on a vocation at an institution of higher education in this state shall provide the name, address, and county of each institution including each campus attended and the person's position or enrollment status, as well as any change in enrollment, employment, or vocation status. The requirements of this paragraph shall be accomplished in a manner specified in subparagraphs (b)(1)(A), (b)(1)(B), (b)(3)(A), (b)(3)(D), and (b)(3)(E) of this Code section.

(3) The Georgia Bureau of Investigation shall establish operating policies and procedures in order to provide prompt notice of offender registration and any change in status information contained in paragraph (2) of this subsection to any law enforcement agency having jurisdiction where an institution of higher education is located and to include notification to the campus police if appropriate for the institution of higher education. The law enforcement agency or agencies having jurisdiction where an institution of higher education is located shall provide a statement advising the campus community where law enforcement agency information may be obtained as provided by the state under 20 U.S.C. Section 1092 (f)(1) and 42 U.S.C. Section 1407 (j), concerning registered sex offenders. This information may be obtained at the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or via the Georgia Bureau of Investigation's Internet website.

(c.1)(1) On an annual basis, the Department of Education shall obtain from the Georgia Bureau of Investigation a complete list of the names and addresses of all registered sexual offenders and shall send such list, accompanied by a hold harmless provision, to each public elementary and secondary school in this state. In addition, the Department of Education shall provide information to each public elementary and secondary school in this state on how to access and retrieve from the Georgia Bureau of Investigation's Internet website a list of the names and addresses of all registered

sexual offenders. The Department of Education shall make such information available to any private school upon request.

(2) The Office of School Readiness shall provide, on a one-time basis, information to all child care programs regulated pursuant to Code Section 20-1A-5 on how to access and retrieve from the Georgia Bureau of Investigation's Internet website a list of the names and addresses of all registered sexual offenders and shall include, on a continuing basis, such information with each application for licensure.

(3) The Department of Human Resources shall provide, on a one-time basis, information to all day-care, group day-care, and family day-care programs regulated on how to access and retrieve from the Georgia Bureau of Investigation's Internet website a list of the names and addresses of all registered sexual offenders. On and after October 1, 2004, the Department of Early Care and Learning shall include, on a continuing basis, such information with each application for licensure, commissioning, or registration for early care and education programs.

(d)(1) For a person required to register under subparagraph (b)(1)(A) of this Code section, on each anniversary of the person's initial registration date during the period in which the person is required to register under this Code section, the following applies:

(A) The Georgia Bureau of Investigation shall mail a nonforwardable verification form to the last reported address of the person;

(B) Upon receipt of the verification form the person shall be required to report in person to the sheriff of the person's county of residence within ten days of the anniversary date;

(C) The verification form stating that the person still resides at the address last reported to the Georgia Bureau of Investigation shall be signed by the person and retained by the sheriff;

(D) The person shall report to the sheriff of the person's county of residence to be photographed every year within ten days of the anniversary date of the original registration; and

(E) If the person fails to respond directly to the sheriff within ten days after receipt of the form, the person shall be in violation of this Code section.

(2) The provisions of paragraph (1) of this subsection shall be applied to a person required to register under subparagraph (b)(1)(B) of this Code section, except that such person must verify the registration every 90 days after the date of the initial release on probation by the court or the initial release by the Department of Corrections or commencement of parole.

(e) A change of address by a person required to register under this Code section reported to the Georgia Bureau of Investigation shall be immediately reported to the sheriff of the county where the person resides as set forth in subparagraph (b)(3)(E) of this Code section. The Georgia Bureau of Investigation shall, if the person changes residence to another state, notify the law enforcement agency with which the person must register in the new state.

- (f) A person who has been convicted of an offense which requires registration under this Code section shall register the new address with a designated law enforcement agency in another state to which the person moves not later than ten days after such person establishes residence in the new state if the new state has a registration requirement.
- (g) A person required to register under subparagraph (b)(1)(A) of this Code section shall continue to comply with this Code section, except during ensuing periods of incarceration, during which time all registration requirements shall be stayed. Upon release from incarceration, the person shall report to the sheriff of the person's county of residence within ten days from the date of release from incarceration, until:
- (1) Ten years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or
  - (2) For the life of that person:
    - (A) Has one or more prior convictions for an offense described in subparagraph (a)(4)(A) and paragraph (7) of subsection (a) of this Code section;
    - (B) Has been convicted of an aggravated offense described in paragraph (7) of subsection (a) of this Code section; or
    - (C) Has been determined to be a sexually violent predator pursuant to subparagraph (b)(2)(A) of this Code section.
- (h) Any person who is required to register under this Code section and who fails to comply with the requirements of this Code section or who provides false information shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years; provided, however, that upon the conviction of the second or subsequent offense under this subsection, the defendant shall be punished by imprisonment for not less than one nor more than three years or by a fine in an amount of up to \$100,000.00, or both.
- (i) The information collected under the state registration program shall be treated as private data except that:
- (1) Such information may be disclosed to law enforcement agencies for law enforcement purposes;
  - (2) Such information may be disclosed to government agencies conducting confidential background checks;
  - (3) The Georgia Bureau of Investigation or any sheriff maintaining records required under this Code section shall release relevant information collected under this Code section that is necessary to protect the public concerning those persons required to register under this Code section, except that the identity of a victim of an offense that requires registration under this Code section shall not be released. In addition to any other notice that may be necessary to protect the public, nothing in this Code section shall prevent any sheriff from posting this information in any public building in addition to those locations enumerated in subparagraph (b)(1)(B) of this Code section; and
  - (4) It shall be the responsibility of the sheriff maintaining records required under this Code section to enforce the criminal provisions of this Code section. The sheriff may

request the assistance of the Georgia Bureau of Investigation upon his or her discretion.

- (j) Law enforcement agencies, employees of law enforcement agencies, members of the Sexual Offender Registration Review Board, and state officials shall be immune from liability for good faith conduct under this Code section.
- (k) The provisions of this Code section shall be in addition to and not in lieu of the provisions of Code Section 42-9-44.1, relating to conditions for parole of sexual offenders.
- (l) The Board of Public Safety is authorized to promulgate rules and regulations necessary for the Georgia Bureau of Investigation and the Georgia Crime Information Center to implement and carry out the provisions of this Code section.
- (m) No cause of action shall arise against any real estate broker or any affiliated licensee of the broker or any person or entity or its employees which own property or any person or entity or its employees who provide property management services as defined in paragraph (7) of Code Section 43-40-1 for the failure to disclose in any real estate transaction any information which is provided or maintained or required to be provided or maintained in accordance with this Code section. No cause of action shall arise against any real estate broker or any affiliated licensee of the broker or any person or entity or its employees which own property or any person or entity or its employees who provide property management services as defined in paragraph (7) of Code Section 43-40-1 for revealing any information provided or maintained or required to be provided or maintained in accordance with this Code section.
- (n) Within ten days of the filing of a defendant's discharge and exoneration of guilt pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of discharge and exoneration to the Georgia Bureau of Investigation and any sheriff maintaining records required under this Code section."

## **SECTION 2.**

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

Senators Thompson of the 33rd and Rogers of the 21st offered the following amendment:

Amend HB 106 by inserting on line 1 of page 1, following the word "amend" the following:

"Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, so as to provide for an enhanced penalty; to amend".

By inserting following line 7 of page 1 the following:

"Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, is amended by inserting at the end thereof the following:

'16-6-25.

If any person is convicted of an offense found in this chapter committed upon a person having a mental abnormality, as such term is defined in paragraph (5) of subsection (a) of Code Section 42-1-12, the minimum and maximum periods of incarceration stated for such offense shall be increased by ten years, respectively. This Code section shall apply to any offense committed on or after July 1, 2005.<sup>1</sup>

#### SECTION 1A.<sup>2</sup>

On the adoption of the amendment, the yeas were 37, nays 1, and the Thompson of the 33rd, Rogers amendment was adopted.

On the adoption of the substitute, the yeas were 41, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

HB 106, having received the requisite constitutional majority, was passed by substitute.

HB 236. By Representatives Lane of the 158th, Stephens of the 164th, Barnard of the 166th and Burns of the 157th:

A BILL to be entitled an Act to amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to provide that a rebuttable presumption that services, accommodations, entertainment, or the use of personal property which is available only for compensation was knowingly obtained by deception and with intent to avoid payment shall arise upon a showing that the person obtaining such services, accommodations, entertainment, or the use of personal property used false identification, provided false information on a written contract, made any payment with an insufficient check, or returned any personal property to a place or at a time other than as agreed upon; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Carter of the 13th.

The Senate Judiciary Committee offered the following substitute to HB 236:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to provide for proof of intent to avoid payment under certain circumstances; to provide for 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.**

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by inserting immediately following Code Section 16-8-5 a new Code section to read as follows:

**"16-8-5.1.**

It shall be prima-facie evidence that the accused intended to avoid payment in any prosecution pursuant to Code Sections 16-8-2, relating to theft by taking, 16-8-3, relating to theft by deception, 16-8-4, relating to theft by conversion, or 16-8-5, relating to theft of services, if a person knowingly:

- (1) Used false identification;
- (2) Provided false information on a written contract;
- (3) Made, drew, uttered, executed, or delivered an instrument for the payment of money on any bank or other depository in exchange for present consideration, knowing that it would not be honored by the drawee;

- (4) Abandoned any property at a location other than the location agreed upon for return;
- (5) Returned any property without notification to the owner; or
- (6) Returned any property at a time beyond posted business hours of the owner.

No person shall be convicted under Code Sections 16-8-2, relating to theft by taking, 16-8-3, relating to theft by deception, 16-8-4, relating to theft by conversion, or 16-8-5, relating to theft of services, where there was an agreement to delay payment for such property or services or the accused makes payment in full within two business days after returning the property or obtaining the services."

## SECTION 2.

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

Senator Smith of the 52nd offered the following amendment:

Amend the Senate Judiciary Committee substitute to HB 236 by striking line 11 of page 1 and inserting in lieu thereof the following:

"The trier of fact may infer that the accused intended to avoid payment due for the rental or lease of any personal property in any".

By striking lines 20 and 21 of page 1 and inserting in lieu thereof the following:

- "(4) Abandoned any property at a location that is not the location agreed upon for return and that would not be reasonably known to the owner;
- (5) Returned any property to a location that would not reasonably be known to the owner without notifying the owner; or".

On the adoption of the amendment, the yeas were 37, nays 0, and the Smith amendment was adopted.

On the adoption of the substitute, the yeas were 39, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner

Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans Golden	Y Pearson Y Powell	Y Unterman E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

On the passage of the bill, the yeas were 47, nays 2.

HB 236, having received the requisite constitutional majority, was passed by substitute.

HB 334. By Representatives Mumford of the 95th, Ralston of the 7th and Mangham of the 94th:

A BILL to be entitled an Act to amend Code Section 15-11-18 of the Official Code of Georgia Annotated, relating to creation of juvenile courts, terms and compensation of judges, state grants for judicial salaries, qualifications, presiding judge, practice of law, and actions by judges including administration and expenditures, so as to provide for judicial salary supplements under certain circumstances; to provide for related matters; to provide for effective dates; to provide for an automatic repealer; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hamrick of the 30th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner

Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick Harbison	Y Rogers Y Schaefer	Y Whitehead Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 334, having received the requisite constitutional majority, was passed.

HB 459. By Representative Bridges of the 10th:

A BILL to be entitled an Act to amend Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to the Employees' Retirement System of Georgia, so as to provide that a member of such retirement system seeking a disability retirement shall make written application to the board of trustees; to provide that the board of trustees may request relevant information from a disability beneficiary; to provide a penalty for failure to provide such information; to provide for a reduction in disability allowance if the disability beneficiary is found to be earning more than the difference between the disability allowance and the earnable compensation used to calculate such allowance; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hill of the 32nd.

The following Fiscal Notes, as required by law, were read by the Secretary:

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

TUESDAY, MARCH 29, 2005

2941

February 8, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 459 (LC 21 8120)

Dear Representative Bridges:

This bill would amend provisions relating to disability benefits under the Employees' Retirement System. Specifically, this bill would authorize the Board of Trustees to request relevant information from a disability beneficiary. If the beneficiary refuses to submit the requested information, the Board would be authorized to discontinue the disability benefits until such information is provided. This bill would also allow the Board of Trustees to reduce the disability benefits if the beneficiary is found to be earning more than the difference between the disability allowance and the earnable compensation used to calculate such allowances.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 17, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 459(LC 21 8210S)

Dear Representative Bridges:

This substitute bill would amend provisions relating to disability benefits under the Employees' Retirement System. Specifically, this bill would authorize the Board of Trustees to request relevant information from a disability beneficiary. If the beneficiary refuses to submit the requested information, the Board would be authorized to suspend the disability benefits until such information is provided. This bill would also allow the Board of Trustees to reduce the disability benefits if the beneficiary is found to be earning more than the difference between the disability allowance and the earnable compensation used to calculate such allowances.

This is to certify that this substitute 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead

TUESDAY, MARCH 29, 2005

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Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 459, having received the requisite constitutional majority, was passed.

HB 495. By Representatives Coleman of the 97th, Bridges of the 10th, Jamieson of the 28th, Cummings of the 16th and Jones of the 46th:

A BILL to be entitled an Act to amend Article 7 of Chapter 3 of Title 47 of the O.C.G.A., relating to retirement allowances, disability benefits, and spouses' benefits under the Teachers Retirement System of Georgia, so as to provide that a local school system may employ a person who was retired under the Teachers Retirement System of Georgia on December 31, 2003, in a full-time capacity in any position and such person's retirement benefit shall not be affected; to provide that the employing local school system shall pay the normal employer's contribution to the retirement system for such employee; to provide that any retired member of the Teachers Retirement System of Georgia may return to full-time employment with a local school system and such person's retirement benefits shall not be affected; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Hudgens of the 47th.

The following Fiscal Notes, as required by law, were read by the Secretary:

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 8, 2005

The Honorable Brooks Coleman  
State Representative  
State Capitol, Room 416  
Atlanta, Georgia 30334

## JOURNAL OF THE SENATE

SUBJECT: State Auditor's Certification  
House Bill 495 (LC 21 8160)

Dear Representative Coleman:

This bill would amend provisions relating to retirement benefits under the Teachers Retirement System. Specifically, this bill would authorize members who retired on or before December 31, 2003 to continue receiving benefits if they return to full-time service in any position with a local school board. Currently, persons who retired on or before such date may continue to receive benefits only if they return to work as a classroom teacher, principal, superintendent, counselor, or librarian.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 24, 2005

The Honorable Brooks Coleman  
State Representative  
State Capitol, Room 416  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
HB 495 (LC 21 8282S)

Dear Representative Coleman:

This substitute bill would amend provisions relating to retirement benefits under the Teachers Retirement System. Specifically, this bill would authorize members who retired on or before December 31, 2003 to continue receiving benefits if they return to full-time service in any position covered under the Teachers Retirement System. Currently, persons who retired on or before such date may continue to receive benefits

TUESDAY, MARCH 29, 2005

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only if they return to work as a classroom teacher, principal, superintendent, counselor, or librarian.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

The Senate Retirement Committee offered the following substitute to HB 495:

A BILL TO BE ENTITLED  
AN ACT

To amend Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to retirement allowances, disability benefits, and spouses' benefits under the Teachers Retirement System of Georgia, so as to provide that certain employers may employ a person who was retired under the Teachers Retirement System of Georgia on December 31, 2003, in a full-time capacity in certain positions and such person's retirement benefit shall not be affected; to provide that such person's salary shall be commensurate with his or her position and qualifications; to provide that any such person so employed shall continue to be a beneficiary of such retirement system and shall obtain no further credit toward retirement; to provide that the employer shall pay the normal employer's contribution to the retirement system for such employee; to provide that any retired member of the Teachers Retirement System of Georgia may return to full-time employment in certain covered positions and such person's retirement benefits shall not be affected; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to retirement allowances, disability benefits, and spouses' benefits under the Teachers Retirement System of Georgia, is amended by striking in its entirety Code Section 47-2-127.1, relating to the employment of a retired teacher as a full-time teacher or in other capacities, and inserting in lieu thereof the following:

"47-3-127.1.

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

(1) 'Classroom teacher' means a certified teacher of pre-kindergarten through grade 12 employed by the public schools who has as his or her primary responsibility the academic instruction of students in a classroom.

(2) 'Retired teacher' means a ~~member~~ beneficiary of this retirement system who was retired on a service retirement on December 31, 2003.

(b)(1) A ~~local~~ public school system may employ a retired teacher as a full-time classroom teacher, principal, superintendent, counselor, or librarian, ~~or improvement specialist~~ and such person shall be subject to the provisions of subsection (c) of this Code section; provided, however, that a ~~member~~ retired teacher who retired as a principal may not be employed as a principal in the same school in which he or she was so employed prior to his or her retirement, and a ~~member~~ retired teacher who retired as a school superintendent may not be employed as a school superintendent by the same school system in which such person was so employed prior to his or her retirement.

(2) A regional educational service agency as defined in Code Section 20-2-270 may employ a retired teacher as a full-time improvement specialist and such person shall be subject to the provisions of subsection (c) of this Code section.

~~(2)~~(3) The salary paid to any retired teacher employed under this Code section shall be commensurate with the position and the individual's qualifications. ~~Teachers Retired teachers~~ paid under this Code section shall be reported to the state at the certificate and experience level at which the teacher is assigned. No such retired teacher shall receive any further creditable service as a result of such employment and shall in all ways be considered by this retirement system solely as a ~~retired teacher~~ beneficiary.

~~(3)~~(4) A public school system employing a retired teacher subject to this subsection shall pay all employer contributions to this retirement system as otherwise provided in this chapter; provided, however, that no such retired teacher shall receive any further creditable service as a result of such employment and shall in all ways be considered by this retirement system solely as a ~~retired teacher~~ beneficiary.

(c) Any other provision of this article to the contrary notwithstanding, a retired teacher may return to service as a classroom teacher, principal, superintendent, counselor, or librarian, ~~or improvement specialist~~, and such ~~member's~~ retired teacher's benefits under this article shall not be affected. Any such retired teacher so employed shall not be considered an active member of this retirement system and shall not accrue any additional benefits or further creditable service as a result of such employment and shall in all ways be considered by this retirement system solely as a ~~retired teacher~~ beneficiary. The provisions of this subsection shall not become a part of the employment contract and shall be subject to future legislation."

## SECTION 2.

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

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

TUESDAY, MARCH 29, 2005

2947

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

March 17, 2005

The Honorable Brooks Coleman  
State Representative  
State Capitol, Room 416  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification  
House Bill 495 (Substitute)  
(LC 21 8412S)

Dear Representative Coleman:

This substitute bill would amend provisions relating to retirement benefits under the Teachers Retirement System. Specifically, this bill would authorize members who retired on or before December 31, 2003 to continue receiving benefits if they return to full-time service in a public school system as a classroom teacher, principal, superintendent, counselor, librarian, or improvement specialist. Also, persons who return to full-time service for a regional educational service agency as an improvement specialist would be authorized to continue receiving benefits under the provisions of this bill. Under the current law, only those persons who retired on or before such date and returned to work as a classroom teacher, principal, superintendent, counselor, or librarian may continue to receive retirement benefits.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

On the adoption of the substitute, the yeas were 36, nays 0, 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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	E Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
E Henson	Y Shafer,D	

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

HB 495, having received the requisite constitutional majority, was passed by substitute.

HR 113. By Representatives Forster of the 3rd, Loudermilk of the 14th, Lewis of the 15th, Murphy of the 23rd, Parsons of the 42nd and others:

A RESOLUTION urging the United States Senators from the State of Georgia to support a repeal of the federal excise tax on telecommunications; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

TUESDAY, MARCH 29, 2005

2949

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Stoner
Y Cagle	E Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans Golden	Y Pearson	Unterman
Y Grant	Y Powell	E Walker
Y Hamrick	Y Reed	Y Weber
Y Harbison	Y Rogers	Y Whitehead
Y Harp Heath	Y Schaefer	Y Wiles
E Henson	Y Seabaugh	E Williams
	Y Seay	Y Zamarripa
	Y Shafer,D	

On the adoption of the resolution, the yeas were 42, nays 3.

HR 113, having received the requisite constitutional majority, was adopted.

Senator Stephens of the 27th moved that the Senate stand adjourned pursuant to HR 605, until 10:00 a.m. Thursday, March 31, 2005; the motion prevailed, and at 11:39 p.m. the President announced the Senate adjourned.

Senate Chamber, Atlanta, Georgia  
Thursday, March 31, 2005  
Thirty-ninth Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th 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 adopted by the requisite constitutional majority the following Resolution of the House:

HR 856. By Representatives Day of the 163rd, Ralston of the 7th, Keen of the 179th, Harbin of the 118th, Jamieson of the 28th and others:

A RESOLUTION designating the first week of April each year as "Living Will Week" in Georgia; and for other purposes.

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

SB 62. By Senators Shafer of the 48th, Staton of the 18th, Heath of the 31st and Hill of the 32nd:

A BILL to be entitled an Act to provide for a short title; to provide for legislative findings; to amend Title 16 of the Official Code of Georgia Annotated, relating to computer systems protections, so as to add a new part to create the new crime of initiation of deceptive commercial e-mail; to provide for definitions; to provide for criminal penalties; to provide for civil relief and venue for civil proceedings; to provide for certain prosecuting officials to prosecute deceptive commercial e-mail; to provide for applicability; to provide for exceptions; to change provisions relating to

the definition of racketeering activity in the Georgia RICO Act; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 98. By Senators Hudgens of the 47th, Cagle of the 49th, Johnson of the 1st, Kemp of the 46th and Douglas of the 17th:

A BILL to be entitled an Act to amend Code Section 20-2-55 of the Official Code of Georgia Annotated, relating to per diem and expenses of local boards of education, so as to authorize the expenditure of funds for life, disability, and liability insurance, retirement and pension coverage, social security coverage, and similar benefits for members of such local boards of education; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 117. By Senators Heath of the 31st, Kemp of the 46th, Hudgens of the 47th, Bulloch of the 11th, Pearson of the 51st and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to the registration and licensing of motor vehicles generally, so as to provide that any Georgia license plate issued in the year 1970 or before shall be an authentic historical Georgia license plate; to authorize the display of such license plates on certain motor vehicles; to provide for certain computerized information; to repeal conflicting laws; and for other purposes.

SB 160. By Senators Pearson of the 51st, Williams of the 19th, Whitehead, Sr. of the 24th, Douglas of the 17th, Hamrick of the 30th and others:

A BILL to be entitled an Act to amend Chapter 1 of Title 32 of the O.C.G.A., relating to general provisions relative to highways, bridges, and ferries, so as to amend the definition of terms; to amend Article 2 of Chapter 6 of Title 32 of the O.C.G.A., relating to dimensions and weight of vehicles and loads, so as to remove all references to national highways; to amend Part 1 of Article 3 of Chapter 6 of Title 32 of the O.C.G.A., relating to control of signs and signals on public roads generally, so as to remove all references to a federal-aid primary road; to amend Part 2 of Article 3 of Chapter 6 of Title 32 of the O.C.G.A.; to amend Article 8 of Chapter 6 of Title 32 of the O.C.G.A.; to amend Part 1 of Article 1 of Chapter 10 of Title 32 of the O.C.G.A.; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 161. By Senators Heath of the 31st and Hudgens of the 47th:

A BILL to be entitled an Act to amend Code Section 47-2-98 of the Official Code of Georgia Annotated, relating to creditable service for a member of the Employees' Retirement System of Georgia who was an officer or employee of the Georgia Housing and Finance Authority, so as to authorize the member seeking creditable service to make payment to the board of trustees of such retirement system; to repeal conflicting laws; and for other purposes.

SB 219. By Senators Thompson of the 5th, Unterman of the 45th, Weber of the 40th, Henson of the 41st, Butler of the 55th and others:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Norcross, Georgia, approved March 28, 1990 (Ga. L. 1990, p. 4934), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 3729), so as to change the corporate limits of the City of Norcross; to repeal conflicting laws; and for other purposes.

SB 246. By Senator Unterman of the 45th:

A BILL to be entitled an Act to provide for a homestead exemption from City of Buford ad valorem taxes for municipal purposes in the amount of \$22,000.00 of the assessed value of the homestead after a five-year phase-in period for residents of the City of Buford; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

SB 247. By Senator Unterman of the 45th:

A BILL to be entitled an Act to provide for a homestead exemption from City of Buford ad valorem taxes for municipal purposes for the full value of the homestead for residents of that city who are 70 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

SB 259. By Senator Johnson of the 1st:

A BILL to be entitled an Act to amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to crimes involving dangerous instrumentalities and practices, so as to repeal provisions relating to the crime of discharging a firearm on Sunday; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 267. By Senators Unterman of the 45th, Grant of the 25th, Balfour of the 9th and Bulloch of the 11th:

A BILL to be entitled an Act to amend Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules of the road, so as to provide for annual renewal of certain parking permits for disabled persons; to provide for the certain specifications for such permits; to require that the person with the disability be the operator of or a passenger in the vehicle when such permit is being used; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 273. By Senators Goggans of the 7th, Seabaugh of the 28th, Williams of the 19th, Staton of the 18th, Whitehead, Sr. of the 24th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of driver's licenses, so as to change the definition of a Class C license for commercial and noncommercial driver's licenses; to provide for related matters; to provide for an effective date and for applicability; to repeal conflicting laws; and for other purposes.

SB 287. By Senator Heath of the 31st:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and trade practices, so as to repeal provisions which provide that local government permits are required for the operation of movie theaters and athletic events to be held on Sundays; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 328. By Senators Adelman of the 42nd, Butler of the 55th, Jones of the 10th, Thompson of the 5th, Miles of the 43rd and others:

A BILL to be entitled an Act to create the DeKalb County Court Technology Fund; to authorize the imposition and collection of a

technology fee for the filing of certain cases and the imposition of surcharges to certain fines; to specify the uses to which such fees and surcharges may be put; to provide for the auditing and accounting for such fund; to provide for a supervising board for such fund and the membership, composition, authority, powers, and duties thereof; to provide for related matters; to provide an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

SB 337. By Senator Hudgens of the 47th:

A BILL to be entitled an Act to amend an Act to amend, consolidate, and supersede the several Acts incorporating the City of Colbert, approved February 14, 1950 (Ga. L. 1950, p. 2417), as amended, so as to extensively revise the city charter; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such governing authority; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for a mayor and mayor pro tempore and certain duties, powers, and other matters relative thereto; to provide for effective dates; to repeal conflicting laws; and for other purposes.

SB 338. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act creating the State Court of Clayton County, approved January 28, 1964 (Ga. L. 1964, p. 2032), as amended, so as to provide that the solicitor-general of said court may employ such assistant solicitors-general, deputy solicitors-general, or other attorneys, investigators, paraprofessionals, clerical assistants, and other employees or independent contractors as may be authorized by the Board of Commissioners of Clayton County; to provide for compensation; to provide for qualifications; to repeal conflicting laws; and for other purposes.

SB 340. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act placing the sheriff and clerk of the Superior Court of Clayton County on an annual salary, approved February 25, 1949 (Ga. L. 1949, p. 1910), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4335), so as to increase the salary of the clerk of the Superior Court of Clayton County; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 341. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act providing for a supplement to the salaries of the judges of the superior court of the Clayton Judicial Circuit, approved April 10, 1969 (Ga. L. 1969, p. 353), as amended, particularly by an Act approved April 16, 1999 (Ga. L. 1999, p. 4670), so as to increase the county supplement to the state salary of said judges; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 342. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act placing the sheriff and clerk of the Superior Court of Clayton County on an annual salary, approved February 25, 1949 (Ga. L. 1949, p. 1910), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4342), so as to change the provisions relating to the compensation of the sheriff; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 345. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act consolidating the offices of tax receiver and tax collector of Clayton County into the office of tax commissioner, approved August 18, 1925 (Ga. L. 1925, p. 600), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4338), so as to change the provisions relating to the salary of the tax commissioner; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 354. By Senator Mullis of the 53rd:

A BILL to be entitled an Act to create a board of elections and registration for Dade County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for certain expenditures of public funds; to provide for compensation of members of the board and personnel; to provide for offices and equipment; to provide for the board's performance of certain functions and duties for certain municipalities; to repeal conflicting laws; and for other purposes.

SB 357. By Senator Powell of the 23rd:

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Blythe, approved April 29, 1997 (Ga. L.1997, p. 4491), as amended, so as to change a provision relating to removal or suspension of appointed officers and directors; to repeal conflicting laws; and for other purposes.

SB 358. By Senator Grant of the 25th:

A BILL to be entitled an Act to provide for a homestead exemption from Baldwin County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for residents of that county who are 65 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

SB 359. By Senator Grant of the 25th:

A BILL to be entitled an Act to provide for a homestead exemption from Baldwin County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead for residents of that school district who are 65 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

SR 81. By Senators Hamrick of the 30th and Seabaugh of the 28th:

A RESOLUTION designating the J. G. McCalmon Highway; and for other purposes.

SR 280. By Senator Johnson of the 1st:

A RESOLUTION commending Thomas B. Darieng's service to Bryan County and dedicating the "Thomas B. Darieng, Sr., Highway"; and for other purposes.

SR 298. By Senators Seabaugh of the 28th, Balfour of the 9th and Johnson of the 1st:

A RESOLUTION creating the Joint House and Senate Emerging Communications Technologies Study Committee; and for other purposes.

SR 304. By Senators Johnson of the 1st, Williams of the 19th and Kemp of the 46th:

A RESOLUTION honoring the memory of Trooper Ronnie O'Neal and Georgia's troopers who have died in the line of duty and dedicating the Fallen Troopers Memorial Highway and the Trooper Ronnie O'Neal Overpass; and for other purposes.

SR 537. By Senators Henson of the 41st, Rogers of the 21st and Goggans of the 7th:

A RESOLUTION designating the first week of April each year as "Living Will Week" in Georgia; and for other purposes.

The House has agreed to the Senate substitutes to the following Bills of the House:

HB 116. By Representative O'Neal of the 146th:

A BILL to be entitled an Act to amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to change certain definitions regarding such taxation; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 172. By Representatives Golick of the 34th, Roberts of the 154th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th and others:

A BILL to be entitled an Act to enact the "Crime Victims Restitution Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and the impact of the criminal justice system on victims of crime; to amend Article 5 of Chapter 3 of Title 9 of the O.C.G.A., relating to tolling of limitations in civil cases, so as to provide for a statute of repose in certain tort actions brought by victims of crimes against the persons accused of such crimes; to amend Title 17 of the O.C.G.A., relating to criminal procedure, so as to change the provisions relating to victim impact statements; to amend Code Section 48-7-161 of the O.C.G.A., relating to definitions relating to setoff debt collection, so as to change the provisions relating to collection of restitution for victims of crime; to provide for effective date; to repeal conflicting laws; and for other purposes.

HB 186. By Representatives Mitchell of the 88th, Mosley of the 178th, Floyd of the 99th, Meadows of the 5th and Henson of the 87th:

A BILL to be entitled an Act to amend Code Section 36-87-2 of the Official Code of Georgia Annotated, relating to the authority of counties and municipal corporations to participate in federal programs, so as to expand the purposes for which federal funds may be used by a county or municipal corporation; to repeal conflicting laws; and for other purposes.

HB 309. By Representatives Forster of the 3rd, Rynders of the 152nd, Cooper of the 41st, Hembree of the 67th, Burmeister of the 119th and others:

A BILL to be entitled an Act to amend Title 31 of the Official Code of Georgia Annotated, relating to health, Code Section 44-5-150 of the Official Code of Georgia Annotated, relating to the duties of the Advisory Board on Anatomical Gift Procurement, and Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to correct the names of committees of the General Assembly; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 340. By Representatives Hembree of the 67th, Richardson of the 19th, Smith of the 113th, Smith of the 129th, Royal of the 171st and others:

A BILL to be entitled an Act to amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure of records is not required, so as to provide that records maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations shall not be subject to disclosure; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 341. By Representatives Burkhalter of the 50th, Keen of the 179th and Harbin of the 118th:

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 sales and use taxation, so as to provide for the tax treatment of certain airline industry transactions; to provide for a partial exemption under certain circumstances of jet fuel sold to certain qualifying airlines and provide for the manner of collection of tax with respect to nonexempt sales; to provide that jet fuel sold to certain qualifying airlines shall be exempt from certain local sales and use taxes under certain circumstances; to provide that certain sales of

food and beverages for consumption by airline passengers and crew shall be exempt from taxation under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 364. By Representatives Williams of the 4th, Royal of the 171st, Scott of the 2nd, Forster of the 3rd, Loudermilk of the 14th and others:

A BILL to be entitled an Act to amend Code Section 40-3-20 of the Official Code of Georgia Annotated, relating to applications for certificates of title for motor vehicles, so as to require proof of the payment of the sales and use tax as a precondition to titling certain motor vehicles; to provide for the collection of the tax; to provide for compensation for tag agents; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 407. By Representative Golick of the 34th:

A BILL to be entitled an Act to amend Title 33 of the O.C.G.A., relating to insurance, so as to authorize the Commissioner to place administrators on probation and to provide penalties against administrators for certain violations; to provide for certain additional regulations of nonresident representatives who represent life insurers in certain military installations; to provide certain definitions; to provide for certain disclosures by counselors; to provide for certain exceptions; to provide for certain licensing for third party administrators; to provide certain procedures and standards for approval or rejection of such licenses; to provide for probationary licenses; to provide for certain bonds and insurance for administrators; to require administrators to be subject to certain examinations; to revise the provisions of law concerning the Georgia Insurers Insolvency Pool; to provide for certain definitions; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 488. By Representatives O'Neal of the 146th and Knight of the 126th:

A BILL to be entitled an Act to amend Title 48 of the O.C.G.A., relating to revenue and taxation, so as to enact the "State and Local Tax Revision Act of 2005"; to provide for a short title; to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of federal law into Georgia law; to provide for applicability; to provide for the authority to establish fees for offer in compromises; to clarify that electronic funds transfer applies to use tax; to provide for electronic funds transfer requirements for third-party payroll providers; to clarify that no interest shall be paid when a taxpayer fails to

claim credits listed in Article 2 of Chapter 7; to provide for selection of members of performance review boards; to provide for powers, duties, and authority of the state revenue commissioner; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

HB 501. By Representative Scott of the 153rd:

A BILL to be entitled an Act to amend Title 40 of the O.C.G.A., relating to motor vehicles and traffic, and numerous other provisions of the O.C.G.A., so as to substantially amend laws relating to operation and regulation of motor vehicles and substantially revise the state administration of such laws; to create the Department of Driver Services as a successor agency to the Department of Motor Vehicle Safety; to provide for the Department of Driver Services to assume certain responsibilities of the Department of Motor Vehicle Safety and in particular responsibility for driver's licensing services; to substantially amend provisions relative to the issuance of driver's licenses; to amend the O.C.G.A. so as to transfer into other departments and agencies responsibility for administration of other laws relating to motor vehicles; to provide for other matters related to the foregoing; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 530. By Representative Smith of the 129th:

A BILL to be entitled an Act to amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation's power to contract, so as to revise the criteria for design-build contracts entered into by the department; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 608. By Representatives Reece of the 27th and Cooper of the 41st:

A BILL to be entitled an Act to amend Code Section 43-34-27 of the Official Code of Georgia Annotated, relating to license requirements for persons engaged in the practice of medicine, so as to change certain provisions relating to licensure to practice medicine by a person who graduated from a medical or osteopathic college which is not approved by the Composite State Board of Medical Examiners; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 725. By Representatives Cox of the 102nd, Mitchell of the 88th, Miller of the 106th, Floyd of the 99th and Marin of the 96th:

A BILL to be entitled an Act to amend an Act providing for the election of the Board of Education of Gwinnett County, approved April 7, 1972 (Ga. L. 1972, p. 4058), as amended, particularly by an Act approved April 9, 1993 (Ga. L. 1993, p. 5260), so as to provide for the compensation of members of the board of education; to provide for future adjustments of compensation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate amendments to the following Bills of the House:

HB 50. By Representative Teilhet of the 40th:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, so as to authorize the exchange of national criminal history background checks on providers of care to children, the elderly, and persons with disabilities, including, but not limited to, volunteers with youth sports organizations and other youth activities; to define terms; to provide for conformity with federal law; to provide for rules and regulations; to provide for fees; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 577. By Representatives Loudermilk of the 14th, Keen of the 179th, Brooks of the 63rd, Franklin of the 43rd, Scott of the 2nd and others:

A BILL to be entitled an Act to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle drivers' licenses, so as to provide for destruction of certain fingerprint records; to provide for certain disclosures; to prohibit the requirement of fingerprinting and similar identification of applicants for drivers' licenses and identification cards; to prohibit the requirement of fingerprinting and similar identification of applicants for identification cards with disabilities; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 788. By Representatives Henson of the 87th, Watson of the 91st, Mangham of the 94th, Benfield of the 85th, Gardner of the 57th and others:

A BILL to be entitled an Act to amend an Act providing for the DeKalb County Board of Registrations and Elections, approved June 3, 2003 (Ga.

L. 2003, p. 4200), so as to change the compensation of the members of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate substitutes to the following Resolutions of the House:

HR 108. By Representatives Benfield of the 85th, Watson of the 91st, Talton of the 145th, Crawford of the 127th, Henson of the 87th and others:

A RESOLUTION compensating Mr. Clarence Harrison; and for other purposes.

HR 166. By Representative Barnard of the 166th:

A RESOLUTION authorizing the conveyance of certain state owned real property located in Brantley County, Georgia; authorizing the conveyance of certain state owned real property located in Chatham County, Georgia; authorizing the conveyance of certain state owned real property located in Cherokee County, Georgia; authorizing the leasing of certain state owned property located in Fulton County, Georgia; authorizing the conveyance of certain state owned real property located in Fulton County, Georgia; authorizing the conveyance of certain state owned real property located in Jackson County, Georgia; authorizing the conveyance of certain state owned real property located in Meriwether County, Georgia; to repeal conflicting laws; and for other purposes.

HR 269. By Representatives Graves of the 12th and Ralston of the 7th:

A RESOLUTION designating the intersection of State Highway 515 and State Highway 53 as "Disabled American Veterans Intersection"; and for other purposes.

HR 295. By Representative Jenkins of the 8th:

A RESOLUTION honoring poet and novelist Byron Herbert Reece by dedicating a portion of U.S. Highway 129 as the "Byron Herbert Reece Memorial Highway"; and for other purposes.

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The following committee reports were read by the Secretary:

Mr. President:

The Economic Development 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 560      Do Pass

Respectfully submitted,  
Senator Mullis of the 53rd 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 356	Do Pass	HB 826	Do Pass
HB 502	Do Pass	HB 828	Do Pass
HB 579	Do Pass	HB 830	Do Pass
HB 587	Do Pass	HB 835	Do Pass
HB 588	Do Pass	HB 836	Do Pass
HB 601	Do Pass	HB 844	Do Pass
HB 624	Do Pass	HB 852	Do Pass
HB 632	Do Pass	HB 853	Do Pass
HB 633	Do Pass	HB 854	Do Pass
HB 708	Do Pass	HB 855	Do Pass
HB 709	Do Pass	HB 859	Do Pass
HB 736	Do Pass	HB 862	Do Pass
HB 744	Do Pass	HB 863	Do Pass
HB 772	Do Pass	HB 866	Do Pass
HB 776	Do Pass	HB 867	Do Pass
HB 783	Do Pass	HB 885	Do Pass
HB 818	Do Pass		

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

The following legislation was read the second time:

SR 560

Senator Hooks of the 14th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Hooks of the 14th asked unanimous consent that Senator Harbison of the 15th be excused. The consent was granted, and Senator Harbison was excused.

Senator Seabaugh of the 28th asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

Senator Adelman of the 42nd asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Moody of the 56th be excused. The consent was granted, and Senator Moody was excused.

Senator Shafer of the 48th asked unanimous consent that Senator Cagle of the 49th be excused. The consent was granted, and Senator Cagle was excused.

Senator Reed of the 35th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

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

Adelman	Henson	Seabaugh
Balfour	Hill,Jack	Seay
Brown	Hill,Judson	Shafer,D
Bulloch	Hooks	Staton
Butler	Hudgens	Stephens
Cagle	Johnson	Stoner
Carter	Jones	Tate
Chance	Kemp	Thomas,D
Chapman	Me V Bremen	Thomas,R
Douglas	Miles	Thompson,C
Goggans	Mullis	Tolleson
Grant	Pearson	Unterman
Hamrick	Reed	Whitehead
Harp	Rogers	Wiles
Heath	Schaefer	Williams

Not answering were Senators:

Fort	Golden	Harbison (Excused)
Moody (Excused)	Powell	Smith (Excused)

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Starr (Excused)	Thompson, S (Excused)	Walker
Weber	Zamarripa (Excused)	

Senator Weber was off the floor of the Senate when the roll was called and wishes to be recorded as present.

The members pledged allegiance to the flag.

Senator Shafer of the 48th introduced the chaplain of the day, Reverend Richard Hill of Roswell, Georgia, who offered scripture reading and prayer.

The President and Senator Meyer von Bremen of the 12th recognized the ministries of Mt. Zion Baptist and Sherwood Baptist Church, commended by SR 569, adopted previously.

Senator Shafer of the 48th asked unanimous consent to suspend Senate Rule 3-1.2(b) in order to allow the introduction of general legislation after the 33rd legislative day.

The consent was granted and Senate Rule 3-1.2(b) was suspended.

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

SB 365. By Senator Shafer of the 48th:

A BILL to be entitled an Act to provide a short title; to amend Code Section 33-24-47.1 of the Official Code of Georgia Annotated, relating to notice required of termination or nonrenewal, increase in premium rates, or change restricting coverage, so as to provide for the provision of notice by electronic transmission under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

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

Mr. President:

The House has disagreed to the Senate substitutes to the following Bills of the House:

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following resolutions on the Consent Calendar for Privileged Resolutions were read and adopted:

HR 856. By Representatives Day of the 163rd, Ralston of the 7th, Keen of the 179th, Harbin of the 118th, Jamieson of the 28th and others:

A RESOLUTION designating the first week of April each year as "Living Will Week" in Georgia; and for other purposes.

SR 560. By Senators Williams of the 19th, Chapman of the 3rd and Johnson of the 1st:

A RESOLUTION urging Governor Sonny Perdue to appoint a Blue Ribbon committee to review all aspects of initiatives at Jekyll Island relating to resource stewardship, tourism infrastructure, economic development, land management, and future needs and concerns of the island; and for other purposes.

SR 570. By Senators Seabaugh of the 28th and Moody of the 56th:

A RESOLUTION commending Claudette Campbell; and for other purposes.

SR 571. By Senator Chapman of the 3rd:

A RESOLUTION commending the legendary members of the Racoon Club; and for other purposes.

SR 572. By Senator Hill of the 4th:

A RESOLUTION recognizing the distinguished career of Mark David Musick; and for other purposes.

SR 573. By Senator Hill of the 4th:

A RESOLUTION honoring the life of Claxton Fire Chief Larry Rogers; and for other purposes

SR 574. By Senator Hill of the 4th:

A RESOLUTION honoring the life and memory of Carlton Warnock; and for other purposes.

SR 575. By Senator Hill of the 4th:

A RESOLUTION commending the 648th Engineer Battalion of the 48th Combat Brigade of the Georgia Army National Guard; and for other purposes.

SR 576. By Senator Mullis of the 53rd:

A RESOLUTION commending the City of Rossville for its efforts to promote tourism in Georgia; and for other purposes.

SR 577. By Senator Mullis of the 53rd:

A RESOLUTION commending the City of Chickamauga for its efforts to promote tourism in Georgia; and for other purposes.

SR 578. By Senators Mullis of the 53rd, Thomas of the 54th, Thompson of the 33rd and Cagle of the 49th:

A RESOLUTION honoring and congratulating Captain Benjamin S. Freeborn; and for other purposes.

SR 579. By Senator Thomas of the 2nd:

A RESOLUTION commending Rev. Dr. George A. Moore, Jr.; and for other purposes.

SR 580. By Senator Harbison of the 15th:

A RESOLUTION commending Bobby Howard; and for other purposes.

SR 581. By Senator Harbison of the 15th:

A RESOLUTION commending Antonio Richardson; and for other purposes.

SR 582. By Senator Harbison of the 15th:

A RESOLUTION commending Kenneth Leuer; and for other purposes.

SR 583. By Senator Harbison of the 15th:

A RESOLUTION commending Dorian Henderson; and for other purposes.

SR 584. By Senator Harbison of the 15th:

A RESOLUTION commending Debbie Ball; and for other purposes.

SR 585. By Senator Harbison of the 15th:

A RESOLUTION commending Blake Bourne; and for other purposes.

SR 586. By Senator Harbison of the 15th:

A RESOLUTION commending Porter Haskell; and for other purposes.

SR 587. By Senator Harbison of the 15th:

A RESOLUTION commending Devante Griffin; and for other purposes.

SR 588. By Senator Harbison of the 15th:

A RESOLUTION commending Alan Taylor; and for other purposes.

SR 589. By Senator Harbison of the 15th:

A RESOLUTION commending Joe Saulsbury; and for other purposes.

SR 590. By Senator Harbison of the 15th:

A RESOLUTION commending Dr. Michael A. Battle; and for other purposes.

SR 591. By Senator Harbison of the 15th:

A RESOLUTION commending Chris Chambers; and for other purposes.

SR 592. By Senator Harbison of the 15th:

A RESOLUTION commending Owen Pryor; and for other purposes.

SR 593. By Senator Harbison of the 15th:

A RESOLUTION commending Tim Tramel; and for other purposes.

SR 594. By Senator Harbison of the 15th:

A RESOLUTION commending Matt Loyed; and for other purposes.

SR 595. By Senator Harbison of the 15th:

A RESOLUTION commending Carson Grimsley; and for other purposes.

SR 596. By Senator Harbison of the 15th:

A RESOLUTION commending Woody and Anna Hill and the United States Marine Corps L-3-9 Reunion; and for other purposes.

SR 597. By Senator Harbison of the 15th:

A RESOLUTION commending Barry Sobasky; and for other purposes.

SR 598. By Senator Harbison of the 15th:

A RESOLUTION commending Vision of the South; and for other purposes.

SR 599. By Senator Harbison of the 15th:

A RESOLUTION commending Wynnton Hardware and Chapman's Craft Store; and for other purposes.

SR 600. By Senator Harbison of the 15th:

A RESOLUTION commending Melvin Hamilton; and for other purposes.

SR 601. By Senator Harbison of the 15th:

A RESOLUTION commending Jed Harris; and for other purposes.

SR 602. By Senator Harbison of the 15th:

A RESOLUTION commending Vincent Lundy; and for other purposes.

SR 603. By Senator Harbison of the 15th:

A RESOLUTION commending Jeremiah Castille; and for other purposes.

SR 604. By Senator Harbison of the 15th:

A RESOLUTION commending Willie Bland; and for other purposes.

SR 605. By Senator Harbison of the 15th:

A RESOLUTION commending James Redd; and for other purposes.

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SR 606. By Senator Harbison of the 15th:

A RESOLUTION commending Cordiary Bell; and for other purposes.

SR 607. By Senator Meyer von Bremen of the 12th:

A RESOLUTION honoring His Excellency George M. Kaidii, Ambassador at-large of the great sovereign nation the Republic of Liberia; urging establishment of cultural and economic ties between the people of the State of Georgia and the people of the Republic of Liberia in which each may prosper; urging consideration in the Liberian election process of the desire for public service held by His Excellency George M. Kaidii; and for other purposes.

SR 608. By Senator Unterman of the 45th:

A RESOLUTION congratulating Wayne Edward and Patricia Ann Sheyka Kidd upon their 40th wedding anniversary; and for other purposes.

SR 609. By Senator Rogers of the 21st:

A RESOLUTION commending Dahuha A. Ashraf; and for other purposes.

SR 610. By Senator Mullis of the 53rd:

A RESOLUTION commending Walker County for its efforts to promote tourism in Georgia; and for other purposes.

The following communication was received by the Secretary:

Senator Steen Miles  
District 43  
325-B Legislative Office Building  
Atlanta, GA 30334

**Committees:**  
Banking and Financial Institutions  
Public Safety and Homeland Security  
Special Judiciary  
State Institutions and Property

The State Senate  
Atlanta, Georgia 30334

3/31/05

Mr. Frank Eldridge  
Secretary of the Senate

Mr. Eldridge,

Please record my yes vote on the Consent Calendar for Privileged Resolutions. I was in the Chamber but, distracted.

Thank you,

/s/ Steen Miles  
Senate 43

Senator Adelman of the 42nd introduced the doctor of the day, Dr. Stephen Holbrook.

Senator Miles of the 43rd introduced representatives of CrossRoadsNews, commended by SR 502, adopted previously.

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

Mr. President:

The House insists on its position in substituting the following Bill and Resolution of the Senate:

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

The House adheres to its position in insisting on its substitute, and has appointed a Committee of Conference on the part of the House to confer with a like committee on the part of the Senate on the following Bill of the Senate:

SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Ralston of the 7th, Keen of the 179th and Mumford of the 95th.

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**

Thursday, March 31, 2005  
Thirty-ninth Legislative Day

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

HB 356              Hudgens of the 47th  
**CITY OF COMMERCE**

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Commerce, approved April 4, 1991 (Ga. L. 1991, p. 4042), as amended, particularly by an Act approved May 30, 2003 (Ga. L. 2003, p. 3926), so as to authorize the board of education to set the millage rate for the school district's property tax; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 502              Hooks of the 14th  
**MARION COUNTY**

A BILL to be entitled an Act to amend an Act reconstituting the Board of Education of Marion County, approved April 8, 2002 (Ga. L. 2002, p. 3794), as amended, so as to change the provisions

relating to the compensation of the members of the board; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 579

Hooks of the 14th  
**MARION COUNTY**

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Marion County, approved February 21, 1951 (Ga. L. 1951, p. 2880), as amended, so as to change the compensation of the chairperson and members of the board of commissioners; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 587

Carter of the 13th  
**IRWIN COUNTY**

A BILL to be entitled an Act to provide that future elections for the office of chief magistrate of Irwin County shall be nonpartisan elections; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 588

Carter of the 13th  
**IRWIN COUNTY**

A BILL to be entitled an Act to provide that future elections for the office of probate judge of Irwin County shall be nonpartisan elections; to provide for submission of this Act under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 601

Whitehead of the 24th  
**WILKES COUNTY**

A BILL to be entitled an Act to amend an Act providing an annual salary for the Wilkes County coroner, approved March 13, 1978 (Ga. L. 1978, p. 3121), as amended, particularly by an Act approved April 4, 1997 (Ga. L. 1997, p. 3919), so as to increase the salary of the coroner; to provide an effective date; to repeal conflicting laws; and for other purposes.

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HB 624

Hooks of the 14th  
**MARION COUNTY**

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Marion County, approved February 21, 1951 (Ga. L. 1951, p. 2880), as amended, particularly by an Act approved May 17, 2004 (Ga. L. 2004, p. 4117), so as to correct the date for the election of one member of the board; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 632

Johnson of the 1st  
**CITY OF PEMBROKE**

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Pembroke, approved March 28, 1985 (Ga. L. 1985, p. 4846), as amended, so as to revise Section 26 of Article III of such Act; to change certain provisions relating to building permits; to repeal conflicting laws; and for other purposes.

HB 633

Staton of the 18th  
Brown of the 26th  
**BIBB COUNTY**

A BILL to be entitled an Act to abolish the office of elected county surveyor of Bibb County pursuant to Code Section 36-7-2.1 of the O.C.G.A.; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 708

Johnson of the 1st  
Thomas of the 2nd  
**CHATHAM COUNTY**

A BILL to be entitled an Act to authorize the Recorder's Court of Chatham County to impose and collect a technology fee for each criminal fine imposed; to specify the uses to which said technology fees may be put; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 709

Chance of the 16th  
**LAMAR COUNTY**

A BILL to be entitled an Act to amend an Act placing the sheriff of Lamar County on a salary basis in lieu of a fee basis, approved March 10, 1965 (Ga. L. 1965, p. 2207), as amended, particularly by an Act approved April 25, 1969 (Ga. L. 1969, p. 3539), an Act approved March 30, 1971 (Ga. L. 1971, p. 2500), and an Act approved March 24, 1994 (Ga. L. 1994, p. 4084), so as to repeal certain obsolete provisions; to repeal a provision setting the sheriff's salary at \$10,000.00 annually; to repeal a provision relating to filling vacancies and temporary vacancies in the office of sheriff; to repeal a provision authorizing the appointment of a chief deputy and setting the salary of such chief deputy; to repeal a provision authorizing the governing authority of Lamar County to increase the compensation of the sheriff, chief deputy, and all salaried deputies; to repeal conflicting laws; and for other purposes.

HB 736

Stephens of the 27th  
**CITY OF CANTON**

A BILL to be entitled an Act to authorize the City of Canton to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII(b) of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 744

Hooks of the 14th  
**PEACH COUNTY**

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Peach County, approved March 10, 1964 (Ga. L. 1964, p. 2627), as amended, so as to provide for filling of vacancies in the board; to repeal conflicting laws; and for other purposes.

HB 772

Cagle of the 49th  
**CITY OF GAINESVILLE**

A BILL to be entitled an Act to authorize the City of Gainesville to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title

36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 776

Stoner of the 6th  
Rogers of the 21st  
Hill of the 32nd  
Thompson of the 33rd  
Wiles of the 37th

**COBB COUNTY**

A BILL to be entitled an Act to amend an Act changing the compensation of the clerk of the superior court, the sheriff, and the judge of the Probate Court of Cobb County from the fee system to the salary system, approved February 9, 1949 (Ga. L. 1949, p. 427), as amended, so as to change the compensation of the deputy clerk of the superior court; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 783

Stephens of the 27th  
**CITY OF BALL GROUND**

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Ball Ground, approved March 28, 1990 (Ga. L. 1990, p. 4552), as amended, so as to provide for four-year terms of office for the mayor and councilmembers; to provide that persons in office on the effective date of the Act shall complete the terms for which they were elected; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 818

Thomas of the 54th  
**DALTON-WHITFIELD COUNTY**

A BILL to be entitled an Act to create the Dalton-Whitfield Economic Development Authority as a public body corporate and politic, a political subdivision of the state, and a public corporation, to have the responsibility and authority to promote economic development in Dalton and Whitfield County, Georgia; to provide for the creation and organization of the authority; to provide for the appointment of the membership of the authority and their terms of office, compensation, and qualifications; to provide for meetings; to provide for legislative findings and declaration of purpose; to

provide for general powers; to provide for regulations; to provide for other matters relative to the foregoing and relative to the general purposes of this Act; to repeal conflicting laws; and for other purposes.

HB 826

Powell of the 23rd  
**JEFFERSON COUNTY**

A BILL to be entitled an Act to amend an Act providing for a board of commissioners of Jefferson County, approved February 23, 1984 (Ga. L. 1984, p. 3627), as amended, so as to provide conditions for the board of commissioners to convey title to or lease county-owned real property which is being used as a solid waste landfill; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 828

Whitehead of the 24th  
**COLUMBIA COUNTY**

A BILL to be entitled an Act to make provisions for the Magistrate Court of Columbia County; to provide for qualifications for the office of chief magistrate and magistrate; to provide for exceptions; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 830

Hooks of the 14th  
Staton of the 18th  
**CRAWFORD COUNTY**

A BILL to be entitled an Act to create a board of elections and registration for Crawford County and provide for its powers and duties, to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for personnel, including a chief election official, and compensation; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 835

Seabaugh of the 28th  
**HEARD COUNTY**

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Heard County, approved April 4, 1991 (Ga. L. 1991, p. 3976), as amended, particularly by an Act approved September 18, 1991 (Ga. L. 1991, Ex. Sess., p. 479), so as to provide for the election of members of the board of commissioners and the county chairman to staggered, four-year terms of office; to provide for related matters; to require the submission of this Act for preclearance; to repeal conflicting laws; and for other purposes.

HB 836

Schaefer of the 50th  
**HABERSHAM COUNTY**

A BILL to be entitled an Act to amend an Act providing for the election of the members of the board of education of Habersham County, approved March 5, 1976 (Ga. L. 1976, p. 2708), as amended, so as to provide for the compensation of the members of such board; to provide for the automatic repeal of this Act; to repeal conflicting laws; and for other purposes.

HB 844

Tolleson of the 20th  
**DODGE COUNTY**

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Dodge County, approved March 6, 1996 (Ga. L. 1996, p. 3507), as amended, so as to reapportion the education districts for election of the members of said board of education; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 852

Chance of the 16th  
**CITY OF BARNESVILLE**

A BILL to be entitled an Act to amend an Act providing a new charter for the City of Barnesville, approved March 11, 1987 (Ga. L. 1987, p. 3865), as amended, particularly by an Act approved April 5, 1993 (Ga. L. 1993, p. 4957), so as to provide new districts for councilmembers; to provide for definitions and inclusions; to provide for continuation in office of current members of the council; to change provisions relating to wards; to provide for submission of this Act for preclearance under the federal Voting Rights Act of

1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 853

Whitehead of the 24th  
**COLUMBIA COUNTY**

A BILL to be entitled an Act to authorize the governing authority of Columbia County to exercise all redevelopment and other powers under Article IX, Section II, Paragraph VII of the Constitution and Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment Powers Law," as amended; to provide for a referendum; to provide effective dates; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 854

Whitehead of the 24th  
**COLUMBIA COUNTY**

A BILL to be entitled an Act to amend an Act to provide that certain officials of Columbia County who have served at least 15 years in office may, upon leaving office, continue to participate in the county health insurance program by paying the total cost of such participation, approved May 17, 2004 (Ga. L. 2004, p. 4472), so as to clarify that such Act applies to health insurance coverage for the officials as well as their spouses and dependents; to provide for related matters; to provide for intent; to repeal conflicting laws; and for other purposes.

HB 855

Whitehead of the 24th  
**COLUMBIA COUNTY**

A BILL to be entitled an Act to amend an Act to create a board of elections for Columbia County and provide for its powers and duties, approved March 23, 1993 (Ga. L. 1993, p. 4180), so as to revise certain term limitations on members of the board; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 859

Chapman of the 3rd  
**GLYNN COUNTY**

A BILL to be entitled an Act to amend an Act relating to the Glynn County Board of Elections and Registration, approved March 24, 1994 (Ga. L. 1994, p. 3977), so as to change provisions relating to

the selection of members of the board; to provide for one member to be appointed by the board of commissioners of Glynn County rather than the grand jury; to provide for the current member in that position to complete his or her current term of office; to provide for related matters; to provide for submission under the federal Voting Rights Act; to repeal conflicting laws; and for other purposes.

HB 862

Goggans of the 7th  
**WARE COUNTY**

A BILL to be entitled an Act to amend an Act creating the State Court of Ware County, formerly the City Court of Waycross, approved December 11, 1897 (Ga. L. 1897, p. 510), as amended, particularly by an Act approved May 17, 2004 (Ga. L. 2004, p. 4082), so as to provide for the compensation of the solicitor-general and the judge of said court; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 863

Carter of the 13th  
**TIFT COUNTY**

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Tift County, approved August 9, 1917 (Ga. L. 1917, p. 396), as amended, particularly by an Act approved April 17, 1975 (Ga. L. 1975, p. 4015), and an Act approved March 28, 1985 (Ga. L. 1985, p. 4875), so as to repeal a requirement that certain commissioners must resign on or before a certain date in order to run for chairperson of the board of commissioners; provide that the board of commissioners of Tift County may establish procedures relative to competitive bids on county purchases of new material, supplies, and equipment and contracts for county work; to provide for public inspection; to repeal conflicting laws; and for other purposes.

HB 866

Thomas of the 54th  
**CATOOSA COUNTY**

A BILL to be entitled an Act to amend an Act to reconstitute the Board of Education of Catoosa County, Georgia, approved March 30, 1993 (Ga. L. 1993, p. 4258), as amended, so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance

pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 867

Thomas of the 54th  
**CATOOSA COUNTY**

A BILL to be entitled an Act to amend an Act creating the office of commissioner of Catoosa County, approved February 23, 1943 (Ga. L. 1943, p. 858), as amended, so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance pursuant to 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 885

Goggans of the 7th  
**COFFEE COUNTY**

A BILL to be entitled an Act to amend an Act establishing a board of education of Coffee County, approved March 10, 1970 (Ga. L. 1970, p. 2441), as amended, particularly by an Act approved October 25, 2001 (Ga. L. 2001, Ex. Sess., p. 755), so as to provide that the members of the board of education shall be elected in nonpartisan elections; to provide for related matters; to provide for preclearance of this Act pursuant to the federal Voting Rights Act of 1965, as amended; 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 Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C

Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the passage of the local legislation, the yeas were 45, nays 0.

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

Senator Unterman of the 45th moved to engross HB 665, which was on today's Senate Rules Calendar.

On the motion a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	Walker
Y Grant	Reed	Y Weber
Y Hamrick	Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	E Zamarripa
N Henson	N Shafer,D	

On the motion, the yeas were 30, nays 18, the motion prevailed; and HB 665 was engrossed.

Senator Johnson of the 1st asked unanimous consent that the following bill, having been placed on the Table on March 24, 2005, be taken from the Table:

HB 538. By Representatives O`Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

The consent was granted, and HB 538 was taken from the Table.

The following bill was taken up to consider House action thereto:

SB 19. By Senators Johnson of the 1st, Balfour of the 9th, Wiles of the 37th, Hill of the 32nd, Williams of the 19th and others:

A BILL to be entitled an Act to amend Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions, so as to provide for procedures, conditions, and limitations on certification of class actions; to provide for appellate procedures relating to class actions certification; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions, so as to provide for procedures, conditions, and limitations on certification of class actions; to provide for appellate procedures relating to class actions certification; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions, is amended by striking subsection (f), and inserting in lieu thereof the following:

~~"(f) The appropriate appellate court may in its discretion permit an appeal from an order of a trial court granting or denying class action certification under this Code section if application is made to it within ten days after entry of the order. An appeal does not stay proceedings in the trial court unless the trial judge or the appellate court so orders."~~

(1) After the commencement of an action in which claims or defenses are purported to be asserted on behalf of or against a class, the court shall hold a conference among all named parties to the action for the purpose of establishing a schedule for any discovery germane to the issue of whether the requested class should or should not be certified. At this conference, the court shall set a date for a hearing on the issue of class certification. Except for good cause shown, such hearing may not be set sooner than 90 days nor later than 180 days after the date on which the court issues its scheduling order pursuant to the conference. If evidence is presented by affidavit, the parties shall have an opportunity to cross-examine affiants as to such testimony offered by affidavit.

(2) Except for good cause shown, the court shall stay all discovery directed solely to the merits of the claims or defenses in the action until the court has issued its written decision regarding certification of the class.

(3) When deciding whether a requested class is to be certified, the court shall enter a written order addressing whether the factors required by this Code section for certification of a class have been met and specifying the findings of fact and conclusions of law on which the court has based its decision with regard to whether each such factor has been established. In so doing, the court may treat a factor as having been established if all parties to the action have so stipulated on the record.

(4) Nothing in this Code section shall affect, or be construed to affect, any provision of Code Section 9-11-12 or Code Section 9-11-56.

(g) A court's order certifying a class or refusing to certify a class shall be appealable in the same manner as a final order to the appellate court which would otherwise have jurisdiction over the appeal from a final order in the action. The appellate courts shall expedite resolution of any appeals taken under this Code section. Such appeal may only be filed within 30 days of the order certifying or refusing to certify the class. During the pendency of any such appeal, the action in the trial court shall be stayed in all respects."

**SECTION 2.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to all cases pending on that effective date in which the trial court has not yet certified the case as a class action and to all cases filed on or after that effective date.

**SECTION 3.**

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

Senator Johnson of the 1st moved that the Senate agree to the House substitute to SB 19.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 43, nays 6; the motion prevailed, and the Senate agreed to the House substitute to SB 19.

The following resolution was taken up to consider House action thereto:

SR 23. By Senators Johnson of the 1st and Harbison of the 15th:

A RESOLUTION creating the Joint Port Authority for the Port of Savannah Study Committee; and for other purposes.

The House substitute was as follows:

#### A RESOLUTION

Creating the Jasper Port Study Committee; and for other purposes.

WHEREAS, the Port of Savannah was the site of the establishment of the Colony of Georgia; and

WHEREAS, the Savannah River is the navigable river that serves the Port of Savannah; and

WHEREAS, the State of South Carolina borders the northern side of the Savannah River; and

WHEREAS, Jasper County, South Carolina, borders the Savannah River on the north; and

WHEREAS, both the State of Georgia and the State of South Carolina have established port authorities to govern all port related activities in their states; and

WHEREAS, competition for shipping business has been a long accepted tradition between the Port of Savannah and the Port of Charleston; and

WHEREAS, both states are intent on supporting the future development of their respective ports; and

WHEREAS, both the State of Georgia and the State of South Carolina are dependent on the economic benefits derived from the activities of each respective port authority; and

WHEREAS, the ever increasing size of ships is requiring both ports to continually deepen the respective rivers which serve their ports; and

WHEREAS, the environmental factors affected by such river deepening are becoming a major obstacle to be overcome by each port prior to deepening its respective port rivers; and

WHEREAS, there may be certain benefits to be realized by both states sharing information regarding a proposed port operation on both the north and south sides of the Savannah River; and

WHEREAS, it is in the best interest of both states to cooperate with each other's economic activities along their common border.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Jasper Port Study Committee to be composed of three members of the Senate to be appointed by the Senate Committee on Assignments, three members of the House of Representatives to be appointed by the Speaker of the House of Representatives, and three citizens to be appointed by the Governor.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto for the purpose of recommending any legislation or other action the committee deems necessary or appropriate, including the need for the State of Georgia to maintain its obligation to the U.S. Army Corps of Engineers to provide an adequate spoil site. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The legislative members of the committee shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia Annotated as well as the mileage or transportation allowance authorized for state employees. All funds necessary to carry out the provisions of this resolution shall come from funds appropriated to the House of Representatives and the Senate. The expenses and allowances authorized by this resolution shall not be received by any member of the committee for more than five days unless additional days are authorized. In the event the committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before December 1, 2005. The committee shall stand abolished on December 1, 2005.

Senator Johnson of the 1st moved that the Senate agree to the House substitute to SR 23.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	N Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles

Y Harp  
Y Heath  
Henson

Y Seabaugh  
Y Seay  
Y Shafer,D

Williams  
E Zamarripa

On the motion, the yeas were 44, nays 2; the motion prevailed, and the Senate agreed to the House substitute to SR 23.

The following resolution was taken up to consider House action thereto:

SR 305. By Senators Johnson of the 1st and Chapman of the 3rd:

A RESOLUTION recognizing Mack Mattingly for his many contributions to the State of Georgia and dedicating a portion of I-95 in Glynn County as the "Mack Mattingly Highway"; and for other purposes.

The House substitute was as follows:

**A RESOLUTION**

Recognizing Mack Mattingly for his many contributions to the State of Georgia and dedicating a portion of I-95 in Glynn County as the "Mack Mattingly Highway"; and for other purposes.

WHEREAS, Mack Mattingly served the citizens of Georgia with diligence, dedication, and ability as a member of the United States Senate from 1981-1987; and

WHEREAS, he served as chair of the Georgia Republican Party from 1975 to 1977 and was a delegate and alternate delegate to Georgia and National Republican Conventions from 1964 through 2004; and

WHEREAS, he served as Assistant Secretary General for Defense Support at the North Atlantic Treaty Organization from 1987 to 1990 and as United States Ambassador to the Republic of the Seychelles in 1992-93; and

WHEREAS, Mack Mattingly has long been recognized by the citizens of this state for the vital role that he has played in leadership and his deep personal commitment to the welfare of the citizens of Georgia; and

WHEREAS, he has diligently and conscientiously devoted innumerable hours of his time, talents, and energy toward the betterment of his community and state as evidenced by his work as a successful businessman and entrepreneur and his involvement in the political process; and

WHEREAS, he is a resident of St. Simons Island in Glynn County.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that Mack Mattingly is recognized and commended for his many years of dedicated service to the citizens of Georgia and the United States and that segment of I-95 in Glynn County which extends from the Camden County line north to US 17 at Exit 67 is dedicated as the "Mack Mattingly Highway."

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to install and maintain appropriate signs designating the "Mack Mattingly Highway."

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to Mack Mattingly and to the Department of Transportation.

Senator Johnson of the 1st moved that the Senate agree to the House substitute to SR 305.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	E Zamarripa
Henson	Y Shafer,D	

On the motion, the yeas were 48, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SR 305.

Senator Chance of the 16th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

Senator Staton of the 18th asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

The following resolution was taken up to consider House action thereto:

SR 80. By Senators Thomas of the 2nd, Schaefer of the 50th, Zamarripa of the 36th, Grant of the 25th, Hamrick of the 30th and others:

A RESOLUTION authorizing the granting of nonexclusive easements for operation and maintenance of facilities, utilities and ingress and egress, in, on, over, under, upon, across, or through property owned by the State of Georgia in Baldwin, Banks, Burke, Chatham, Douglas, Fulton, and Newton counties, Georgia; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A RESOLUTION**

Authorizing the granting of nonexclusive easements for operation and maintenance of facilities, utilities and ingress and egress, in, on, over, under, upon, across, or through property owned by the State of Georgia in Baldwin, Banks, Burke, Chatham, Douglas, Fulton, and Newton counties, Georgia; to repeal conflicting laws; and for other purposes.

WHEREAS, the State of Georgia is the owner of certain real property located in Baldwin, Banks, Burke, Chatham, Douglas, Fulton, and Newton counties, Georgia; and

WHEREAS, the Alltel Communications, Victor M. Corral, Georgia Power, Chatham County, the City of Savannah, and 1998 Augustus Partners, LP, desire to operate and maintain facilities, utilities and ingress and egress in, on, over, under, upon, across, or through a portion of said property; and

WHEREAS, these facilities, utilities and ingress and egress in, on, over, under, upon, across, or through the above-described state property have been requested and/or approved by the Department of Juvenile Justice, the Department of Natural Resources, the Department of Defense, the Department of Human Resources, the Department of Corrections, the Department of Technical and Adult Education, and the Geo. L. Smith II Georgia World Congress Center with respect to property under the jurisdiction of their respective departments.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**ARTICLE I**  
**SECTION 1.**

That the State of Georgia is the owner of the hereinafter described real property in Baldwin County, and the property is in the custody of the Department of Juvenile Justice, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 2.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to Alltel Communications, or its successors and assigns, a nonexclusive easement for the operation and maintenance of a telecommunications equipment site in, on, over, under, upon, across, or through the easement area for the purposes of maintaining, repairing, replacing, inspecting and operating a telecommunications equipment site together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in the City of Milledgeville, Baldwin County, Georgia, and on the grounds of the Bill E. Ireland Youth Development Campus and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a plat of survey dated February 20, 2004, prepared by James R. McDougald and on file in the offices of the State Properties Commission"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 3.**

That the above-described premises shall be used solely for the purposes of installing, maintaining, repairing, replacing, inspecting, and operating said telecommunications equipment site.

**SECTION 4.**

That Alltel Communications shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper operation and maintenance of said telecommunications equipment site.

**SECTION 5.**

That, after Alltel Telecommunications has put into use the telecommunications equipment site this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the

rights, title, privileges, powers, and easement granted herein. Upon abandonment, Alltel Communications, or its successors and assigns, shall have the option of removing their facilities from the easement area or leaving the same in place, in which event the utility shall become the property of the State of Georgia or its successors and assigns.

#### **SECTION 6.**

That no title shall be conveyed to Alltel Communications and, except as herein specifically granted to Alltel Communications, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Alltel Communications.

#### **SECTION 7.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Alltel Communications shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Alltel Communications. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

#### **SECTION 8.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

#### **SECTION 9.**

That the easement granted to Alltel Communications shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is

authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 10.**

That the consideration for such easement shall be for the fair market value, but not less than \$650.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 11.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Baldwin County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 12.**

That the authorization in this resolution to grant the above-described easement to Alltel Communications shall expire three years after the date that this resolution becomes effective.

**SECTION 13.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE II**

**SECTION 14.**

That the State of Georgia is the owner of the hereinafter described real property in Banks County, and the property is in the custody of the Department of Natural Resources, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 15.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to Victor M. Corral, or his successors and assigns, a nonexclusive easement for the operation and maintenance of ingress and egress in, on, over, under, upon, across, or through the easement area for the purposes of maintaining, repairing, replacing, inspecting, and operating ingress and egress together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lot 227 of the 10th district of Banks County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a plat of survey dated June 29, 2000, prepared by Samuel L. Duvald and on file in the offices of the State Properties Commission"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 16.**

That the above-described premises shall be used solely for the purposes of installing, maintaining, repairing, replacing, inspecting, and operating said ingress and egress.

**SECTION 17.**

That Victor M. Corral shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper operation and maintenance of said ingress and egress.

**SECTION 18.**

That, after Victor M. Corral has put into use the ingress and egress for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Victor M. Corral, or his successors and assigns, shall have the option of removing his facilities from the easement area or leaving the same in place, in which event the easement shall become the property of the State of Georgia or its successors and assigns.

**SECTION 19.**

That no title shall be conveyed to Victor M. Corral and, except as herein specifically granted to Victor M. Corral, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Victor M. Corral.

**SECTION 20.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Victor M. Corral shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Victor M. Corral. Upon written request, the State Properties Commission, in its sole discretion,

may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost expense to the State of Georgia.

**SECTION 21.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for his lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in his use of the easement area.

**SECTION 22.**

That the easement granted to Victor M. Corral shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 23.**

That the consideration for such easement shall be for the fair market value, but not less than \$650.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 24.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Banks County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 25.**

That the authorization in this resolution to grant the above-described easement to Victor M. Corral shall expire three years after the date that this resolution becomes effective.

**SECTION 26.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE III  
SECTION 27.**

That the State of Georgia is the owner of the hereinafter described real property in Burke County, and the property is in the custody of the Department of Defense, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 28.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to Georgia Power Company, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of an electrical distribution line in, on, over, under, upon, across, or through the easement area for the purposes of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating an electrical distribution line together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lots 60 and 62 in the City of Waynesboro, Burke County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown marked in yellow on a drawing prepared by Georgia Power Company, and being DWE# 303011001324 and on file in the offices of the State Properties Commission" and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 29.**

That the above-described premises shall be used solely for the purposes of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said electrical distribution line.

**SECTION 30.**

That Georgia Power Company shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said electrical distribution line.

**SECTION 31.**

That, after Georgia Power Company has put into use the electrical distribution line for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Georgia Power Company, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

**SECTION 32.**

That no title shall be conveyed to Georgia Power Company, and, except as herein specifically granted to Georgia Power Company, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Georgia Power Company.

**SECTION 33.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Georgia Power Company shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Georgia Power Company. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 34.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 35.**

That the easement granted to Georgia Power Company shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 36.**

That the consideration for such easement shall be \$10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 37.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Burke County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 38.**

That the authorization in this resolution to grant the above-described easement to Georgia Power Company shall expire three years after the date that this resolution becomes effective.

**SECTION 39.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE IV  
SECTION 40.**

That the State of Georgia is the owner of the hereinafter described real property in Chatham County, and the property is in the custody of the Department of Human Resources, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 41.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to Chatham County, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of a drainage facility on, over, under, upon, across, or through the easement area for the purposes of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating a drainage facility together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in the 6th GMD of Chatham County, Georgia, and is more particularly described as follows:

"Those portions and those portions only as shown in yellow on a Department of Transportation right of way map being sheets 11, 11a and 16 of project NH-171-1(4) prepared by Jordan, Jones and Goulding, dated January 7, 2000 and on file in the offices of the State Properties Commission"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 42.**

That the above-described premises shall be used solely for the purposes of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said drainage facility.

**SECTION 43.**

That Chatham County shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said drainage facility.

**SECTION 44.**

That, after Chatham County puts into use the drainage facility for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Chatham County, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia or its successors and assigns.

**SECTION 45.**

That no title shall be conveyed to Chatham County and, except as herein specifically granted to Chatham County, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Chatham County.

**SECTION 46.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 47.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Chatham County shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Chatham County. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 48.**

That the easement granted to Chatham County shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interests of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 49.**

That the consideration for such easement shall be \$10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 50.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 51.**

That the authorization in this resolution to grant the above-described easement to Chatham County shall expire three years after the date that this resolution becomes effective.

**SECTION 52.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE V  
SECTION 53.**

That the State of Georgia is the owner of the hereinafter described real property in Chatham County, and the property is in the custody of the State Properties Commission, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 54.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to the City of Savannah, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of a sanitary sewer line in, on, over, under, upon, across, or through the easement area for the purposes of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating a sanitary sewer line together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in the 8th GMD of Chatham County, Georgia, and is more

particularly described as follows:

"That portion and that portion only as shown highlighted in yellow on a plat of survey dated April 12, 2004 and revised May 12, 2004 prepared by Steve R. Waters and all being on file in the offices of the State Properties Commission" and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

#### **SECTION 55.**

That the above-described premises shall be used solely for the purposes of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said sanitary sewer line.

#### **SECTION 56.**

That the City of Savannah shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said sanitary sewer line.

#### **SECTION 57.**

That, after the City of Savannah has put into use the sanitary sewer line for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, the City of Savannah, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia or its successors and assigns.

#### **SECTION 58.**

That no title shall be conveyed to the City of Savannah, and, except as herein specifically granted to the City of Savannah, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to the City of Savannah.

#### **SECTION 59.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 60.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and the City of Savannah shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by the City of Savannah. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 61.**

That the easement granted to the City of Savannah shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interests of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 62.**

That the consideration for such easement shall be for \$10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 63.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 64.**

That the authorization in this resolution to grant the above-described easement to the City of Savannah shall expire three years after the date that this resolution becomes effective.

**SECTION 65.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE VI**  
**SECTION 66.**

That the State of Georgia is the owner of the hereinafter described real property in Douglas County, and the property is in the custody of the Department of Technical and Adult Education, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 67.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to Georgia Power Company, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of guy wires in, on, over, under, upon, across, or through the easement area for the purposes of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating guy wires together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lot 49 of the 1st district 5th section in the City of Douglasville, Douglas County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a drawing prepared by Georgia Power Company and showing dimension of 45 feet by 10 feet and on file in the offices of the State Properties Commission"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 68.**

That the above-described premises shall be used solely for the purposes of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said guy wires.

**SECTION 69.**

That Georgia Power Company shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said guy wires.

**SECTION 70.**

That, after Georgia Power Company has put into use the guy wires for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Georgia Power Company, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia or its successors and assigns.

**SECTION 71.**

That no title shall be conveyed to Georgia Power Company, and, except as herein specifically granted to Georgia Power Company, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Georgia Power Company.

**SECTION 72.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 73.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Georgia Power Company shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Georgia Power Company. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 74.**

That the easement granted to Georgia Power Company shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 75.**

That the consideration for such easement shall be \$10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 76.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Douglas County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 77.**

That the authorization in this resolution to grant the above-described easement to Georgia Power Company shall expire three years after the date that this resolution becomes effective.

**SECTION 78.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE VII****SECTION 79.**

That the State of Georgia is the owner of the hereinafter described real property in Fulton County, and the property is in the custody of the Geo. L. Smith II Georgia World Congress Center, hereinafter referred to as the "easement area," and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 80.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to Georgia Power Company, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of an overhead transmission line in, on, over, under, upon, across, or through the easement area for the purposes of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating an overhead transmission line together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in Land Lot 82 of the 14th district, City of Atlanta, Fulton County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a plat of survey entitled 'Northwest – Davis Street Transmission Line Property of State of Georgia,' prepared by Georgia Power Company, dated June 22, 2004, and on file in the offices of the State Properties Commission"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 81.**

That the above-described premises shall be used solely for the purposes of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said overhead transmission line.

**SECTION 82.**

That Georgia Power Company shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said overhead transmission line.

**SECTION 83.**

That, after Georgia Power Company has put into use the overhead transmission line for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Georgia Power Company, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia or its successors and assigns.

**SECTION 84.**

That no title shall be conveyed to Georgia Power Company, and, except as herein specifically granted to Georgia Power Company, all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Georgia Power Company.

**SECTION 85.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 86.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and

Georgia Power Company shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Georgia Power Company. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 87.**

That the easement granted to Georgia Power Company shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interests of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 88.**

That the consideration for such easement shall be for the fair market value and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 89.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Fulton County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 90.**

That the authorization in this resolution to grant the above-described easement to Georgia Power Company shall expire three years after the date that this resolution becomes effective.

**SECTION 91.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE VIII  
SECTION 92.**

That the State of Georgia is the owner of the hereinafter described real property in Newton County, and the property is in the custody of the Department of Technical and Adult Education, hereinafter referred to as the "easement area," and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 93.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to 1998 Augustus Partners, L. P., or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of a storm drain in, on, over, under, upon, across, or through the easement area for the purposes of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating a storm drain together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area are located in land lot 295 of the 9th district of Newton County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown marked in yellow on a plat of survey entitled '1998 Augustus Partners, L.P.' dated December 23, 2003, and prepared by Fred Wilson Long and being on file in the offices of the State Properties Commission" and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 94.**

That the above-described premises shall be used solely for the purposes of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said storm drain.

**SECTION 95.**

That 1998 Augustus Partners, L. P., shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said storm drain.

**SECTION 96.**

That, after 1998 Augustus Partners, L. P., has put into use the storm drain for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, 1998 Augustus Partners, L. P., or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia or its successors and assigns.

**SECTION 97.**

That no title shall be conveyed to 1998 Augustus Partners, L. P., and, except as herein specifically granted to 1998 Augustus Partners L. P., all rights, title, and interest in and to said easement area are reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to 1998 Augustus Partners, L. P.

**SECTION 98.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 99.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and 1998 Augustus Partners, L. P., shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by 1998 Augustus Partners, L. P. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 100.**

That the easement granted to 1998 Augustus Partners, L. P., shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interests of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 101.**

That the consideration for such easement shall be for the fair market value, but not less than \$650.00, and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 102.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Newton County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 103.**

That the authorization in this resolution to grant the above-described easement to 1998 Augustus Partners, L. P., shall expire three years after the date that this resolution becomes effective.

**SECTION 104.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

**ARTICLE IX  
SECTION 105.**

That the State of Georgia is the owner of the hereinafter described real property in Chatham County, and the property is in the custody of the Department of Natural Resources, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

**SECTION 106.**

That the State of Georgia, acting by and through its State Properties Commission, may grant to the City of Savannah, Chatham County, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of a riverwalk dock facility in, on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating a riverwalk dock facility together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in the 2nd GM District, City of Savannah, Chatham County, Georgia, and containing a total of 3.28 acres and is more particularly described as:

"That portion and that portion only as shown marked in yellow on a plat of survey entitled 'Jurisdictional Lands of the Savannah River and the Village at Oglethorpe Landing, LLC' dated February 23, 2005 and prepared by Boyce L. Young, Georgia Registered Land Surveyor #2282 and being on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

**SECTION 107.**

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said riverwalk dock facility.

**SECTION 108.**

That the City of Savannah shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said riverwalk dock facility.

**SECTION 109.**

That, after the City of Savannah has put into use the riverwalk dock facility for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, the City of Savannah, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia or its successors and assigns.

**SECTION 110.**

That no title shall be conveyed to the City of Savannah and, except as herein specifically granted to the City of Savannah, all rights, title, and interest in and to said easement area is reserved to the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to the City of Savannah.

**SECTION 111.**

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, of a county with respect to the county road system, or of a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

**SECTION 112.**

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and the City of Savannah shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by the

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City of Savannah. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal at no cost and expense to the State of Georgia.

**SECTION 113.**

That the easement granted to the City of Savannah shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interests of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

**SECTION 114.**

That the consideration for such easement shall be \$10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interests of the State of Georgia.

**SECTION 115.**

That this grant of easement shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

**SECTION 116.**

That the authorization in this resolution to grant the above-described easement to the City of Savannah shall expire three years after the date that this resolution becomes effective.

**SECTION 117.**

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of easement area.

**ARTICLE X**

**SECTION 118.**

That all laws or parts of laws in conflict with this resolution are repealed.

Senator Thomas of the 2nd moved that the Senate agree to the House substitute to SR 80.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens

Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	E Zamarripa
Henson	Y Shafer,D	

On the motion, the yeas were 44, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SR 80.

The following bill was taken up to consider House action thereto:

SB 6. By Senators Stoner of the 6th, Rogers of the 21st, Hill of the 32nd, Thompson of the 33rd, Hamrick of the 30th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, so as to authorize the exchange of national criminal history background checks on providers of care to children, the elderly, and persons with disabilities, including, but not limited to, volunteers with youth sports organizations and other youth activities; to define terms; to provide for conformity with federal law; to provide for rules and regulations; to provide for fees; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, so as to authorize the exchange of national criminal history background checks on providers of care to children, the elderly, and persons with disabilities, including, but not limited to, volunteers with youth sports

organizations and other youth activities; to define terms; to provide for conformity with federal law; to provide for rules and regulations; to provide for fees; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, is amended by adding a new Code Section 35-3-34.2 to read as follows:

"35-3-34.2.

- (a) It is the purpose of this Code section to authorize and facilitate, but not require, the exchange of national criminal history background checks with authorized agencies on behalf of qualified entities as authorized under federal law.
- (b) As used in this Code section, the term:
  - (1) 'Authorized agency' means any local government agency designated to report, receive, or disseminate information under the NCPA and the VCA.
  - (2) 'Care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.
  - (3) 'FBI' means the Federal Bureau of Investigation.
  - (4) 'National criminal history background check' means a fingerprint based check of state and national criminal history files based on submission of a set of classifiable fingerprints and records fee.
  - (5) 'NCPA' means the 'National Child Protection Act of 1993,' 42 U.S.C. Sections 3759, 5101 note, 5119, 5119(a) to 5119(c).
  - (6) 'ORI' means an originating agency identifier.
  - (7) 'Provider' means:
    - (A) A person who:
      - (i) Is employed by or volunteers with a qualified entity;
      - (ii) Owns or operates a qualified entity; or
      - (iii) Has or may have unsupervised access to a person to whom the qualified entity provides care; and
    - (B) A person who:
      - (i) Seeks to be employed by or volunteer with a qualified entity;
      - (ii) Seeks to own or operate a qualified entity; or
      - (iii) Seeks to have or may have unsupervised access to a person to whom the qualified entity provides care.
  - (8) 'Qualified entity' means a business or organization, whether public, private, for profit, not for profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.
  - (9) 'VCA' means the 'Volunteers for Children Act,' 42 U.S.C. Sections 5101 note,

- 5119(a) and 5119(b).
- (c) An authorized agency is responsible for the designation of qualified entities within its local jurisdiction and for the submission of national criminal history background checks as authorized under the NCPA and the VCA.
  - (d) An authorized agency, other than a criminal justice agency as defined in Code Section 35-3-30, must request an ORI from the FBI for the express purpose of submitting national criminal history background checks under this Code section. Requests shall be made in writing to the FBI through the center.
  - (e) National criminal history background checks shall be submitted directly to the center for a state records check; fingerprint cards shall then be forwarded to the FBI for a national check. The responses from both the state and national criminal history background checks shall be returned to the authorized agency.
  - (f) The authorized agency may provide directly to the qualified entity the state criminal history record provided as part of the national criminal history background check.
  - (g) An authorized agency shall be responsible for review of the national criminal history record provided as part of the national criminal history background check to determine whether the provider has been convicted of or is under indictment for a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities and to convey that determination to the qualified entity.
  - (h) The qualified entity must obtain the fingerprints of the provider, communicate the fitness determination of the authorized agency to the provider, and notify the provider of his or her right to challenge the accuracy and completeness of any information contained in the national criminal history background check.
  - (i) Fees charged for a national criminal history background check shall be determined based on reasonable costs as allowed under federal law.
  - (j) The provisions of this Code section shall be supplementary to and not in place of any other law of this state which authorizes or requires background checks.
  - (k) Any person, authorized agency, or qualified entity, or any person who is an employee of an authorized agency or qualified entity, shall not disseminate any criminal history or any information concerning any criminal history except the determination of fitness which such person obtains pursuant to this Code section."

## **SECTION 2.**

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

## **SECTION 3.**

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

Senator Stoner of the 6th moved that the Senate agree to the House substitute to SB 6.

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On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	E Zamarripa
Henson	Y Shafer,D	

On the motion, the yeas were 45, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 6.

The following bill was taken up to consider House action thereto:

SB 133. By Senators Balfour of the 9th, Johnson of the 1st and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to the regulation of fireworks, so as to change the definition of the term "fireworks"; to prohibit the sale of certain combustible or explosive compositions to persons under 16 years of age; to provide for a monetary penalty for sales made in violation of such prohibition; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to the regulation of fireworks, so as to change the definition of the term "fireworks"; to

prohibit the sale of certain combustible or explosive compositions to persons under 18 years of age; to provide for certain limitations on such sales; to provide for a monetary penalty for sales made in violation of such prohibition; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to the regulation of fireworks, is amended by striking Code Section 25-10-1, relating to definition of "fireworks," and inserting in lieu thereof a new Code Section 25-10-1 to read as follows:

"25-10-1.

(a) As used in this chapter, the term:

(1) 'Fireworks' means any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedos, skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of like construction, as well as articles containing any explosive or flammable compound and tablets and other devices containing an explosive substance. ~~The term 'fireworks' shall not include model rockets and model rocket engines, designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content does not average more than 0.25 grains of explosive mixture per paper cap nor toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term 'fireworks' include ammunition consumed by weapons used for sporting and hunting purposes.~~

(2) 'Proximate audience' means an audience closer to pyrotechnic devices than permitted by the National Fire Protection Association Standard 1123, *Code for Fireworks Display*, as adopted by the Safety Fire Commissioner.

(3) 'Pyrotechnics' means fireworks.

(b) As used in this chapter, the term 'fireworks' shall not include:

~~(1) Model rockets and model rocket engines, designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term 'fireworks' include ammunition consumed by weapons used for sporting and hunting purposes; and~~

~~(2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 200 grams or less for multiple tubes; snake and glow worms; trick noise makers which include paper streamers, party poppers, string poppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive~~

mixture."

#### **SECTION 2.**

Said chapter is further amended by striking Code Section 25-10-2, relating to prohibited acts with respect to fireworks, and inserting in lieu thereof a new Code Section 25-10-2 to read as follows:

"25-10-2.

(a) It shall be unlawful for any person, firm, corporation, association, or partnership to offer for sale at retail or wholesale, to use or explode or cause to be exploded, or to possess, manufacture, transport, or store any fireworks, except as otherwise provided in this chapter.

(b)(1) Notwithstanding any provision of this chapter to the contrary, it shall be unlawful for any person, firm, corporation, association, or partnership to sell to any person under 18 years of age any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1.

(2) It shall be unlawful to sell any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1 to any person by any means other than an in-person, face-to-face sale. Such person shall provide proper identification to the seller at the time of such purchase. For purposes of this paragraph, the term 'proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes without being limited to, a passport, military identification card, driver's license, or an identification card authorized under Code Sections 40-5-100 through 40-5-104.

(3) It shall be unlawful to use any items defined in paragraph (2) of subsection (b) of Code Section 25-10-1 indoors."

#### **SECTION 3.**

Said chapter is further amended by adding a new Code Section 25-10-9 to read as follows:

"25-10-9.

Notwithstanding any provision of this chapter to the contrary, any person, firm, corporation, association, or partnership who or which knowingly violates subsection (b) of Code Section 25-10-2 may be punished by a fine not to exceed \$100.00. Each sales transaction in violation of subsection (b) of Code Section 25-10-2 shall be a separate offense."

#### **SECTION 4.**

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

#### **SECTION 5.**

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

Senator Balfour of the 9th moved that the Senate agree to the House substitute to SB 133.

On the motion, a roll call was taken and the vote was as follows:

Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Y Thompson,C
N Douglas	E Moody	N Thompson,S
N Fort	Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 40, nays 6; the motion prevailed, and the Senate agreed to the House substitute to SB 133.

The following bill was taken up to consider House action thereto:

SB 224. By Senators Balfour of the 9th and Henson of the 41st:

A BILL to be entitled an Act to amend Chapter 4B of Title 43 of the O.C.G.A., relating to the Georgia Athletic and Entertainment Commission, so as to revise and clarify definitions relative to the commission; to change a provision relating to the applicability of the chapter; to change a provision relating to the term of appointment for members of the commission; to provide that restrictions on members and employees of the commission apply to martial arts and wrestling in addition to boxing; to provide for the offense of promotion of unarmed combat; to provide for penalties; to revise provisions relating to taxation of promoters' gross receipts; to change a provision relating to service charges for tickets sold by an authorized ticket agent; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 4B of Title 43 of the Official Code of Georgia Annotated, relating to the Georgia Athletic and Entertainment Commission, so as to revise and clarify definitions relative to the commission; to change a provision relating to the applicability of the chapter; to change a provision relating to the term of appointment for members of the commission; to provide that restrictions on members and employees of the commission apply to martial arts and wrestling in addition to boxing; to provide for the offense of promotion of unarmed combat; to provide for penalties; to revise provisions relating to taxation of promoters' gross receipts; to change a provision relating to service charges for tickets sold by an authorized ticket agent; to provide for the commission's authority relative to licensure of organizations that govern and authorize matches, contests, and exhibitions of martial arts and wrestling, licensure of promoters of martial arts matches, contests, and exhibitions, and permitting of such matches, contests, and exhibitions; to provide for fees and exceptions; to provide for requirements for such matches, contests, and exhibitions; to prohibit licensure in certain circumstances; to provide for exceptions; to prohibit certain practices and employment of any person or entity convicted of a felony or crime of moral turpitude; to prohibit employment of such a person or entity by certain organizations; to provide for penalties; to provide for fines and for suspension, revocation, and denial of licenses and permits; to provide for exemptions; 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 4B of Title 43 of the Official Code of Georgia Annotated, relating to the Georgia Athletic and Entertainment Commission, is amended by striking Code Section 43-4B-1, relating to definitions relative to the commission, and inserting in lieu thereof the following:

"43-4B-1.

As used in this chapter, the term:

(1) 'Amateur,' when applied to a person engaged in boxing, wrestling, or a martial art, means a person who receives no compensation and engages in a match, contest, or exhibition of boxing, wrestling, or a martial art that which is governed or authorized by:

- (A) U.S.A. Boxing;
- (B) The Georgia High School Athletic Association;
- (C) The National Collegiate Athletic Association;
- (D) Amateur Athletic Union;

- (E) Golden Gloves; or
  - (F) Team Georgia Amateur Wrestling;
  - (G) USA Wrestling;
  - (H) National High School Coaches Association;
  - (I) North American Sport Karate Association;
  - (J) International Sport Kick Boxing/Karate Association;
  - (K) World Kick Boxing Association;
  - (L) United States Kick Boxing Association;
  - (M) International Sport Combat Federation;
  - (N) Professional Karate Commission;
  - (O) International Kick Boxing Federation; or
  - (P) The local affiliate of any organization listed in this paragraph.
- (2) 'Boxing match' means a contest between two individuals in which contestants score points in rounds of two or three minutes by striking with padded fists the head and upper torso of the opponent or by knocking the opponent down and rendering the opponent unconscious or incapable of continuing the contest by such blows, which contest is held in a square ring supervised by a referee and scored by three judges.
- (3) 'Boxing registry' means a registry created or designated pursuant to subsection (j) of Code Section 43-4B-4.
- (3.1) 'Charitable organization' means an entity described by:
- (A) Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
  - (B) Section 170(c), Internal Revenue Code of 1986 (26 U.S.C. Section 170(c)).
- (4) 'Commission' means the Georgia Athletic and Entertainment Commission.
- (5) 'Exhibition' means a contest where the participants engage in the use of boxing, wrestling, or martial arts skills and techniques and where the objective is to display such skills and techniques without striving to win.
- (6) 'Face value' means the dollar value of a ticket or order, which value shall reflect the dollar amount that the customer is required to pay or, for complimentary tickets, would have been required to pay to purchase a ticket with equivalent seating priority in order to view the match, contest, exhibition, or entertainment event. A complimentary ticket shall not have a face value of \$0.00. A complimentary ticket shall not have a face value of less than that of the least expensive ticket available for sale to the general public. Face value shall include any charges or fees, such as dinner, gratuity, parking, surcharges, or any other charges or fees which are charged to and must be paid by the customer in order to view the match, contest, exhibition, or entertainment event. It shall exclude any portion paid by the customer for federal, state, or local taxes.
- (7) 'Gross proceeds' means the total revenue received solely from the sale of tickets used or intended to be used by the audience physically attending any event required to be licensed under this chapter.
- (8) 'Gross receipts' means:
- (A) The gross price charged for the sale or lease of broadcasting, television, pay per

view, closed circuit, or motion picture rights without any deductions for commissions, brokerage fees, distribution fees, production fees, advertising, or other expenses or charges; and

(B) The face value of all tickets sold and complimentary tickets redeemed, issued, provided, or given; and

(C) The face value of any seats issued, provided, or given in exchange for advertising, sponsorships, or anything of value to the promotion of an event.

(9) 'Local tax' means any occupation tax or other tax owed to a county or municipality in order to hold a professional match, contest, or exhibition of boxing or to carry on a business as a ticket broker within such county or municipality.

(9.1) 'Kickboxing' means unarmed combat involving the use of striking techniques delivered with the upper and lower body and in which the competitors remain standing while striking.

(10) 'Manager' means a person who under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a matter related to boxing on behalf of a boxer. Such term includes, but is not limited to, a person who functions as a booking agent, adviser, or consultant.

(10.1) 'Martial art' means any form of unarmed combative sport or unarmed combative entertainment that allows contact striking, except boxing or wrestling.

(10.2) 'Mixed martial arts' means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts, including but not limited to grappling, submission holds, and strikes with the upper and lower body.

(11) 'Matchmaker' means a person who is employed by or associated with a promoter in the capacity of booking and arranging professional matches, contests, or exhibitions of boxing between opponents or who proposes professional matches, contests, or exhibitions of boxing and selects and arranges for the participants in such events and for whose activities in this regard the promoter is legally responsible.

(11.1) 'Original purchaser for personal use' means a person who buys one or more tickets with the intention of using the ticket or tickets solely for the use of the purchaser or the purchaser's invitees, employees, and agents. An original purchaser who resells more than six tickets to the same athletic contest or entertainment event and who resells tickets to an athletic contest or entertainment event for more than 105 percent of their face value shall be rebuttably presumed to be engaging in the business of a ticket broker in any criminal prosecution or civil action, order, or penalty by the commission.

(11.2) 'Patron boxing,' 'patron wrestling,' or 'patron martial arts' means boxing, wrestling, or martial arts that is not:

(A) Governed or authorized by any organization listed in paragraph (1) of this Code section;

(B) Governed or authorized by an organization licensed by the commission in accordance with this chapter;

(C) Governed or authorized by an organization exempted from licensure by the commission in accordance with this chapter; and

(D) Licensed by the commission in accordance with Article 2 of this chapter.

~~(11.2)(11.3)~~ 'Pay per view' means a telecast for which a fee is required in addition to any other fee paid by the viewer for any other services of the telecaster.

(12) 'Person' means any individual, partnership, firm, association, corporation, or combination of individuals of whatever form or character.

(13) 'Physician' means a doctor of medicine or other medical professional legally authorized by any state to practice medicine.

(14) 'Professional' means a person who is participating or has participated in a match, contest, or exhibition ~~of boxing~~ which is not governed or authorized by one or more of the organizations listed in paragraph (1) of this Code section and:

(A) Has received or competed for or is receiving or competing for any cash as a salary, purse, or prize for participating in any match, contest, or exhibition ~~of boxing~~;

(B) Is participating or has participated in any match, contest, or exhibition ~~of boxing~~ to which admission is granted upon payment of any ticket for admission or other evidence of the right of entry;

(C) Is participating or has participated in any match, contest, or exhibition ~~of boxing~~ which is or was filmed, broadcast, or transmitted for viewing; or

(D) Is participating or has participated in any match, contest, or exhibition ~~of boxing~~ which provides a commercial advantage by attracting persons to a particular place or promoting a commercial product or enterprise.

(15) 'Professional match, contest, or exhibition ~~of boxing~~' means a ~~boxing~~ match, contest, or exhibition which is not governed or authorized by one or more of the organizations listed in paragraph (1) of this Code section and:

(A) Rewards a ~~boxer participating~~ participant with cash as a salary, purse, or prize for such participation;

(B) Requires for admission payment of a ticket for admission or other evidence of the right of entry;

(C) Is filmed, broadcast, or transmitted for viewing; or

(D) Provides a commercial advantage by attracting persons to a particular place or promoting a commercial product or enterprise.

(16) 'Promoter' means the person primarily responsible for organizing, promoting, and producing a professional match, contest, or exhibition ~~of boxing~~ and who is legally responsible for the lawful conduct of such professional match, contest, or exhibition ~~of boxing~~.

(16.1) 'Promotion of unarmed combat' means the organization, promotion, production, publicizing, or arranging of, or provision of a venue for, a competition of unarmed combat by a person who receives some compensation or commercial benefit from such competition.

(17) 'Purse' or 'ring earnings' means the financial guarantee or any other remuneration, or part thereof, for which professional boxers ~~or wrestlers~~ are participating in a match, contest, or exhibition and includes the boxer's ~~or wrestler's~~ share of any payment received for radio broadcasting, television, or motion picture

rights.

(17.1) 'Shidokan' means unarmed combat involving three separate, segregated rounds of which karate rules and techniques are exclusively used in one round, kickboxing rules and techniques are exclusively used in one round, and grappling rules and techniques are exclusively used in one round.

(18) 'State' means any of the 50 states, Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(19) 'Ticket broker' means:

(A) Any person who is involved in the business of reselling tickets of admission to athletic contests, concerts, theater performances, amusements, exhibitions, or other entertainment events held in this state to which the general public is admitted and who charges a premium in excess of the price of the ticket; or

(B) Any person who has a permanent office or place of business in this state who is involved in the business of reselling tickets of admission to athletic contests, concerts, theater performances, amusements, exhibitions, or other entertainment events held inside or outside this state to which the general public is admitted and who charges a premium in excess of the price of the ticket.

The term ticket broker shall not include the owner, operator, lessee, or tenant of the property in which an athletic contest or entertainment event is being held or the sponsor of such a contest or event or the authorized ticket agent of such persons.

(20)(A) 'Unarmed combat' means any form of competition between human beings or one or more human beings and one or more animals in which:

(i) One or more blows are struck which may reasonably be expected to inflict injury on a human being; and

(ii) There is some compensation or commercial benefit arising from such competition, whether in the form of cash or noncash payment to the competitors or the person arranging the competition; the sale of the right to film, broadcast, transmit, or view the competition; or the use of the competition to attract persons to a particular location for some commercial advantage or to promote a commercial product or commercial enterprise.

Such term also means any amateur kickboxing match in which the competitors are not wearing protective gear.

(B) Unarmed combat shall include but shall not be limited to: tough man fights, bad man fights, nude boxing, and nude wrestling, patron boxing, patron martial arts, and patron wrestling.

(C) Unarmed combat shall not include:

(i) Professional boxing licensed in accordance with this chapter;

(ii) Professional wrestling governed or authorized by an organization licensed or exempted from licensure in accordance with this chapter;

(iii) Amateur boxing governed or authorized by an organization listed in paragraph (1) of this Code section;

(iv) Amateur wrestling governed or authorized by an organization listed in paragraph (1) of this Code section;

- (v) Any competition displaying the skills of a single form of an Oriental system of unarmed self-defense combative sports or unarmed combative entertainment, including, but not limited to, kick boxing, karate, or full-contact karate, which that is held pursuant to the rules of that form and governed or authorized by a nationally recognized organization an organization licensed by the commission in accordance with Article 4 of this chapter;
- (vi) Shidokan when the competition is governed by the United States Shidokan of the World Karate Association or authorized by an organization licensed by the commission in accordance with Article 4 of this chapter; or
- (vii) Mixed martial arts fighting when the competition is sanctioned, approved, or endorsed by the International Sport Combat Federation (ISCF). governed or authorized by an organization licensed by the commission in accordance with Article 4 of this chapter; or
- (viii) Other martial arts competitions, when governed or authorized by an organization licensed by the commission in accordance with Article 4 of this chapter.

(21) 'Wrestling' means:

- (A) A staged or staged performance of fighting and gymnastic skills and techniques by two or more human beings who are not required to use their best efforts in order to win and for which the winner may have been selected before the performance commences; or
- (B) A performance of fighting and gymnastic skills and techniques by two or more human beings."

## SECTION 2.

Said chapter is further amended by striking Code Section 43-4B-2, relating to the application of the chapter, and inserting in lieu thereof the following:

"43-4B-2.

(a) The provisions of this chapter shall not be construed to apply to any match, contest, or exhibition of boxing:

- (1) In which the contestants are all amateurs; and
- (2) Which is governed or authorized by:
  - (A) U.S.A. Boxing;
  - (B) The Georgia High School Athletic Association;
  - (C) The National Collegiate Athletic Association;
  - (D) Amateur Athletic Union;
  - (E) Golden Gloves; or
  - (F) Team Georgia Amateur Wrestling;
  - (G) USA Wrestling;
  - (H) National High School Coaches Association;
  - (I) North American Sport Karate Association;
  - (J) International Sport Kick Boxing/Karate Association;
  - (K) World Kick Boxing Association;

- (L) United States Kick Boxing Association;
  - (M) International Sport Combat Federation;
  - (N) Professional Karate Commission;
  - (O) International Kick Boxing Federation; or
  - (P) The local affiliate of any organization listed in this paragraph.
- (b) The provisions of this chapter shall not apply to any matches, contests, or exhibitions of professional wrestling or to a promoter or organization that promotes, organizes, or governs such matches, contests, or exhibitions where such promoter or organization is a corporation that, at the time of such matches, contests, or exhibitions:
- (1) Is registered under the federal Securities Exchange Act of 1934; and
  - (2) Has total assets of not less than \$25,000,000.00.

### SECTION 3.

Said chapter is further amended in Code Section 43-4B-3, relating to the membership of the Georgia Athletic and Entertainment Commission, the commission's medical advisory panel, and reimbursement of members, by striking subsection (b) and inserting in lieu thereof the following:

"(b) The commission shall be composed of five members appointed by the Governor. ~~All appointments shall be for terms of four years. Each member of the commission shall be appointed for a term of four years and until his or her successor is appointed.~~ Vacancies shall be filled for the unexpired terms under the same procedures and requirements as appointments for full terms."

### SECTION 4.

Said chapter is further amended by striking Code Section 43-4B-8, relating to prohibited activities for commission members, and inserting in lieu thereof the following:

"43-4B-8.

No member or employee of the commission and no person who administers or enforces the provisions of this chapter or rules promulgated in accordance with this chapter may belong to, contract with, or receive any compensation from any person or organization who authorizes, arranges, or promotes professional matches, contests, or exhibitions of boxing, martial arts, or wrestling or who otherwise has a financial interest in any activity or licensee regulated by this commission. The term 'compensation' does not include funds held in escrow for payment to another person in connection with a professional match, contest, or exhibition of boxing, martial arts, or wrestling."

### SECTION 5.

Said chapter is further amended by striking Code Section 43-4B-20, relating to required reports from promoters, and inserting in lieu thereof the following:

"43-4B-20.

(a) A promoter holding a match, contest, or exhibition of boxing shall, within 72 hours three business days after the match, file with the commission a written report which

includes the number of tickets sold, the amount of gross receipts, the amount of gross proceeds, and any other facts the commission may require. For the purposes of this chapter, total gross receipts include:

- (1) The gross price charged for the sale or lease of pay per view telecasting and motion picture rights without any deductions for commissions, brokerage fees, distribution fees, advertising, or other expenses or charges;
  - (2) The face value of all tickets sold and complimentary tickets issued, provided, or given; and
  - (3) The face value of any seat or seating issued, provided, or given in exchange for advertising, sponsorships, or anything of value to the promotion of an event. Within ten days following the match, contest, or exhibition of boxing, the promoter shall remit to the commission a tax payment in the amount of 5 percent of the gross proceeds exclusive of any federal taxes.
- (b) Where the rights to telecast by pay per view a match or matches held in this state under the supervision of the commission are in whole owned by, sold to, acquired by, or held by any person who intends to or subsequently sells or, in some other manner, extends such rights in part to another, such person is deemed to be a promoter and must be licensed as such in this state. Such person shall, A promoter who sells, transfers, or extends to another the rights to telecast by pay per view for viewing in this state, whether the telecast originates inside or outside this state, a match, contest, or exhibition of boxing that would be subject to regulation by the commission in accordance with this chapter if the match, contest, or exhibition were held in this state, shall, within 72 hours three business days after the sale, transfer, or extension of such rights in whole or in part, file with the commission a written report that includes the gross price charged for the rights to telecast by pay per view, the number of tickets sold, the amount of gross receipts, and any other facts the commission may require.
- (c) Any written report required to be filed with the commission under this Code section shall be postmarked within 72 hours three business days after the conclusion of the match or telecast, if the telecast is later than the match, and an additional five days shall be allowed for mailing.
- (d) The written report shall be accompanied by Each promoter subject to subsection (b) of this Code Section shall remit to the commission within ten days following a match, contest, or exhibition a tax payment in the amount of 5 percent of the total gross receipts, as defined in subparagraph (A) of paragraph (8) of Code Section 43-4B-1, exclusive of any federal taxes, except that the tax payment derived from the gross price charged for the sale or lease of pay per view telecasting and motion picture rights shall not exceed \$40,000.00 for any single event.
- (e)(1) Any promoter who willfully makes a false and fraudulent report under this Code section is guilty of perjury and, upon conviction, is subject to punishment as provided by law. Such penalty shall be in addition to any other penalties imposed by this chapter.
  - (2) Any promoter who willfully fails, neglects, or refuses to make a report or to pay the taxes as prescribed or who refuses to allow the commission to examine the books,

papers, and records of any promotion is guilty of a misdemeanor.  
(f) The commission shall remit all tax payments to the general treasury of the state."

#### **SECTION 6.**

Said chapter is further amended in Code Section 43-4B-21, relating to penalties for violations relative to boxing and fighting, by inserting a new subsection to be designated subsection (d) to read as follows:

"(d) Promotion of unarmed combat, as defined in Code Section 43-4B-1, is a misdemeanor for the first offense; a high and aggravated misdemeanor for the second offense; and a felony for the third and subsequent offenses, punishable upon conviction by a fine not to exceed \$10,000.00 or imprisonment not to exceed two years, or both such fine and imprisonment."

#### **SECTION 7.**

Said chapter is further amended by striking Code Section 43-4B-26, relating to requirements for ticket brokers, and inserting in its place the following:

"43-4B-26.

In order to engage in the practice or business of a ticket broker a person shall be required to:

- (1) Maintain a permanent office or place of business in this state, excluding a post office box, for the purpose of engaging in the business of a ticket broker;
- (2) Apply to the commission for a ticket broker's license on a form designated by the commission, pay an annual license fee of \$500.00, and renew the license annually;
- (3) Pay any local tax required by a local government; and
- (4) Register for sales and use tax purposes pursuant to Article 1 of Chapter 8 of Title 48."

#### **SECTION 8.**

Said chapter is further amended by striking Code Section 43-4B-28, relating to ticket sales, disclosure requirements, resale restrictions, and refunds, and inserting in its place the following:

"43-4B-28.

(a) The ticket broker shall be required to:

- (1) Disclose Post at its established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker;
- (2) Disclose to the purchaser the refund policy of the ticket broker should an athletic contest or entertainment event be canceled; and
- (3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount which the ticket broker is charging for such ticket; and
- (4) Sell tickets only at its permanent office, place of business, or through the Internet; provided, however, that delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not

violate this paragraph.

- (b)(1) A ticket broker shall be prohibited from employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property on which an athletic contest or entertainment event is to be held.
- (2) Each ticket broker, including any affiliated group of ticket brokers, shall be prohibited from acquiring and reselling in excess of 1 percent of the total tickets allocated for any contest or event.
- (3) Unless otherwise provided in a written agreement between a ticket broker and the purchaser, a ticket broker shall be required to refund any payment received for the purchase of a ticket under this article if the purchaser returns the ticket and requests a cancellation of the sale thereof within 36 hours from the time of purchase of the ticket and if such return is made more than 72 hours preceding the athletic contest or entertainment event.
- (4) A ticket broker shall be required to refund any payment received for the purchase of a ticket under this article if the athletic contest or entertainment event is canceled and not rescheduled.
- (5) If a ticket broker guarantees in writing delivery of a ticket or tickets to an athletic contest or entertainment event as provided under this article to a purchaser and fails to complete such delivery, the ticket broker shall be required to provide within 15 days a full refund of any amount paid by the purchaser and, in addition, shall pay the purchaser a refund fee of three times the amount paid by the purchaser for each such ticket.
- (c)(1) For all venues which seat or admit less than 15,000 persons, a A ticket broker and its employees, agents, and assigns are criminally prohibited from reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.
- (2) For all venues which seat or admit 15,000 or more persons, a ticket broker and its employees, agents, and assigns are criminally prohibited from reselling or offering for resale any ticket within 2,700 feet from the venue where an event or contest is to be held or is being held.
- (d) Any ticket broker offering to resell tickets to an athletic contest or entertainment event through any printed, broadcast, or Internet advertising shall include in such advertising the license number of such ticket broker offering such tickets for resale."

**SECTION 9.**

Said chapter is further amended by striking subsection (a) of Code Section 43-4B-29, relating to resale of tickets by an original purchaser for personal use, and inserting in lieu thereof the following:

- "(a) No provision of this article or any other provision of law shall criminally prohibit any person who is the original purchaser for personal use of one or more tickets to an athletic contest or entertainment event covered under this article from reselling or offering for resale any of such tickets for any price, provided that such person does not

sell or offer to sell such tickets within 4,500 feet of a ticket office 2,700 feet of a venue which seats or admits 15,000 or more persons for such a contest or event or a public entrance to such a contest or event. ~~No provision of this article or any other provision of law shall criminally prohibit the purchaser for personal use of one or more tickets to an athletic contest or entertainment event from reselling or offering for resale any of such tickets in any zone or zones within the restricted areas, as provided in this subsection or subsection (b) of Code Section 43-4B-30, where such activity is authorized by the sponsor of the contest or event and the owner or operator of the venue where such contest or event is being held or to be held."~~

#### **SECTION 10.**

Said chapter is further amended by inserting a new Code section to be designated Code Section 43-4B-29.1 to read as follows:

"43-4B.29.1.

(a) Notwithstanding subsection (c) of Code Section 43-4B-28, and subsection (b) of Code Section 43-4B-30, no provision of this article or any other provision of law shall provide a criminal penalty for or prohibit the resale or offering for resale of a ticket or tickets to an athletic contest or entertainment event covered under this article by a ticket broker or a ticket broker's employees, agents, and assigns in a zone or zones within the area where such resale or offering for resale is prohibited by such subsections, if such activity is authorized by the organizer of the contest or event and the owner or operator of the venue where such contest or event is being held or to be held.

(b) Notwithstanding subsection (a) of Code Section 43-4B-29 and subsection (b) of Code Section 43-4B-30, no provision of this article or any other provision of law shall provide a criminal penalty for or prohibit the resale or offering for resale of a ticket or tickets purchased by any person who is the original purchaser for personal use of such ticket or tickets to an athletic contest or entertainment event covered under this article in a zone or zones within the area where such resale or offering for resale is prohibited by such subsections, if such activity is authorized by the organizer of the contest or event and the owner or operator of the venue where such contest or event is being held or to be held."

#### **SECTION 11.**

Said chapter is further amended by striking Code Section 43-4B-30, relating to county and municipal ordinances, and inserting in its place the following:

"43-4B-30.

(a) With regard to any single athletic contest or entertainment event which occurs no more often than once annually and with regard to any series of athletic contests which occur no more often than once annually and which occur within a time period not exceeding ten days, the municipal corporation in which such contest, event, or series of contests is to be held, or if the contest, event, or series of contests is to be held in an unincorporated area, the county of such unincorporated area, is authorized to enact by

ordinance regulations governing ticket brokers for such contest, event, or series of contests which are more restrictive than the provisions of this article.

(b) The municipal corporation in which an athletic contest or entertainment event is to be held, or if the contest or entertainment event is to be held in an unincorporated area, the county of such unincorporated area, is authorized to enact an ordinance prohibiting the resale or offering for resale of one or more tickets by a ticket broker or by a person who is the original purchaser for personal use of one or more tickets within 2,700 feet of a venue which seats or admits 15,000 or more persons.

~~(c)(1) Municipal corporations and counties in this state are authorized to enact an ordinance requiring an individual reselling tickets or offering tickets for resale in such municipal corporations or in the unincorporated area of such counties to obtain a permit from the municipal corporation or county for such activity if the individual:~~

~~(A) Engages in reselling tickets or offering tickets for resale in or on the streets, sidewalks, or other places owned or operated by such municipal corporation or county and open to the public regardless of whether such individual maintains a permanent office or place of business for reselling tickets or offering tickets for resale in this state; or~~

~~(B) Does not maintain a permanent office or place of business in this state.~~

~~(2) A municipality or county may charge a fee for such permit not to exceed \$150.00.~~

~~(3) In order to obtain a permit, individuals first must provide proof of licensing under Code Section 43-4B-26 to the municipality or county issuing such permits.~~

~~(4) The provisions of this Code section shall not apply to an original purchaser for personal use.~~

~~(5) The provisions of this Code section shall not apply to the delivery of one or more tickets after a sales transaction is completed at a ticket broker's permanent office or place of business in this state."~~

## SECTION 12.

Said chapter is further amended by inserting a new article to be designated Article 4, to read as follows:

### "ARTICLE 4

43-4B-50.

(a) The commission shall have the sole authority to license organizations that govern and authorize matches, contests, and exhibitions of martial arts and wrestling and to exempt organizations from licensure in accordance with this article. The commission shall have the sole authority to permit and regulate matches, contests, and exhibitions of martial arts and wrestling. The commission shall have the sole authority to license promoters of matches, contests, and exhibitions of martial arts. The commission shall have the duty to safeguard the public health, to protect competitors, and to provide for competitive matches by requiring licensed organizations to abide by rules promulgated by the commission for basic minimum medical and safety requirements based on the

nature of the activity and the anticipated level of physical conditioning and training of competitors. The commission shall have the authority to inquire as to a licensed organization's plans or arrangements for compliance with such rules. The commission shall have the authority to require annual fees for licensure and a fee for each such match, contest, or exhibition or for each show and to penalize licensed organizations, licensed promoters, and the holders of match permits that violate the provisions of this article or rules of the commission promulgated in accordance with this article.

(b) If requested by a licensed organization, the commission shall have the authority to provide direct oversight services, including but not limited to on-site inspectors, to a licensed organization for a fee negotiated between the commission and the licensed organization.

#### 43-4B-51.

(a) Except as otherwise provided in subsection (c) of this Code section, the annual fee for licensure of organizations subject to this article is \$1,000.00.

(b) As used in this subsection, the term 'show' includes all matches, contests, or exhibits held at the same venue on the same date and included in the same admission fee if an admission fee is charged. Except as otherwise provided in subsection (c) of this Code section, the maximum permit fee for each show authorized or governed by an organization licensed in accordance with this article is \$250.00. The maximum permit fee for each match, contest, or exhibition that is not a component of a show and is authorized by an organization licensed in accordance with this article is \$250.00, except as otherwise provided in subsection (c) of this Code section. Such fee shall be paid to the commission on or before the date of the match, contest, or exhibition. The commission may provide by rule for a refund of a portion of the fee if the match, contest, or exhibition is not held.

(c) For organizations authorizing or governing matches, contests, or exhibitions of wrestling as defined in subparagraph (A) of paragraph (21) of Code Section 43-4B-1, the annual fee for licensure is \$100.00. There shall be no permit fee for matches, contests, or exhibitions of wrestling as defined in such subparagraph. Organizations subject to this subsection shall make reports to the commission in accordance with rules and regulations promulgated by the commission.

(d) The annual fee for a promoter's license for promoters of martial arts matches, contests, or exhibitions shall be \$500.00.

#### 43-4B-52.

(a) A licensed organization shall provide written notice to the commission of a match, contest, or exhibition authorized and governed by the organization no later than 15 days before the date of the match, contest, or exhibition. The licensed organization governing the match, contest, or exhibition shall provide information required by the commission relating to the contestants, venue, rules for the competition, and anticipated level of physical conditioning and training of the contestants.

(b) A licensed organization shall, after a match, contest, or exhibition authorized and

governed by the organization, file with the commission an affidavit that includes the number of tickets sold, the amount of gross receipts, the amount of sales tax to be paid to the Department of Revenue, and any other facts the commission may require. Such affidavit shall be postmarked within three business days after the conclusion of the match, contest, or exhibition.

43-4B-53.

- (a) Notwithstanding any other provision of this chapter or any other law to the contrary, no person or entity shall directly or indirectly engage in the practice of being a promoter of kick boxing, muay thai, Thai boxing, full-contact karate, mixed martial arts, shidokan, or martial arts matches, contests, exhibitions of any type, or be employed or otherwise serve as a manager, matchmaker, or organizer for any person or entity engaged in the practice of being a promoter of kick boxing, muay thai, Thai boxing, full-contact karate, mixed martial arts, or martial arts matches, contests, or exhibitions of any type, who has been convicted of, has pleaded guilty to, has entered a plea of nolo contendere to, or has been found guilty of a felony or crime of moral turpitude under the laws of this state or any offense that, had it occurred within this state, would constitute a felony or crime of moral turpitude under the laws of this state for a period of ten years from the date of such conviction or plea. For purposes of this Code section, a conviction shall include but not be limited to disposition under Article 3 of Chapter 8 of Title 42.
- (b) Notwithstanding any other provision of this chapter or any other law to the contrary, no person or entity shall be retained, employed, or otherwise serve as a sanctioning, governing, licensing, authorizing, or ranking body or organization or act as an employee or representative thereof for any kick boxing, muay thai, full-contact karate, mixed martial arts, shidokan, or martial arts matches, contests, or exhibitions of any type promoted, managed, or organized in violation of subsection (a) of this Code section.
- (c) Notwithstanding any other provision of this chapter or any other law to the contrary, no sanctioning, governing, licensing, authorizing, or ranking body or organization for any kick boxing, muay thai, Thai boxing, full-contact karate, mixed martial arts, shidokan, or martial arts matches, contests, or exhibitions of any type shall employ, designate, or otherwise assign or utilize any person as a representative or official who has pleaded guilty to, has entered a plea of nolo contendere to, or has been found guilty of a felony or crime of moral turpitude under the laws of this state or any offense that, had it occurred within this state, would constitute a felony or crime of moral turpitude under the laws of this state for a period of ten years from the date of such conviction or plea. For purposes of this Code section, a conviction shall include but not be limited to disposition under Article 3 of Chapter 8 of Title 42.
- (d) The first violation of this Code section by any individual or entity shall constitute a misdemeanor of a high and aggravated nature. Any second and subsequent conviction under this Code section shall constitute a felony and shall be punished by imprisonment for not less than one nor more than five years.

**43-4B-54.**

- (a) The commission is authorized to suspend, revoke, or deny a license or renewal of a license of an organization or a promoter for violation of this article or rules of the commission promulgated in accordance with this article. The commission is authorized to fine a licensed organization or promoter for violation of this article or rules of the commission promulgated in accordance with this article.
- (b) The commission is authorized to suspend, revoke, or deny issuance of a permit for a show, match, contest, or exhibition issued in accordance with this article in the interest of the safety or health of the competitors or public, or for violation of this article or rules of the commission promulgated in accordance with this article.

**43-4B-55.**

- (a) Subject to the restriction set forth in Code Section 43-4B-53, the commission is authorized to exempt organizations from the requirements of licensure and permitting when the commission, in its discretion, deems the matches, contests, and exhibitions authorized or governed by the organization present little or no danger to the health and safety of the competitors and the public.
- (b) In determining whether to exempt an organization from licensure and permitting requirements, the commission shall consider the following factors:
  - (1) Whether the organization requesting exemption has allowed any person who has ever pleaded guilty to, has entered a plea of nolo contendere to, or has been found guilty of a felony or crime of moral turpitude under the laws of this state or any offense that, had it occurred within this state, would constitute a felony or crime of moral turpitude under the laws of this state, within ten years of such conviction or plea, to act as a promoter for any match, contest, or exhibition that it has sanctioned, governed, licensed, or authorized or whether it has authorized, retained, employed, or otherwise allowed such a person to act or serve as its employee or representative in connection with any match that it has sanctioned, governed, licensed, or authorized. For purposes of this Code section, a conviction shall include but not be limited to adjudication under Article 3 of Chapter 8 of Title 42. Should the commission determine that a sanctioning organization has allowed, retained, employed, or otherwise authorized such a person to act in any of the aforementioned capacities, the organization shall not be exempted from the requirements of licensure.
  - (2) Whether the matches, contests, and exhibitions are conducted in the course of teaching wrestling or a martial art and are closely supervised by well-trained teachers;
  - (3) Whether an admission fee is charged for viewing the matches, contests, or exhibitions;
  - (4) Whether the matches, contests, or exhibitions offer a commercial advantage to the organization;
  - (5) Whether the matches, contests, or exhibitions are conducted in a manner to minimize the danger of injury;
  - (6) Whether the commission's information about previous matches, contests, or exhibitions conducted by the organization indicates that the matches, contests, or

exhibitions are likely to result in injury; and

(7) Other factors deemed by the commission as indicia of danger to health or safety and set out in rules promulgated by the commission."

### **SECTION 13.**

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

Senator Balfour of the 9th moved that the Senate agree to the House substitute to SB 224.

On the motion, a roll call was taken and the vote was as follows:

Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 1; the motion prevailed, and the Senate agreed to the House substitute to SB 224.

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

Mr. President:

The House insists on its position in substituting the following Bill of the Senate:

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following bill was taken up to consider House action thereto:

SB 178. By Senator Douglas of the 17th:

A BILL to be entitled an Act to amend Part 5 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment of law enforcement and emergency vehicles, so as to provide for restrictions with respect to the use of blue lights; to provide for exceptions; to provide for criminal penalties; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Part 5 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment of law enforcement and emergency vehicles, so as to provide for restrictions with respect to the use of blue lights; to provide for exceptions; to provide for criminal penalties; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Part 5 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment of law enforcement and emergency vehicles, is amended by striking Code Section 40-8-90, relating to restrictions on the use of flashing or revolving blue lights, and inserting in its place the following:

"40-8-90.

(a) Except as provided in this paragraph and subsection (b) of this Code section, it shall be unlawful for any person, firm, or corporation to operate any motor vehicle equipped with or containing a device capable of producing flashing or revolving any blue lights, whether flashing, blinking, revolving, or stationary, except:

(A) Motor ~~motor~~ vehicles owned or leased by any federal, state, or local law

enforcement agency:

(B) Motor vehicles with a permit granted by a state agency to bear such lights; or  
 (C) Antique, hobby, and special interest vehicles, as defined in subsection (a) of  
Code Section 40-2-77, which may display a blue light or lights of up to one inch in  
diameter as part of any such vehicle's rear stop lamps, rear turning indicator, rear  
hazard lamps, and rear reflectors.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor.

(b) The prohibition contained in subsection (a) of this Code section shall not apply to any elected sheriff who, pursuant to an agreement between the sheriff and the county governing authority, is using his or her personal motor vehicle in a law enforcement activity, provided such vehicle is marked as provided in Code Section 40-8-91.

(c) It shall be unlawful for any person to use any motor vehicle equipped with flashing or revolving flashing, blinking, revolving, or stationary blue lights in the commission of a felony, and, upon conviction of a violation of this subsection, the punishment shall be a fine of not less than \$1,000.00 or imprisonment of not less than one year, or both."

## SECTION 2.

This Act shall become effective on July 1, 2005, and shall be applied to offenses occurring on or after such date.

## SECTION 3.

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

Senator Douglas of the 17th moved that the Senate agree to the House substitute to SB 178.

On the motion, a roll call was taken and the vote was as follows:

Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber

Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 48, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 178.

The following bill was taken up to consider House action thereto:

SB 255. By Senators Douglas of the 17th, Staton of the 18th, Johnson of the 1st, Shafer of the 48th, Balfour of the 9th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, so as to provide for special license plates for families with a member serving in the military; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, so as to provide for special license plates for families with a member serving in the military; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such license plates; to state legislative intent with respect to use of fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, is amended by adding a new Code Section 40-2-86.10 to read as follows:

"40-2-86.10.

(a) There shall be issued beginning in 2006 special and distinctive vehicle license plates honoring families with a member serving in the military, subject to the conditions

set forth in this Code section.

(b) The commissioner shall design special distinctive license plates to honor families with a member serving in the military. The license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. No two recipients shall receive identically numbered plates. The license plate will contain the words 'Family Member Serving' in the space normally containing the county of issuance. Such design shall not provide space in which to indicate the name of the county of issuance. The graphic on the special license plate shall be placed to the left of the alphanumeric characters and shall be no larger than three inches by three inches.

(c) Notwithstanding the foregoing provisions of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise and at no cost to the state, received such licenses or other permissions as may be required for the use of any logo or as may otherwise be necessary or appropriate to implement this Code section. No royalty, license fee, or other moneys shall be paid to any organization or its licensor for the use by the state of such logo or design on license plates authorized by this Code section. The commissioner may charge fees, take other actions, and agree to or impose terms and conditions which might normally be envisioned in licensing and cross-licensing agreements for the use of designs and similar intellectual property. Without limitation, the commissioner may agree to allow to others the exclusive or nonexclusive use of the design of the special license plate. The design of the special license plate, excepting only any part of the design owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law and no person shall reproduce or otherwise use such design, except as authorized by the commissioner.

(d) Beginning in calendar year 2006, any qualified Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a manufacturing fee of \$25.00 in addition to the regular motor vehicle registration fee shall be issued a license plate honoring families with a member serving in the military. Revalidation decals shall be issued for such license plates in the same manner as provided for general issue license plates.

(e) An applicant may request a license plate identifying him or her as a person who has a family member serving in the military at any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, such license plate shall be issued with appropriate decals attached.

(f) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt by the department of at least 1,000 applications. The special license plate shall have an application period of two years after July 1, 2005, for

payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(g) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the five-year period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the five-year period as provided in subsection (b) of Code Section 40-2-31, the department must receive 1,000 applications accompanied by the manufacturing fee to continue to manufacture the license plate.

(h) License plates honoring families with a member serving in the military shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(i) License plates honoring families with a member serving in the military shall be issued within 30 days of application once the requirements of this Code section have been met.

(j) The funds derived from the sale of license plates honoring families with a member serving in the military, less a \$1.00 processing fee, which shall be granted to county tag offices per plate sold, and less the actual manufacturing cost of the plates, shall be deposited in the general fund of the state treasury. As soon as practicable after December 31 of each year, the commissioner shall report the net amount derived from the sale of such license plates to the Office of Planning and Budget and the Department of Veterans Service. It is the intent of the General Assembly that the General Assembly appropriate an amount equal to the net proceeds from the sale of such license plates to the Department of Veterans Service for use by the National Guard Foundation in carrying out such programs and purposes as may be contractually agreed upon by the department and the foundation."

## **SECTION 2.**

This Act shall become effective on July 1, 2005.

## **SECTION 3.**

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

Senator Douglas of the 17th moved that the Senate agree to the House substitute to SB 255.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	N Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 48, nays 1; the motion prevailed, and the Senate agreed to the House substitute to SB 255.

The following bill was taken up to consider House action thereto:

SB 257. By Senators Douglas of the 17th, Staton of the 18th, Johnson of the 1st, Shafer of the 48th, Balfour of the 9th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, so as to provide for special license plates supporting Georgia troops; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, so as to provide for special license plates supporting Georgia troops; to provide for issuance, renewal, fees, licensing agreements, applications, and transfers relative to such license plates; to state legislative intent with respect to use of fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates for motor vehicles, is amended by adding a new Code Section 40-2-86.10 to read as follows:

**"40-2-86.10.**

- (a) There shall be issued beginning in 2006 special and distinctive vehicle license plates identifying persons supporting Georgia troops subject to the conditions set forth in this Code section.
- (b) The commissioner shall design special distinctive license plates to identify persons who support Georgia troops. The license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. No two recipients shall receive identically numbered plates. The license plate will contain the words 'Support Georgia Troops' in the space normally containing the county of issuance. Such design shall not provide space in which to indicate the name of the county of issuance. The graphic on the special license plate shall be placed to the left of the alphanumeric characters and shall be no larger than three inches by three inches.
- (c) Notwithstanding the foregoing provisions of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise and at no cost to the state, received such licenses or other permissions as may be required for the use of any logo or as may otherwise be necessary or appropriate to implement this Code section. No royalty, license fee, or other moneys shall be paid to any organization or its licensor for the use by the state of such logo or design on license plates authorized by this Code section. The commissioner may charge fees, take other actions, and agree to or impose terms and conditions which might normally be envisioned in licensing and cross-licensing agreements for the use of designs and similar intellectual property. Without limitation, the commissioner may agree to allow to others the exclusive or nonexclusive use of the design of the special license plate. The design of the special license plate, excepting only any part of the design owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright. However, such steps shall be cumulative of the ownership and exclusive use and control established by this

subsection as a matter of law and no person shall reproduce or otherwise use such design, except as authorized by the commissioner.

(d) Beginning in calendar year 2006, any qualified Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a manufacturing fee of \$25.00 in addition to the regular motor vehicle registration fee shall be issued a license plate identifying him or her as a person who supports Georgia troops. Revalidation decals shall be issued for such license plates in the same manner as provided for general issue license plates.

(e) An applicant may request a license plate identifying him or her as a person who supports Georgia troops at any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, such license plate shall be issued with appropriate decals attached.

(f) No special license plate authorized pursuant to this Code section shall be issued except upon the receipt by the department of at least 1,000 applications. The special license plate shall have an application period of two years after July 1, 2005, for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(g) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the five-year period as provided in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$25.00 annual special tag fee which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the five-year period as provided in subsection (b) of Code Section 40-2-31, the department must receive 1,000 applications accompanied by the manufacturing fee to continue to manufacture the license plate.

(h) License plates identifying persons who support Georgia troops shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(i) License plates identifying persons who support Georgia troops shall be issued within 30 days of application once the requirements of this Code section have been met.

(j) The funds derived from the sale of license plates identifying persons supporting Georgia troops, less a \$1.00 processing fee, which shall be granted to county tag offices per plate sold, and less the actual manufacturing cost of the plates, shall be deposited in the general fund of the state treasury. As soon as practicable after December 31 of each year, the commissioner shall report the net amount derived from the sale of such license plates to the Office of Planning and Budget and the Department of Veterans Service. It

is the intent of the General Assembly that the General Assembly appropriate an amount equal to the net proceeds from the sale of such license plates to the Department of Veterans Service for use by the National Guard Foundation in carrying out such programs and purposes as may be contractually agreed upon by the department and the foundation."

### **SECTION 2.**

This Act shall become effective on July 1, 2005.

### **SECTION 3.**

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

Senator Douglas of the 17th moved that the Senate agree to the House substitute to SB 257.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 257.

The following bill was taken up to consider House action thereto:

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Senator Wiles of the 37th moved that the Senate insist on its substitute to HB 244.

On the motion, the yeas were 41, nays 1; the motion prevailed, and the Senate insisted on its substitute to HB 244.

The following bill was taken up to consider House action thereto:

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hamrick of the 30th moved that the Senate insist on its substitute to HB 254.

On the motion, the yeas were 33, nays 0; the motion prevailed, and the Senate insisted on its substitute to HB 254.

The following bill was taken up to consider House action thereto:

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hamrick of the 30th moved that the Senate insist on its substitute to HB 106.

On the motion, the yeas were 35, nays 0; the motion prevailed, and the Senate insisted on its substitute to HB 106.

The following resolution was taken up to consider House action thereto:

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

Senator Fort of the 39th moved that the Senate adhere to its disagreement to the House substitute to SR 88 and that a Conference Committee be appointed.

On the motion, the yeas were 30, nays 0; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Fort of the 39th, Tate of the 38th and Grant of the 25th.

The following bill was taken up to consider House action thereto:

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Wiles of the 37th moved that the Senate adhere to its disagreement to the House substitute to SB 203 and that a Conference Committee be appointed.

On the motion, the yeas were 30, nays 0; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Wiles of the 37th, Meyer von Bremen of the 12th and Weber of the 40th.

The following bill was taken up to consider House action thereto:

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Cagle of the 49th moved that the Senate adhere to its disagreement to the House substitute to SB 227 and that a Conference Committee be appointed.

On the motion, the yeas were 33, nays 0; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Cagle of the 49th, Goggans of the 7th and Rogers of the 21st.

SENATE RULES CALENDAR  
THURSDAY, MARCH 31, 2005  
THIRTY-NINTH LEGISLATIVE DAY

- |        |  |
|--------|--|
| SR 302 | Tax Relief Legislation; urge Congress to abolish death tax permanently<br>(FIN-48th) |
| SR 457 | Senate Inverse Condemnation Study Committee; create (NR&E-51st)                      |
| SR 458 | Senate Tree Ordinance Study Committee; create (NR&E-51st)                            |
| SR 469 | Senate Environmental Program Privatization Study Committee; create<br>(NR&E-49th)    |
| SR 497 | Election Laws; create Senate Study Committee (SLGO(G)-27th)                          |

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- SR 499 Senate Coastal Georgia Sound Science Initiative Study Committee; create (NR&E-20th)
- SR 334 Georgia National Guard Family Support Foundation, Inc.; urging financial contributions (APPROP-4th)
- HB 221 Child support; guidelines; basic obligation amounts (JUDY-29th) Burmeister-119th
- SR 503 Asset Maintenance Project; urge Dept. of Transportation to proceed with initiation (Substitute)(TRANS-53rd)
- HB 319 Retirement; large retirement systems; invest in securities (RET-31st) Bridges-10th
- HB 559 Sales tax exemption; certain energy efficient products; limited time period (Substitute)(FIN-49th) Smith-70th
- HB 320 Georgia Health Insurance Risk Pool; create (Substitute) (Amendment) (I&L-21st) Forster-3rd
- HB 378 Marriage; premarital education; provide for (JUDY-28th) Fleming-117th
- HB 665 Public employees; fraud, waste, and abuse; complaints or information (ETHICS-45th) Golick-34th

Respectfully submitted,

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

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

- SR 302. By Senators Shafer of the 48th, Rogers of the 21st, Staton of the 18th, Cagle of the 49th, Weber of the 40th and others:

A RESOLUTION urging the Congressional Delegation of the State of Georgia to work to abolish the death tax permanently; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Zamarripa
N Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 40, nays 4.

SR 302, having received the requisite constitutional majority, was adopted.

SR 457. By Senators Pearson of the 51st, Balfour of the 9th, Smith of the 52nd, Schaefer of the 50th and Rogers of the 21st:

A RESOLUTION creating the Senate Inverse Condemnation Study Committee; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R

Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 48, nays 1.

SR 457, having received the requisite constitutional majority, was adopted.

Senator Hill of the 32nd asked unanimous consent that Senator Hamrick of the 30th be excused. The consent was granted, and Senator Hamrick was excused.

SR 458. By Senators Pearson of the 51st, Balfour of the 9th, Tolleson of the 20th, Miles of the 43rd and Rogers of the 21st:

A RESOLUTION creating the Senate Tree Ordinance Study Committee; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker

Y Grant	Reed	Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Y Zamarripa
Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 43, nays 0.

SR 458, having received the requisite constitutional majority, was adopted.

Senator Hudgens of the 47th asked unanimous consent that Senator Unterman of the 45th be excused. The consent was granted, and Senator Unterman was excused.

Senator Weber of the 40th asked unanimous consent that Senator Wiles of the 37th be excused. The consent was granted, and Senator Wiles was excused.

SR 469. By Senators Cagle of the 49th, Hudgens of the 47th, Whitehead, Sr. of the 24th, Rogers of the 21st and Pearson of the 51st:

A RESOLUTION creating the Senate Environmental Program Privatization Study Committee; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
Y Golden	Y Powell	Walker
Y Grant	Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead

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E Harbison	Y Schaefer	E Wiles
Y Harp	Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 41, nays 1.

SR 469, having received the requisite constitutional majority, was adopted.

Senator Schaefer of the 50th asked unanimous consent that Senator Cagle of the 49th be excused. The consent was granted, and Senator Cagle was excused.

SR 497. By Senators Stephens of the 27th, Wiles of the 37th and Staton of the 18th:

A RESOLUTION creating the Senate Study Committee on Election Laws; and for other purposes.

Senator Stephens of the 27th asked unanimous consent that SR 497 be placed on the Table. The consent was granted, and SR 497 was placed on the Table.

Senator Butler of the 55th asked unanimous consent that Senator Miles of the 43rd be excused. The consent was granted, and Senator Miles was excused.

SR 499. By Senator Tolleson of the 20th:

A RESOLUTION creating the Senate Coastal Georgia Sound Science Initiative Study Committee; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Stoner
Y Cagle	Y Jones	Tate
Y Carter	Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	E Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S

Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
Y Golden	Y Powell	Walker
Grant	Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	E Wiles
Y Harp	Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 37, nays 0.

SR 499, having received the requisite constitutional majority, was adopted.

Senator Hudgens of the 47th asked unanimous consent that Senator Kemp of the 46th be excused. The consent was granted, and Senator Kemp was excused.

SR 334. By Senators Hill of the 4th, Johnson of the 1st, Tolleson of the 20th, Bulloch of the 11th, Staton of the 18th and others:

A RESOLUTION urging private persons to make financial contributions to the Georgia National Guard Family Support Foundation, Inc.; and for other purposes.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Stoner
Cagle	Y Jones	Y Tate
Y Carter	E Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	E Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber

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E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 40, nays 0.

SR 334, having received the requisite constitutional majority, was adopted.

Senator Heath of the 31st asked unanimous consent that Senator Hill of the 32nd be excused. The consent was granted, and Senator Hill was excused.

The following bill was taken up to consider House action thereto:

SB 127. By Senators Staton of the 18th, Shafer of the 48th, Rogers of the 21st, Williams of the 19th, Douglas of the 17th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 16 of the O.C.G.A., relating to forgery and fraudulent practices, so as to enact the "Georgia Computer Security Act of 2005"; to provide a short title; to provide definitions; to prohibit certain deceptive acts and practices with regard to computers; to require certain notices be given prior to certain software or programs being loaded onto certain computers; to require certain functions be available in certain software; to provide for certain exceptions; to provide for civil and criminal penalties; to provide for recovery of certain damages; to provide for applicability; to provide for related matters; to amend Code Section 16-14-3 of the O.C.G.A.; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to forgery and fraudulent practices, so as to provide a short title; to provide definitions; to prohibit certain conduct with regard to computers and computer software; to provide for penalties for violations; to provide exceptions; to provide for certain civil remedies for violations; to provide for preemption; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to forgery and fraudulent practices, is amended by adding a new Article 9 to read as follows:

**"ARTICLE 9****16-9-150.**

This article shall be known and may be cited as the 'Georgia Computer Security Act of 2005.'

**16-9-151.**

As used in this chapter, the term:

- (1) 'Advertisement' means a communication, the primary purpose of which is the commercial promotion of a commercial product or service, including content on an Internet website operated for a commercial purpose.
- (2) 'Authorized user,' with respect to a computer, means a person who owns or is authorized by the owner or lessee to use the computer.
- (3) 'Cause to be copied' means to distribute or transfer computer software or any component thereof. Such term shall not include providing:
  - (A) Transmission, routing, provision of intermediate temporary storage, or caching of software;
  - (B) A storage medium, such as a compact disk, website, or computer server, through which the software was distributed by a third party; or
  - (C) An information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of the computer located the software.
- (4) 'Computer software' means a sequence of instructions written in any programming language that is executed on a computer. Such term shall not include a text or data file, a web page, or a data component of a web page that is not executable independently of the web page.
- (5) 'Computer virus' means a computer program or other set of instructions that is designed to degrade the performance of or disable a computer or computer network and is designed to have the ability to replicate itself on other computers or computer networks without the authorization of the owners of those computers or computer networks.
- (6) 'Consumer' means an individual who resides in this state and who uses the computer in question primarily for personal, family, or household purposes.
- (7) 'Damage' means any significant impairment to the integrity or availability of data, software, a system, or information.
- (8) 'Execute,' when used with respect to computer software, means the performance of the functions or the carrying out of the instructions of the computer software.
- (9) 'Intentionally deceptive' means any of the following:
  - (A) By means of an intentionally and materially false or fraudulent statement;
  - (B) By means of a statement or description that intentionally omits or misrepresents

material information in order to deceive the consumer; or

(C) By means of an intentional and material failure to provide any notice to an authorized user regarding the download or installation of software in order to deceive the consumer.

(10) 'Internet' means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described in this paragraph.

(11) 'Person' means any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(12) 'Personally identifiable information' means any of the following:

(A) A first name or first initial in combination with a last name;

(B) Credit or debit card numbers or other financial account numbers;

(C) A password or personal identification number required to access an identified financial account;

(D) A social security number; or

(E) Any of the following information in a form that personally identifies an authorized user:

(i) Account balances;

(ii) Overdraft history;

(iii) Payment history;

(iv) A history of websites visited;

(v) A home address;

(vi) A work address; or

(vii) A record of a purchase or purchases.

#### 16-9-152.

(a) It shall be illegal for a person or entity that is not an authorized user, as defined in Code Section 16-9-151, of a computer in this state to knowingly, willfully, or with conscious indifference or disregard cause computer software to be copied onto such computer and use the software to do any of the following:

(1) Modify, through intentionally deceptive means, any of the following settings related to the computer's access to, or use of, the Internet:

(A) The page that appears when an authorized user launches an Internet browser or similar software program used to access and navigate the Internet;

(B) The default provider or web proxy the authorized user uses to access or search the Internet; or

(C) The authorized user's list of bookmarks used to access web pages;

(2) Collect, through intentionally deceptive means, personally identifiable information that meets any of the following criteria:

- (A) It is collected through the use of a keystroke-logging function that records all keystrokes made by an authorized user who uses the computer and transfers that information from the computer to another person;
  - (B) It includes all or substantially all of the websites visited by an authorized user, other than websites of the provider of the software, if the computer software was installed in a manner designed to conceal from all authorized users of the computer the fact that the software is being installed; or
  - (C) It is a data element described in subparagraph (B), (C), or (D) of paragraph (12) of Code Section 16-9-151, or in division (i) or (ii) of subparagraph (E) of paragraph (12) of Code Section 16-9-151, that is extracted from the consumer's or business entity's computer hard drive for a purpose wholly unrelated to any of the purposes of the software or service described to an authorized user;
- (3) Prevent, without the authorization of an authorized user, through intentionally deceptive means, an authorized user's reasonable efforts to block the installation of, or to disable, software, by causing software that the authorized user has properly removed or disabled to automatically reinstall or reactivate on the computer without the authorization of an authorized user;
- (4) Intentionally misrepresent that software will be uninstalled or disabled by an authorized user's action, with knowledge that the software will not be so uninstalled or disabled; or
- (5) Through intentionally deceptive means, remove, disable, or render inoperative security, antispyware, or antivirus software installed on the computer.
- (b) Nothing in this Code section shall apply to any monitoring of, or interaction with, a user's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, repair, network management, network maintenance, authorized updates of software or system firmware, authorized remote system management, or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing software proscribed under this article.

16-9-153.

- (a) It shall be illegal for a person or entity that is not an authorized user, as defined in Code Section 16-9-151, of a computer in this state to knowingly, willfully, or with conscious indifference or disregard cause computer software to be copied onto such computer and use the software to do any of the following:

(1) Take control of the consumer's or business entity's computer by doing any of the following:

- (A) Transmitting or relaying commercial electronic mail or a computer virus from the consumer's or business entity's computer, where the transmission or relaying is initiated by a person other than the authorized user and without the authorization of an authorized user;

- (B) Accessing or using the consumer's or business entity's modem or Internet service for the purpose of causing damage to the consumer's or business entity's computer or of causing an authorized user or a third party affected by such conduct to incur financial charges for a service that is not authorized by an authorized user;
  - (C) Using the consumer's or business entity's computer as part of an activity performed by a group of computers for the purpose of causing damage to another computer, including, but not limited to, launching a denial of service attack; or
  - (D) Opening multiple, sequential, stand-alone advertisements in the consumer's or business entity's Internet browser without the authorization of an authorized user and with knowledge that a reasonable computer user cannot close the advertisements without turning off the computer or closing the consumer's or business entity's Internet browser;
- (2) Modify any of the following settings related to the computer's access to, or use of, the Internet:
- (A) An authorized user's security or other settings that protect information about the authorized user for the purpose of stealing personal information of an authorized user; or
  - (B) The security settings of the computer for the purpose of causing damage to one or more computers; or
- (3) Prevent, without the authorization of an authorized user, an authorized user's reasonable efforts to block the installation of, or to disable, software, by doing any of the following:
- (A) Presenting the authorized user with an option to decline installation of software with knowledge that, when the option is selected by the authorized user, the installation nevertheless proceeds; or
  - (B) Falsely representing that software has been disabled.
- (b) Nothing in this Code section shall apply to any monitoring of, or interaction with, a user's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, repair, network management, network maintenance, authorized updates of software or system firmware, authorized remote system management, or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing software proscribed under this article.

16-9-154.

- (a) It shall be illegal for a person or entity that is not an authorized user, as defined in Code Section 16-9-151, of a computer in this state to do any of the following with regard to such computer:
- (1) Induce an authorized user to install a software component onto the computer by intentionally misrepresenting that installing software is necessary for security or privacy reasons or in order to open, view, or play a particular type of content; or

- (2) Deceptively causing the copying and execution on the computer of a computer software component with the intent of causing an authorized user to use the component in a way that violates any other provision of this Code section.
- (b) Nothing in this Code section shall apply to any monitoring of, or interaction with, a user's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, repair, network management, network maintenance, authorized updates of software or system firmware, authorized remote system management, or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing software proscribed under this article.

16-9-155.

- (a) Any person who violates the provisions of paragraph (2) of Code Section 16-9-152, subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of Code Section 16-9-153, or paragraph (2) of subsection (a) of Code Section 16-9-153 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or a fine of not more than \$3 million, or both.
- (b) The Attorney General may bring a civil action against any person violating this article to enforce the penalties for the violation and may recover any or all of the following:
- (1) A civil penalty of up to \$100.00 per violation of this article, or up to \$100,000.00 for a pattern or practice of such violations;
  - (2) Costs and reasonable attorney's fees; and
  - (3) An order to enjoin the violation.
- (c) In the case of a violation of subparagraph (B) of paragraph (1) of subsection (a) of Code Section 16-9-153 that causes a telecommunications carrier to incur costs for the origination, transport, or termination of a call triggered using the modem of a customer of such telecommunications carrier as a result of such violation, the telecommunications carrier may bring a civil action against the violator to recover any or all of the following:
- (1) The charges such carrier is obligated to pay to another carrier or to an information service provider as a result of the violation, including, but not limited to, charges for the origination, transport or termination of the call;
  - (2) Costs of handling customer inquiries or complaints with respect to amounts billed for such calls;
  - (3) Costs and reasonable attorney's fees; and
  - (4) An order to enjoin the violation.
- (d) An Internet service provider or software company that expends resources in good faith assisting consumers or business entities harmed by a violation of this chapter, or a trademark owner whose mark is used to deceive consumers or business entities in violation of this chapter, may enforce the violation and may recover any or all of the

following:

- (1)(A) Statutory damages of not more than \$100.00 per violation of this article, or up to \$1 million for a pattern or practice of such violations;
- (2) Costs and reasonable attorney's fees; and
- (3) An order to enjoin the violation.

**16-9-156.**

(a) For the purposes of this Code section, the term 'employer' includes a business entity's officers, directors, parent corporation, subsidiaries, affiliates, and other corporate entities under common ownership or control within a business enterprise. No employer may be held criminally or civilly liable under this article as a result of any actions taken:

- (1) With respect to computer equipment used by its employees, contractors, subcontractors, agents, leased employees, or other staff which the employer owns, leases, or otherwise makes available or allows to be connected to the employer's network or other computer facilities; or
  - (2) By employees, contractors, subcontractors, agents, leased employees, or other staff who misuse an employer's computer equipment for an illegal purpose without the employer's knowledge, consent, or approval.
- (b) No person shall be held criminally or civilly liable under this article when its protected computers have been used by unauthorized users to violate this article or other laws without such person's knowledge, consent, or approval.
- (c) A manufacturer or retailer of computer equipment shall not be liable under this Code section, criminally or civilly, to the extent that the manufacturer or retailer is providing third-party branded software that is installed on the computer equipment that the manufacturer or retailer is manufacturing or selling.

**16-9-157.**

The General Assembly finds that this article is a matter of state-wide concern. This article supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by any county, municipality, consolidated government, or other local governmental agency regarding spyware and notices to consumers from computer software providers regarding information collection."

**SECTION 2.**

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

**SECTION 3.**

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

Senator Staton of the 18th moved that the Senate agree to the House substitute to SB 127.

Senator Adelman of the 42nd offered the following amendment to the House adopted version of Senate Bill 127:

By inserting immediately following line 34 of page 7:

“(d) No civil cause of action shall lie against any foreign or Georgia business or its officers, employees, agents, or other persons for providing computer-related records, information, facilities, or assistance to further the investigation of a criminal offense enumerated in Chapter 9 of Title 16 of the Official Code of Georgia to a law enforcement unit as defined in Code Section 35-8-2.2 or a prosecutorial office of this state when said computer-related records, information, facilities, or assistance is provided pursuant to a subpoena, search warrant, order to produce.”

By inserting immediately following line 6 of page 8:

“16-9-158.

Any business located within the State of Georgia that provides electronic communication services or remote computing services as defined by Code Section 16-9-100, when served with a search warrant, subpoena, notice to produce, notice of deposition, or order to disclose properly issued by another state to produce records related to investigation or trial of a criminal offense that would reveal the identity of their customers using those services, data stored by, or on behalf of, their customer, their customer’s usage of those services, the recipient or destination of communications sent to or from those customers, of the content of those communications shall produce those requested records as if that search warrant, subpoena, notice, or order has been issued by a Georgia court, provided that such business has the right to object that such compliance is unduly burdensome or oppressive.”

Senator Adelman of the 42nd moved that the Senate agree to the House substitute to SB 127 as amended by the Senate.

On the motion to agree to the House substitute as amended by the Senate which takes precedence, a roll call was taken and the vote was as follows:

Y Adelman	N Hill,Jack	E Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C

N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber
E Hamrick	N Rogers	N Whitehead
E Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the motion, the yeas were 20, nays 28; the motion lost, and the Senate did not agree to the House substitute to SB 127 as amended by the Senate.

On the motion to agree to the House substitute to SB 127, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	N Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	N Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 45, nays 5; the motion prevailed, and the Senate agreed to the House substitute to SB 127.

The following bill was taken up to consider House action thereto:

SB 174. By Senators Staton of the 18th, Seabaugh of the 28th, Hudgens of the 47th, Hill of the 32nd, Johnson of the 1st 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 enact the "Georgia Consumer Choice of Benefits Health Insurance Plan Act"; to provide for a short title; to provide for legislative findings; to provide definitions; to authorize insurers to offer a choice of benefits health insurance plan in addition to other health insurance plans; to provide for certain notices; to authorize the Commissioner of Insurance to adopt certain rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to enact the "Small Business Employee Choice of Benefits Health Insurance Plan Act"; to provide a short title; to provide for legislative intent; to provide definitions; to provide that insurers may offer certain employees and consumers a choice between a health benefit plan containing all state mandated health benefits and an alternative health benefit plan that does not contain all state mandated health benefits; to allow for employees and individuals to choose the plan best suited to such employee's and individual's needs and budget including supplemental policies; to provide exceptions; to provide for certain notices; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by adding a new Chapter 59 to read as follows:

**"CHAPTER 59**

**33-59-1.**

This chapter shall be known and may be cited as the 'Small Business Employee Choice of Benefits Health Insurance Plan Act.'

**33-59-2.**

The General Assembly recognizes the need for employers and individuals in this state to have the opportunity to choose among group and individual health insurance plans that are more affordable and flexible than standard market policies of accident and

sickness insurance and the need to increase the availability of health insurance coverage by authorizing the transaction of this type of plan or policy by accident and sickness insurers licensed to transact business in this state. This chapter shall require insurers which provide major medical coverage to offer policies that contain all state mandated health benefits as well as policies that contain the limited selection of state mandated health benefits set forth in Code Section 33-59-3; provided, however, that, on and after July 1, 2005, employees in group plans or individuals may choose pursuant to this chapter among new health insurance plans offered by insurers that either include all state mandated health benefits or include the limited state mandated health benefits set forth in Code Section 33-59-3.

33-59-3.

As used in this chapter, the term:

- (1) 'Alternative health benefit plan' means a group or individual health benefit plan that contains:
  - (A) Major medical benefits;
  - (B) Standard provisions or rights required to be present in an individual, blanket, or group policy or contract for accident and sickness insurance pursuant to state law or regulations unrelated to specific health illnesses, injuries, or conditions of the insured, including, but not limited to, those related to continuation of coverage in Code Section 33-24-21.1, Code Section 33-24-21.2, paragraph (4) of Code Section 33-30-4, and paragraph (8) of subsection (b) of Code Section 33-30-6; entitlement to conversion privileges in Code Section 33-24-21.1; termination of coverage in Code Sections 33-24-21 and 33-24-28; and coverage of newly born or adopted children in Code Section 33-24-22; and
  - (C) Coverage of testing for chlamydia in Code Section 31-17-4.1; coverage for complications of pregnancy in Code Section 33-24-24; coverage for general anesthesia and related hospital and outpatient facility charges for dental care for persons who are developmentally disabled, seven or younger, neurologically impaired, or suffering severe face or head trauma in Code Section 33-24-28.4; surveillance tests for ovarian cancer in Code Section 33-24-56.2; colorectal cancer screening and testing in Code Section 33-24-56.3; coverage for hospital stays after delivery in Code Section 33-24-58.2; direct access to obstetricians and gynecologists in Code Section 33-24-59; treatment of dependent children with cancer in Code Section 33-24-59.1; coverage for equipment and self-management training for individuals with diabetes in Code Section 33-24-59.2; coverage for prescribed female contraceptive drugs or devices in Code Section 33-24-59.6, provided that nothing contained in this paragraph shall be construed to require any insurance company to provide coverage for abortion; coverage for prescription inhalers in Code Section 33-24-59.8; coverage for autism in Code Section 33-24-59.10; coverage for mastectomy and lymph node dissection in Code Section 33-24-72; coverage for mammograms, pap smears, and screening for prostate cancer in Code Sections 33-29-3.2 and 33-30-4.2; provisions concerning mail-order

pharmaceuticals in Code Section 33-30-4.3; and coverage for child wellness exams in Code Sections 33-29-3.4 and 33-30-4.5.

(2) 'Group' means any employer group of 50 employees or less.

(3) 'Insurer' means any insurer or nonprofit organization authorized to sell accident and sickness policies, subscriber contracts, certificates, or agreements of any form under Chapters 15, 18, 19, 20, 21, 29, and 30 of this title.

#### 33-59-4.

(a) Notwithstanding any other provision of law and on and after July 1, 2005:

(1) Any insurer authorized to transact business in this state offering group accident and sickness policies or contracts shall be required to offer, through a licensed agent or agency, a group health benefit plan that contains all state mandated health benefits and may offer a group alternative health benefit plan as defined in this chapter; and

(2) Any insurer authorized to transact business in this state offering individual accident and sickness policies or contracts shall be required to offer, through a licensed agent or agency, an individual health benefit plan that contains all state mandated health benefits and may offer an individual alternative health benefit plan as defined in this chapter.

(b) On and after July 1, 2005, an employer who chooses to offer group health benefit plans to its employees shall offer to each eligible employee a group health benefit plan that contains all state mandated health benefits and may offer to each eligible employee a group alternative health benefit plan as defined in this chapter.

(c) The provisions of Chapter 21 of this title shall not be deemed to prohibit licensees thereunder from selling the policies provided for in this Code section.

(d) The purchase of an accident and sickness policy or contract under this Code section shall not preclude the purchaser from purchasing additional limited benefit insurance policies or contracts.

#### 33-59-5.

(a) In each sale of an alternative health benefit plan, the insurer shall provide to each proposed individual group member or individual policyholder a notice and an acknowledgment at the beginning of the application for the alternative health benefit plan containing the following language in boldface type:

'You have the option to choose this Small Business Employee Choice of Benefits Health Insurance Plan which does not provide all of the state mandated health benefits normally required in accident and sickness insurance policies in Georgia. This health benefits plan may provide a more affordable health insurance policy for you, although, at the same time, it may provide you with fewer health benefits than those normally included as state mandated health benefits in policies in Georgia. If you choose this option, please consult with your insurance agent to discover which state mandated health benefits are excluded in this policy.'

(b) An acknowledgment separate from the notice and application provided for in subsection (a) of this Code section shall be provided to and completed by each

individual policyholder or individual group member. Such acknowledgment shall contain a comparison of the benefits contained in each of the health benefit plan options being offered to the individual policyholder or individual group member. The Commissioner shall promulgate such rules and regulations as he or she deems necessary to implement this subsection including rules and regulations concerning the form and contents of such acknowledgment. In the case of group health benefit plans being offered by an employer, a copy of the acknowledgment for each individual group member shall be maintained by the employer.

33-59-6.

The Commissioner of Insurance may promulgate rules and regulations as necessary to implement the provisions of this chapter and specify the information to be contained on the forms supplied by insurers of these policies and contracts to individual group members and policyholders."

**SECTION 2.**

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

Senator Staton of the 18th moved that the Senate agree to the House substitute to SB 174.

On the motion, a roll call was taken and the vote was as follows:

N Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 37, nays 13; the motion prevailed, and the Senate agreed to the House substitute to SB 174.

The following bill was taken up to consider House action thereto:

SB 323. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Jeff Davis County, approved March 27, 1972 (Ga. L. 1972, p. 2760), as amended, so as to change the description of the education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act providing for the election of members of the Board of Education of Jeff Davis County, approved March 27, 1972 (Ga. L. 1972, p. 2760), as amended, so as to change the description of the education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

An Act providing for the election of members of the Board of Education of Jeff Davis County, approved March 27, 1972 (Ga. L. 1972, p. 2760), as amended, is amended by striking subsections (a) and (b) of Section 1 of said Act and inserting in lieu thereof the following:

"(a) Those members of the Board of Education of Jeff Davis County who are serving as such immediately prior to January 1, 2006, and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office and upon the election and qualification of their respective successors. On and after January 1, 2006, the Board of Education of Jeff Davis County shall consist of seven members, five of whom shall be elected from education districts described in subsection (b) of this section and two of whom shall be

elected at large as provided in subsection (c) of this section. Education Districts 1, 2, 3, 4, and 5, as they exist immediately prior to January 1, 2006, shall continue to be designated as Education Districts 1, 2, 3, 4, and 5, respectively, but as newly described under this Act, and on and after January 1, 2006, such members of the board serving from those former education districts shall be deemed to be serving from and representing their respective districts as newly described under this Act.

(b)(1) For purposes of electing members of the board of education, other than the two members who are elected at large, the Jeff Davis County School District is divided into five education districts. One member of the board shall be elected from each such district. The five education districts shall be and correspond to those five numbered districts described in and attached to and made a part of this Act and further identified as Plan Name: jeffdccsbw3 Plan Type: Local User: staff Administrator: Jeff Davis.

(2) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a 'BG' heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of the Jeff Davis County School District which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of the Jeff Davis County School District which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Except as otherwise provided in the description of any education district, whenever the description of such district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2000 for the State of Georgia."

## **SECTION 2.**

The Board of Education of Jeff Davis County shall through its legal counsel cause 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 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

## **SECTION 3.**

This section and Section 2 of this Act and those provisions of this Act necessary for the election of members of the Board of Education of Jeff Davis County in 2006 shall

become effective upon the approval of this Act by the Governor or upon its becoming law without such approval. The remaining provisions of this Act shall become effective January 1, 2006.

**SECTION 4.**

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

Plan Name: jeffdccsbw3 Plan Type: Local User: staff Administrator: Jeff Davis

**Redistricting Plan Components Report****District 001**

Jeff Davis County

Tract: 9601

BG: 3

3017 3018 3019 3020 3021 3022 3023 3024 3025 3026 3027 3028  
3029 3030 3031 3032 3033 3034 3042 3043 3044 3045 3047 3048  
3049 3050 3051 3052 3053

BG: 4

4003 4004 4005 4006 4014 4015 4016 4017 4018 4019 4020 4021  
4022 4023

BG: 5

5003

Tract: 9602

BG: 1

1000 1001 1002 1003 1005 1006 1007 1008 1009 1010 1011 1012  
1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024  
1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036  
1037 1038 1039 1040 1041 1042 1043 1044 1045 1999

BG: 2

BG: 3

3016 3017 3018 3019 3020 3021 3022 3023 3024

BG: 4

4000 4001 4002 4018 4019 4020 4021 4022

**District 002**

Jeff Davis County

Tract: 9601

BG: 1

BG: 2

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011  
3012 3013 3014 3015 3016 3035 3036 3037 3038 3039 3040 3041  
3046 3054 3055

THURSDAY, MARCH 31, 2005

3071

District 003

Jeff Davis County

Tract: 9601

BG: 4

4000 4001 4002 4007 4008 4009 4010 4011 4012 4013 4024 4025  
4026 4027 4028 4029 4030 4031 4032 4033 4034 4035 4036 4037  
4038 4039 4040 4041 4042 4043 4044 4045 4046 4047

BG: 5

5000 5001 5002 5010 5011 5012 5019 5020 5044 5045 5046 5047  
5048 5049 5050 5051 5052 5999

BG: 6

Tract: 9603

BG: 2

2000 2028 2029 2030 2031 2034 2035 2036 2037 2038 2039 2040  
2041 2042 2043 2044 2045 2104 2105 2999

District 004

Jeff Davis County

Tract: 9601

BG: 5

5004 5005 5006 5007 5008 5009 5013 5014 5015 5016 5017 5018  
5021 5022 5023 5024 5025 5026 5027 5028 5029 5030 5031 5032  
5033 5034 5035 5036 5037 5038 5039 5040 5041 5042 5043 5053

Tract: 9602

BG: 4

4030 4031 4036 4037 4038 4039 4040 4041 4042 4043 4044 4045  
4046 4047 4048 4049 4050 4051 4052 4053 4054

BG: 5

5023 5026 5027 5028 5029 5044 5045 5046 5047 5048 5049 5050  
5051 5052 5057 5058

Tract: 9603

BG: 1

1000 1001 1022 1023 1024 1025 1026 1029 1030 1031 1032 1033  
1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044 1045  
1046 1047 1048 1049 1055 1056 1057 1058 1059 1060 1061 1062

BG: 2

2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012  
2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024  
2025 2026 2027 2032 2033 2046 2047 2048 2049 2050 2051 2052  
2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064  
2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076  
2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088  
2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100

2101 2102 2103

District 005

Jeff Davis County

Tract: 9602

BG: 1

1004 1046 1047 1048 1049 1050 1998

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011  
3012 3013 3014 3015

BG: 4

4003 4004 4005 4006 4007 4008 4009 4010 4011 4012 4013 4014  
4015 4016 4017 4023 4024 4025 4026 4027 4028 4029 4032 4033  
4034 4035

BG: 5

5000 5001 5002 5003 5004 5005 5006 5007 5008 5009 5010 5011  
5012 5013 5014 5015 5016 5017 5018 5019 5020 5021 5022 5024  
5025 5030 5031 5032 5033 5034 5035 5036 5037 5038 5039 5040  
5041 5042 5043 5053 5054 5055 5056 5998 5999

Tract: 9603

BG: 1

1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013  
1014 1015 1016 1017 1018 1019 1020 1021 1027 1028 1050 1051  
1052 1053 1054 1998 1999

Senator Williams of the 19th moved that the Senate agree to the House substitute to SB 323.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker

Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 323.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed, as amended, by the requisite constitutional majority the following Bill of the Senate:

SB 106. By Senators Stoner of the 6th, Hamrick of the 30th, Thompson of the 5th, Rogers of the 21st, Powell of the 23rd and others:

A BILL to be entitled an Act to amend Code Section 16-12-103 of the Official Code of Georgia Annotated, relating to selling, loaning, or distributing harmful material to minors, so as to define a certain term; to provide that a video game retailer shall display a sign explaining each rating system which appears on a video game offered by such retailer; to provide a penalty; to repeal conflicting laws; and for other purposes.

Mr. President:

The House insists on its position in disagreeing to the Senate substitute, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying

periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Burmeister of the 119th, Keen of the 179th and Burkhalter of the 50th.

The following bill was taken up to consider House action thereto:

SB 270. By Senators Williams of the 19th, Whitehead, Sr. of the 24th and Kemp of the 46th:

A BILL to be entitled an Act to amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the general contracting powers of the Department of Transportation, so as to permit the acceptance of solicited as well as unsolicited proposals for public-private initiatives; to allow for the disclosure of nonproprietary matters from the unsolicited and solicited proposals in order to encourage competition; to provide for a payment and performance bond sufficient to protect the interest of the public; to extend the time for submission of competing proposals; to amend Part 1 of Article 1 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the Georgia Highway Authority generally, to provide for additional definitions and powers of the authority; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the general contracting powers of the Department of Transportation, so as to permit the acceptance of solicited as well as unsolicited proposals for public-private initiatives; to allow for the disclosure of nonproprietary matters from the unsolicited and solicited proposals in order to encourage competition; to provide for a payment and performance bond sufficient to protect the interest of the public; to extend the time for submission of competing proposals; to amend Part 1 of Article 1 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the Georgia Highway Authority generally, to provide for additional definitions and powers of the authority; to provide for

related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the general contracting powers of the Department of Transportation, is amended by striking Code Section 32-2-78, relating to the definitions governing public-private initiatives, and inserting in its place the following:

"32-2-78.

As used in this chapter, the term:

- (1) 'Department' means the Georgia Department of Transportation.
- (2) 'Evaluation Committee' means the one or more committees established for the purpose of evaluating and making a recommendation with respect to unsolicited proposals, solicited proposals, competing proposals, or comparable proposals as set forth in this chapter. The Evaluation Committee shall consist of a designee of the Governor, a designee with a background in finance to be named by the Governor, the commissioner of the Department of Transportation, the director of the State Road and Tollway Authority, and the director of the Georgia Regional Transportation Authority. The Evaluation Committee shall employ such experts as needed in the performance of its duties and charge the expenses incurred by it to such funds made available to the department for such purposes.
- (3) 'Letter of intent to negotiate' means the written statement of mutual intent by the department and the proposer for a public-private initiative to develop and implement a course of negotiation, within a substantive framework, which if successfully completed could lead to a binding contractual agreement to accomplish a proposed transportation system project.
- (4) 'Private contribution' means resources supplied by a private entity to accomplish all or any part of the work on a transportation system project, including funds, financing, income, revenue, cost sharing, technology, staff, materials, equipment, expertise, data, or engineering, construction, or maintenance services, or other items of value. To the extent that this definition may conflict with any federal law or regulation, for any project utilizing federal funds, the federal definition shall supersede this subsection paragraph.
- (5) 'Public-private initiative' means a nontraditional arrangement between the department and one or more private or public entities that provides for:
  - (A) Acceptance of a private contribution to a transportation system project or service in exchange for a public benefit concerning that project or service;
  - (B) Sharing of resources and the means of providing transportation system projects or services; or
  - (C) Cooperation in researching, developing, and implementing transportation system projects or services.

(6) 'Solicited proposal' means a written proposal for a public-private initiative that is submitted by a private entity for the purpose of entering into an agreement with the department concerning a transportation system project in response to a formal solicitation or notification issued by the department. A solicited proposal may be made as a competing proposal or comparable proposal to an unsolicited proposal.

(4)(7) 'Transportation system' means the state transportation infrastructure and related systems, including highways, roadways and associated rights of way, bridges, tunnels, overpasses, ferries, airports, port facilities, vehicle parking facilities, park-and-ride lots, transit systems, transportation management systems, intelligent vehicle highway systems, or similar facilities used for the transportation of persons or goods, together with any other property, buildings, structures, parking areas, appurtenances, and facilities needed to operate such system, including any major transportation facility as defined by paragraph (3) of subsection (a) of Code Section 32-2-3, and any other facility for other transportation purposes as defined by paragraph (18) of Code Section 32-1-3.

(5)(8) 'Unsolicited proposal' means a written proposal for a public-private initiative that is submitted by a private entity for the purpose of entering into an agreement with the department concerning a transportation system project but that is not in response to a formal solicitation or request issued by the department."

## SECTION 2.

Said article is further amended by striking Code Section 32-2-79, relating to requirements for unsolicited proposals for public-private initiatives, and inserting in its place the following:

"32-2-79.

(a) The department may solicit upon prior notice to the Governor, receive, consider, evaluate, and accept an unsolicited or solicited proposal for a public-private initiative only if the proposal complies with all of the requirements of this Code section.

(b) The department may consider an unsolicited proposal only if the proposal:

(1) Is unique and innovative in comparison with and is not substantially similar to other transportation system projects already in the state transportation improvement program within the department or, if it is similar to a project in the state transportation improvement program, that such project has not been fully funded by the department or any other entity as of the date the proposal is submitted. Unique or innovative features which may be considered by the department in evaluating such a proposal may include but not be limited to unique or innovative financing, construction, design, or other components as compared with other projects or as otherwise defined by department rules or regulations;

(2) Is independently originated and developed by the proposer; and

(3) Includes or is accompanied by:

(A) Such detail and information as the department may require by rule or regulation to assist in its evaluation of the proposal and to determine if the proposal benefits the public. Such information shall include a list of any proprietary information

included in the proposal which the proposer considers protected trade secrets or other information exempted from disclosure under Code Section 50-18-70, et seq., except that the information shall also include an executive summary which at a minimum shall summarize the proposed transportation facility or facilities, identify their proposed location, and provide any other additional information that may be required by the rules and regulations of the department. Such executive summary shall be subject to immediate disclosure to other interested competing proposers and the public;

(B) An and an itemized, auditable listing of the costs associated with the development of the proposal; and

(B)(C) Such fees as may be required by the rules and regulations of the department for submission of such proposals.

(c) Paragraph (1) of subsection (b) of this Code section shall not be deemed to prohibit the department from encouraging the submission of unsolicited or solicited proposals that are well-developed and consistent with the department's general policy priorities by providing written or oral information to any person regarding the policy priorities or the requirements and procedures for submitting an unsolicited or solicited proposal.

(d) If the unsolicited proposal does not comply with the requirements of subsection (b) of this Code section, the department shall return the proposal without further action. In taking such action, the department shall not disclose either the originality of the research or any proprietary information associated with the proposal to any other person or entity. If the unsolicited proposal complies with all the requirements of subsection (b) of this Code section, the department may further evaluate the proposal pursuant to this Code section.

(e) Within 30 days of receipt of an unsolicited proposal that meets the requirements of subsection (b) of this Code section, the department shall provide public notice of the proposed project. This notice shall:

(1) Be published in a newspaper of general circulation which is a legal organ and upon such electronic website providing for general public access as the department may develop for such purpose or in the same manner as publications providing notice as described in Code Section 32-2-65;

(2) Be provided to any person or entity that expresses in writing to the department an interest in the subject matter of the proposal and to any member of the General Assembly whose House or Senate district would be affected by such proposal;

(3) Outline the general nature and scope of the unsolicited proposal, including the location of the transportation system project and the work to be performed on the project; and

(4) Specify the address to which any comparable proposal must be submitted.

(f) Any person or entity who elects to submit a competing proposal for the proposed qualifying project to the department shall submit a written letter of intent to do so by no later than 30 45 days after the department's initial publication of the notice accompanied by any fee that the department shall prescribe by guideline, rule, or regulation. Any letter of intent received by the department after the expiration of the 30

45 day period or without any fee required by the department shall not be valid, and any competing proposal submitted thereafter by a person or entity who has not submitted a timely letter of intent shall not be considered by the department and shall be returned to the person or entity who did not submit a letter of intent by the deadline. For those persons or entities who elect to submit a competing proposal and submit a timely letter of intent with the department, any such competing proposal shall be submitted to the department by no later than ~~90~~ 135 days after the department's initial publication of the notice required by this Code section. Only those competing, compliant proposals submitted by such deadline shall be considered by the department.

(g) Upon receipt of a proposal properly submitted in response to the notice described in subsection (e) of this Code section which fully meets the requirements of subsection (b) of this Code section, the department shall:

- (1) Determine, in its discretion, if any submitted proposal is comparable in nature and scope to the unsolicited original proposal and whether it warrants further evaluation;
- (2) Evaluate the original proposal and any comparable proposal and make a recommendation to the Evaluation Committee on whether to move forward with a letter of intent to negotiate; and
- (3) Conduct good faith discussions and, if necessary, negotiation negotiations concerning each comparable qualified proposal.

(h) The department shall base its evaluation of the unsolicited original proposal or comparable proposals on the following factors:

- (1) Unique and innovative methods, approaches, or concepts demonstrated by the proposal;
- (2) Scientific, technical, or socioeconomic merits of the proposal;
- (3) Potential contribution of the proposal to the department's mission;
- (4) Capabilities, related experience, facilities, or techniques of the proposer as described in the proposal or unique combinations of these qualities that are integral factors for achieving the proposal objectives;
- (5) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are critical in achieving the proposal objectives; and
- (6) Any other factors appropriate to a particular proposal.

(i) Once the department has concluded its evaluation of the unsolicited proposal and any comparable proposals or a solicited proposal where applicable, the department shall transmit its findings and research to the Evaluation Committee for further review. Once the Evaluation Committee has concluded its review and makes its recommendation to the department, the department may execute a commitment agreement letter of intent to negotiate with the entity submitting the most desirable proposal as determined by the department's evaluation process. At least two weeks prior to approval of any project, the department shall present to the Governor and the House and Senate transportation committees a report with respect to the proposed commitment agreement letter of intent to negotiate. Such commitment agreement letter of intent to negotiate shall indicate the department's commitment willingness to undertake a public-private initiative to execute

~~the proposal~~ if, after public comment:

- (1) The department determines that the project is financially feasible and in the public interest; and
- (2) The department and the proposer can arrive at agreeable terms and conditions, including price of the project.
- (j) The department may execute a ~~commitment agreement letter of intent to negotiate~~ relating to an unsolicited proposal or conforming comparable proposal ~~or a solicited proposal~~ only if:
  - (1) The proposal receives a favorable evaluation ~~by the department and the Evaluation Committee~~;
  - (2) The department makes a written determination based on facts and circumstances that the proposal is an acceptable basis for an agreement to obtain services from the entity making the proposal; and
  - (3) The specific ~~commitment agreement letter of intent to negotiate~~ is specifically approved by affirmative vote of the State Transportation Board.
- (k) Once the ~~commitment agreement letter of intent to negotiate~~ is signed by the parties, prior to final contracting for any public-private initiative from the unsolicited or conforming comparable proposal ~~or a solicited proposal~~, the department:
  - (1) Should provide public notice that the department will receive public comment with respect to such proposal. The notice shall:
    - (A) Be published in a newspaper of general circulation and which is a legal organ, and upon such electronic website providing for general public access as the department may develop for such specific purpose, or in the same manner as publications providing notice as described in Code Section 32-2-65, or both, allowing at least 14 days and no more than 45 days for public comment to be submitted for consideration;
    - (B) Be provided to any person or entity that expresses in writing to the department an interest in the subject matter of the proposal;
    - (C) Outline the general nature and scope of the proposal, including the location of the transportation system project and the work to be performed on the project; and
    - (D) Specify the address to which any public comment ~~or requests for an executive summary~~ must be submitted; and
  - (2) In its discretion, may provide additional opportunity for public comment at a public meeting or meetings. In such event, notice of such meetings shall be provided in the same manner as described in paragraph (1) of this subsection.
- (l) In taking the actions required by subsections (e) and (k) of this Code section, the department shall not disclose either the originality of the research or any proprietary information associated with the proposal as listed by the proposer required by paragraph (3) of subsection (b) of this Code section.
- (m) ~~Except as provided under subparagraph (b)(3)(A) of this Code section, the The~~ provisions of Code ~~Seetion~~ Sections 50-14-1 and 50-18-70 to the contrary notwithstanding, no proposal shall become a 'public record' nor be subject to disclosure as such until ~~such time as a commitment agreement has been signed and notice of~~

~~solicitation of public comment has been published as required in subsection (k) of this Code section the unsolicited proposal, any comparable proposals, or any solicited proposals have been received and any competitive interviews specified in the solicitation process have been completed.~~ At all times thereafter, the department shall not disclose trade secret or proprietary information, or both, specifically designated by the proposer as required by paragraph (3) of subsection (b) of this Code section which meets the definition of a trade secret under Code Section 50-18-70, et seq. Subject to the foregoing, all proposals submitted to the department shall become the property of the department and are subject to the Georgia Open Records Act. Proposers should familiarize themselves with the provisions of the Act to ensure that all documents identified as confidential will not be subject to disclosure under the Open Records Act; provided, however, that the department in consultation with the Department of Law shall make the final determination of whether or not the requested materials are exempt from disclosure. In the event that the department elects to disclose the requested material, it shall attempt to provide the proposer advance notice of its intent to disclose.

(n) The power of eminent domain shall not be delegated to any private entity under any public-private initiative commenced or proposed pursuant to this chapter.

(o) The department or the department's designee has the authority to make the determination and take the actions required by this Code section.

(p) If the department rejects or declines to accept an unsolicited proposal, but, within a period of two years following the submission of such proposal the department contracts for a substantially similar project, the department shall reimburse the proposer of the unsolicited proposal for the auditable costs associated with the preparation and development of the proposal upon a request for reimbursement to the department. This provision shall not apply if the department accepts a conforming comparable proposal through the procedures outlined in subsections (f) and (g) of this Code section."

### SECTION 3.

Said article is further amended by striking Code Section 32-2-80, relating to authority to contract with proposer for public-private initiative, and inserting in its place the following:

"32-2-80.

(a) If the department follows the evaluation criteria set forth in Code Section 32-2-79 and if an unsolicited or solicited proposal contains all the information required by that Code section and the proposal is accepted by the department as demonstrated by the execution of a commitment agreement letter of intent to negotiate, upon completion of the public comment period, the department shall have the authority to contract with the proposer for a public-private initiative based upon the proposal without subjecting such contract to public bid as required by Code Section 32-2-64, 32-10-68, or 50-5-72. Such contracts shall be in compliance with all other applicable federal and state laws, including, but not limited to, Code Sections 13-10-40, 13-10-60, and 32-2-70, and each specific contract shall be specifically approved by affirmative vote of the State Transportation Board and concurrence by the Governor.

(b) Any agreement entered into pursuant to this article may authorize funding to include tolls, fares, or other user fees and tax increments for use of the transportation facility that is the subject of the proposal. The department may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this chapter and may enter into any contracts required to receive such assistance. Any funds received from the state or federal government or any agency or instrumentality thereof shall be subject to appropriation as provided by the Constitution and laws of this state. The department may determine that it serves the public purpose of this chapter for all or any portion of the costs of a qualifying project to be paid, directly or indirectly, from the proceeds of a grant or loan made by the federal, state, or local government or any instrumentality thereof, including, but not limited to, the State Road and Tollway Authority and the Georgia Highway Authority. The department may agree to make grants or loans to the operator from time to time from amounts received from the federal, state, or local government or any agency or instrumentality, including, but not limited to, the State Road and Tollway Authority and the Georgia Highway Authority.

(c) The department, in its sole discretion, may reject any unsolicited or solicited proposal at any time until a contract is signed with the entity submitting the proposal. In the event that ~~a~~ an unsolicited proposal is rejected but the department subsequently proceeds with all or part of such proposal within a period of two years, the entity submitting the proposal shall be entitled to reimbursement of the costs of developing the unsolicited proposal as indicated in subsection (p) of Code Section 32-2-79~~s~~ provided, however, that the department shall not be responsible for reimbursement of the costs of developing a solicited proposal."

#### SECTION 4.

Part 1 of Article 1 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the Georgia Highway Authority generally, is amended by striking paragraph (10) of Code Section 32-10-1, relating to the definitions governing the Georgia Highway Authority, and inserting in its place the following:

"(10) 'Project' means:

- (A) A continuous length or stretch of state road, including bridges thereon, as to which the authority has undertaken or agreed to undertake any action permitted by the terms of this article or as to which any such action has been completed by the authority;
- (B) A continuous length or stretch of county road, including bridges thereon, as to which the authority has undertaken or agreed to undertake any action permitted by the terms of this article or as to which any such action has been completed by the authority;
- (C) A continuous length or stretch of urban road, including bridges thereon, as to which the authority has undertaken or agreed to undertake any action permitted by the terms of this article or as to which any such action has been completed by the authority; and

- (D) One or more bridges, as defined in paragraph (5) of this Code section, together with the approaches thereto, as defined in paragraph (1) of this Code section; and  
(E) A project undertaken pursuant to a public-private initiative as authorized pursuant to Code Section 32-2-78."

#### SECTION 5.

Said part is further amended by striking paragraphs (10) and (11) of Code Section 32-10-4, relating to powers of the Georgia Highway Authority generally, and inserting in their place the following:

- "(10) To do and perform all things necessary or convenient to carry out the powers conferred upon the authority by this article; and  
(11) To prescribe rules and regulations as approved by the department for the operation of each project constructed under this article, including rules and regulations to ensure maximum use of each such project; and  
(12) To incorporate one or more nonprofit corporations as subsidiary corporations of the authority for the purpose of carrying out any of the powers of the authority and to accomplish any of the purposes of the authority. Any such subsidiary corporation shall be a nonprofit corporation, a body corporate and politic, and an instrumentality and public corporation of the state and shall exercise essential governmental functions. Any subsidiary corporations created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and shall be filed with the Secretary of State, who shall be authorized to accept such filings. The commissioner and two individuals appointed by the members of the authority shall constitute the members of and shall serve as directors of any subsidiary corporation, and such appointment shall not constitute a conflict of interest, provided that the provisions of subsection (a) of Code Section 45-10-23 or any other law shall not prevent full-time employees of the authority or the Department of Transportation from serving as members of the governing board of such subsidiary corporation. Upon dissolution of any subsidiary corporation of the authority, any assets shall revert to the authority or to any successor to the authority or, failing such succession, to the state, provided that any toll collection or other tollway operations remain under the authority of the State Road and Tollway Authority. The authority shall not be liable for the debts, obligations, or bonds of any subsidiary corporation or for the actions or omissions to act of any subsidiary corporation unless the authority in writing expressly so consents."

#### SECTION 6.

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

#### SECTION 7.

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

Senator Williams of the 19th moved that the Senate agree to the House substitute to SB 270.

On the motion, a roll call was taken and the vote was as follows:

N Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	N Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 43, nays 3; the motion prevailed, and the Senate agreed to the House substitute to SB 270.

The following bill was taken up to consider House action thereto:

SB 190. By Senators Tolleson of the 20th, Bulloch of the 11th, Johnson of the 1st and Pearson of the 51st:

A BILL to be entitled an Act to amend Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to the Environmental Protection Division, the Environmental Advisory Council, duties of the council, its members, and the director of the division, procedure for aggrieved persons, and inspections, so as to provide that the filing of a petition in certain instances shall not result in a stay of a decision; to amend Code Section 50-13-19 of the Official Code of Georgia Annotated, relating to judicial review of contested cases, so as to provide that the filing of a petition in certain instances shall not result in a stay of a decision except under certain conditions; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, so as to change certain provisions relating to the Environmental Protection Division, the Environmental Advisory Council, duties of the council, its members, and the director of the division, procedure for aggrieved persons, and inspections; to provide that the filing of a petition in certain instances shall result in a limited stay of an order or action of the director; to provide time limits for administrative judicial decision making; to provide for exceptions; to change certain provisions relating to hearing and judicial review relative to air quality; to amend Code Section 50-13-19 of the Official Code of Georgia Annotated, relating to judicial review of contested cases, so as to provide that the filing of a petition in certain instances shall not result in a stay of a decision except under certain conditions; to provide for exceptions; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 12 of the Official Code of Georgia Annotated, related to conservation and natural resources, is amended in Code Section 12-2-2, relating to the Environmental Protection Division, the Environmental Advisory Council, duties of the council, its members, and the director of the division, procedure for aggrieved persons, and inspections, by striking paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2)(A) Any person who is aggrieved or adversely affected by any order or action of the director shall, upon petition to the director within 30 days after the issuance of such order or the taking of such action, have a right to a hearing before an administrative law judge appointed by of the Office of State Administrative Hearings assigned under Code Section 50-13-40 and acting in place of the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and regulations adopted by the board pursuant thereto. Any administrative law judge so appointed by the board assigned shall fully meet and qualify as to all applicable conflict of interest requirements provided for in Section 304(h)(2)(D) of the Federal Water Pollution Control Act of 1972, as amended, and the rules, regulations, and guidelines promulgated thereunder.

(B) In any case involving the grant of a permit, permit amendment, or variance by the director, the filing of such a petition by a person to whom such order or action is not directed shall stay such order or action until such time as the hearing has been held and for ten days after the administrative law judge renders his or her decision on the matter. The petition shall be transmitted to the administrative law judge not

more than seven days after the date of filing. The provisions of subsection (c) of Code Section 50-13-41 notwithstanding, the hearing shall be held and the decision of the administrative law judge shall be rendered not later than 90 days after the date of the filing of the petition by such a person unless such period is extended for a time certain by order of the administrative law judge upon consent of all parties; in addition, the administrative law judge may extend the 90 day period for good cause shown for a period not to exceed an additional 60 days.

(C) The provisions of subparagraph (B) of this paragraph notwithstanding, in any case involving the grant of a permit, permit amendment, or variance by the director regarding water withdrawal for farm uses under Code Section 12-5-31 or Code Section 12-5-105, the filing of a petition under subparagraph (A) of this paragraph by any person to whom such order or action is not directed shall not stay such order or action.

(D) The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the director, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50."

## SECTION 2.

Said title is further amended in Code Section 12-9-15, relating to hearing and judicial review relative to air quality, by designating the provisions of subsection (a) as paragraph (1) of said subsection and adding a new paragraph to read as follows:

"(2) The provisions of subparagraph (c)(2)(B) of Code Section 12-2-2 shall apply to proceedings under this Code section."

## SECTION 3.

Code Section 50-13-19 of the Official Code of Georgia Annotated, relating to judicial review of contested cases, is amended by striking subsection (d) and inserting in lieu thereof the following:

"(d)(1) The filing of the petition for judicial review in superior court does not itself stay enforcement of the agency decision. Except as otherwise provided in this subsection, the agency may grant, or the reviewing court may order, a stay upon appropriate terms for good cause shown.

(2) In cases involving the grant of a permit, permit amendment, or variance by the director of the Environmental Protection Division of the Department of Natural Resources in which the petition for judicial review in superior court was filed by any person to whom such contested order or action is not directed, a stay shall not be granted unless by order of the superior court upon motion for a temporary restraining order or interlocutory injunction in accordance with Code Section 9-11-65.

(3) The provisions of paragraphs (1) and (2) of this subsection notwithstanding, in any case involving the grant of a permit, permit amendment, or variance by the director of the Environmental Protection Division of the Department of Natural Resources regarding water withdrawal for farm uses under Code Section 12-5-31 or

Code Section 12-5-105, no stay shall be authorized if the petition for judicial review in superior court was filed by any person to whom such order or action is not directed.  
(4) In contested cases involving a license to practice medicine or a license to practice dentistry in this state, a reviewing court may order a stay or an agency may grant a stay only if the court or agency makes a finding that the public health, safety, and welfare will not be harmed by the issuance of the stay."

#### SECTION 4.

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

Senator Tolleson of the 20th moved that the Senate agree to the House substitute to SB 190.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Hill,Jack	Y Smith
E Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	E Unterman
Y Golden	Y Powell	Walker
Y Grant	N Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	E Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Shafer,D	

On the motion, the yeas were 37, nays 5; the motion prevailed, and the Senate agreed to the House substitute to SB 190.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 188. By Representatives Burmeister of the 119th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, so as to require that the photograph of a person who is convicted of certain crimes for which such person is required to register as a sexual offender shall be published in the legal organ of the county in which such person was convicted; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Rogers of the 21st moved that the Senate adopt the Conference Committee Report on HB 188.

Senator Rogers of the 21st asked unanimous consent to withdraw his motion to adopt the Conference Committee Report on HB 188.

The consent was granted and the motion was withdrawn.

The following bill was taken up to consider House action thereto:

SB 167. By Senators Rogers of the 21st, Hudgens of the 47th, Stephens of the 27th and Stoner of the 6th:

A BILL to be entitled an Act to amend Code Section 33-31-9 of the Official Code of Georgia Annotated, relating to refunds and credits of credit life insurance premiums, so as to provide that the insured shall notify the credit life insurer upon the early payoff of the indebtedness; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 33-31-9 of the Official Code of Georgia Annotated, relating to refunds and credits of credit life insurance premiums, so as to provide that the insured shall notify the credit life insurer upon the early payoff of the indebtedness; to provide for certain notices; to provide for related matters; to provide for legislative intent; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 33-31-9 of the Official Code of Georgia Annotated, relating to refunds and credits of credit life insurance premiums, is amended by striking subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) Each individual policy, notice of proposed insurance, or group certificate of credit life insurance and credit accident and sickness insurance shall provide that, in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of premium due shall be calculated as of the date the indebtedness terminated and be paid or credited promptly to the person entitled to such refund; provided, however, that the Commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing a refund shall be filed with and approved by the Commissioner. It shall be the obligation of the insured to notify the insurer of the early payoff of the indebtedness which is covered by the insurance.  
(c.1) Each individual policy, notice of proposed insurance, or group certificate of credit life insurance and credit accident and sickness insurance issued after this subsection becomes effective shall provide a notice on the face of such policy, notice, or certificate in at least 10 point type that it is the obligation of the insured to notify the insurer of any early payoff of the indebtedness which is covered by the insurance."

**SECTION 2.**

This Act is declaratory of existing law and is only intended to clarify such law. The passage of this Act shall not create any implication that any change in existing law is effected.

**SECTION 3.**

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

**SECTION 4.**

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

Senator Rogers of the 21st moved that the Senate agree to the House substitute to SB 167.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	Y Stoner
Cagle	Y Jones	N Tate

Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
N Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 42, nays 4; the motion prevailed, and the Senate agreed to the House substitute to SB 167.

The following bill was taken up to consider House action thereto:

SB 269. By Senators Rogers of the 21st, Smith of the 52nd and Hill of the 32nd:

A BILL to be entitled an Act to amend Code Section 16-11-64.1 of the Official Code of Georgia Annotated, relating to application and issuance of order authorizing installation and use of pen register or trap and trace device, so as to provide that the district attorney having jurisdiction over the prosecution of the crime under investigation may apply for or extend an order authorizing the installation and use of a pen register or trap and trace device; to provide that any superior court judge may authorize such use; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 16-11-64.1 of the Official Code of Georgia Annotated, relating to application and issuance of order authorizing installation and use of pen register or trap and trace device, so as to provide that the district attorney having jurisdiction over the prosecution of the crime under investigation may apply for or extend an order authorizing the installation and use of a pen register or trap and trace device; to provide that certain superior court judges may authorize such use; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:****SECTION 1.**

Code Section 16-11-64.1 of the Official Code of Georgia Annotated, relating to application and issuance of order authorizing installation and use of pen register or trap and trace device, is amended by striking the Code section and inserting in lieu thereof a new Code Section 16-11-64.1 to read as follows:

"16-11-64.1.

Any district attorney having jurisdiction over the prosecution of the crime under investigation or the Attorney General is authorized to make application for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device to a judge of the superior court of the same judicial circuit as the District Attorney, or, in the case of the Attorney General, in any judicial circuit; for the circuit wherein the pen register or trap and trace device is to be installed and used, and the superior and said court for that circuit is authorized to enter an order authorizing the use of a pen register or a trap and trace device, to the extent the same is consistent with and permitted by the laws of the United States."

**SECTION 2.**

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

**SECTION 3.**

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

Senator Rogers of the 21st moved that the Senate agree to the House substitute to SB 269.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker

Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 48, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 269.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 366 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 366 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Rogers of the 21st  
/s/ Senator Stephens of the 27th  
/s/ Senator Pearson of the 51st

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Murphy of the 23rd  
/s/ Representative Knox of the 24th  
/s/ Representative Hill of the 21st

COMMITTEE OF CONFERENCE REPORT ON HB 366

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to change provisions relating to alternative delivery systems; to provide for appeal; to change certain provisions relating to the Georgia Public Defender Standards Council development of standards; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by striking Code Section 17-12-8, relating to approval by council for representation of indigents and development of standards, and inserting in lieu thereof the following:

"17-12-8.

- (a) The council shall approve the development and improvement of programs which provide legal representation to indigent persons and juveniles.
- (b) The council shall approve and implement programs, services, rules, policies, procedures, regulations, and standards as may be necessary to fulfill the purposes and provisions of this article and to comply with all applicable laws governing the rights of indigent persons accused of violations of criminal law. Standards shall include, but shall not be limited to, the following:
  - (1) Standards for maintaining and operating circuit defender offices, including requirements regarding qualifications, training, and size of the legal and supporting staff of such offices;
  - (2) Standards prescribing minimum experience, training, and other qualifications for appointed counsel where a conflict of interest arises between the public defender and an indigent person;
  - (3) Standards for assistant public defender and appointed counsel caseloads;
  - (4) Standards for the performance of assistant public defenders and appointed counsel representing indigent persons;
  - (5) Standards and procedures for the appointment of independent, competent, and efficient counsel for representation in both the trial and appellate courts of indigent persons whose cases present conflicts of interest;
  - (6) Standards for providing and compensating experts, investigators, and other persons who provide services necessary for the effective representation of indigent persons;
  - (7) Standards for qualifications and performance of counsel representing indigent persons in capital cases;
  - (8) Standards for determining indigence and for assessing and collecting the costs of legal representation and related services;
  - (9) Standards for compensation of attorneys appointed to represent indigent persons

under this article;

- (10) Standards for removing a circuit public defender for cause pursuant to Code Section 17-12-20;
  - (11) Standards for a uniform definition of a 'case' for purposes of determining caseload statistics; and
  - (12) Standards for accepting contractual indigent defense representation.
- (c) The initial minimum standards promulgated by the council pursuant to this Code section and which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council to have a fiscal impact shall be submitted by the council to the General Assembly at the regular session for 2005 and shall become effective only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval. The power of the council to promulgate such initial minimum standards shall be deemed to be dependent upon such ratification; provided, however, the minimum standards promulgated by the council shall be utilized as a guideline prior to ratification. Any subsequent amendments or additions to the initial minimum standards promulgated by the council pursuant to this Code section and which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council to have a fiscal impact shall be ratified at the next regular session of the General Assembly and shall become effective only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval.
- (d) All standards that are promulgated by the council shall be publicly available for review and shall be posted on the council's website. Each standard shall identify the date upon which the standard took effect, and if the standard is subject to ratification by the General Assembly as provided by subsection (c) of this Code section, the status of the standard with respect to ratification."

## SECTION 2.

Said chapter is further amended by striking Code Section 17-12-36, relating to alternative delivery systems, and inserting in lieu thereof the following:

"17-12-36.

- (a) The council may permit a judicial circuit composed of a single county to continue in effect an alternative delivery system to the one set forth in this article if:
  - (1) The delivery system:
    - (A) Has a full-time director and staff and had been fully operational for at least two years on July 1, 2003; or
    - (B) Is administered by the county administrative office of the courts or the office of the court administrator of the superior court and had been fully operational for at least two years on July 1, 2003;
  - (2) The council, by majority vote of the entire council, determines that the delivery system meets or exceeds its standards, including, without limitation, caseload standards, as the council adopts;

- (3) The governing authority of the county comprising the judicial circuit enacts a resolution expressing its desire to continue its delivery system and transmits a copy of such resolution to the council not later than September 30, 2004; and
- (4) The governing authority of the county comprising the judicial circuit enacts a resolution agreeing to fully fund its delivery system.
- (b) A judicial circuit composed of a single county may request an alternative delivery system only one time, ~~which request shall be made on or before September 30, 2004; provided, however, that if such judicial circuit's request for an alternative delivery system was disapproved on or before December 31, 2004, such judicial circuit may make one further request on or before September 1, 2005. The council shall allow such judicial circuit to have a hearing on such judicial circuit's request.~~
- (c) The council shall make a ~~final~~ determination with regard to continuation of an alternative delivery system not later than ~~December 31, 2004~~ December 1, 2005, and if ~~the council determines that such judicial circuit's alternative delivery system does not meet the standards as established by the council, the council shall notify such judicial circuit of its deficiencies in writing and shall allow such judicial circuit an opportunity to cure such deficiencies. The council shall make a final determination with regard to continuation of an alternative delivery system on or before December 31, 2005.~~ Initial and subsequent approvals of alternative delivery systems shall be by a majority vote of the entire council.
- (d) Any circuit whose alternative delivery system is disapproved at any time shall be governed by the provisions of this article other than this Code section.
- (e) In the event an alternative delivery system is approved, the council shall annually review the operation of such system and determine whether such system is meeting the standards as established by the council and is eligible to continue operating as an approved alternative delivery system. ~~In the event the council determines that such system is not meeting the standards as established by the council, the council shall provide written notice to such system of the deficiencies and shall provide such system an opportunity to cure such deficiencies.~~
- (f) In the event an alternative delivery system is approved, it shall keep and maintain appropriate records, which shall include the number of persons represented; the offenses charged; the outcome of each case; the expenditures made in providing services; and any other information requested by the council.
- (g) ~~In the event the council disapproves an alternative delivery system either in its initial application or annual review, such system may appeal such decision to the Supreme Court of Georgia under such rules and procedures as shall be prescribed by the Supreme Court."~~

### SECTION 3.

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

**SECTION 4.**

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

Senator Rogers of the 21st moved that the Senate adopt the Conference Committee Report on HB 366.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
N Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 45, nays 2; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 366.

The following bill was taken up to consider House action thereto:

SB 122. By Senators Whitehead, Sr. of the 24th, Grant of the 25th and Cagle of the 49th:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to solid waste management generally, so as to extend the collection of tire disposal fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions relative to solid waste management, so as to change certain provisions relating to general provisions relative to solid waste management; to change certain provisions relating to declaration of policy and legislative intent; to change certain provisions relating to definitions; to change certain provisions relating to permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facilities and inspection of solid waste generators; to change certain provisions relating to authorization for state grants; to change certain provisions relating to tire disposal restrictions; to change certain provisions relating to yard trimming disposal restrictions; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions relative to solid waste management, is amended by striking subsection (a) of Code Section 12-8-21, relating to declaration of policy and legislative intent, and inserting in lieu thereof the following:

"(a) It is declared to be the policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive state-wide program for solid waste management ~~which will and to prevent and abate litter, so as to assure that solid waste facilities, whether publicly or privately operated, do does~~ not adversely affect the health, safety, and well-being of the public and ~~that solid waste facilities, whether publicly or privately owned,~~ do not degrade the quality of the environment by reason of their location, design, method of operation, or other means and which, to the extent feasible and practical, makes maximum utilization of the resources contained in solid waste."

**SECTION 2.**

Said part is further amended by striking subsection (c) of Code Section 12-8-21, relating to declaration of policy and legislative intent, and inserting in lieu thereof the following:

"(c) It is the intent of the General Assembly that every effort be undertaken to reduce on a state-wide per capita basis the amount of municipal solid waste being received at disposal facilities ~~during fiscal year 1992 by 25 percent by July 1, 1996; provided, however, that counties and municipalities that establish an annual measurement of municipal solid waste being received at disposal facilities prior to the end of fiscal year 1992 shall be given credit for reductions achieved based on that measurement period prior to fiscal year 1992; provided, further, that municipal solid waste received at any~~

~~waste to energy facility which was in operation on January 1, 1991, is exempted from this subsection.~~

### **SECTION 3.**

Said part is further amended in Code Section 12-8-22, relating to definitions, by inserting a new paragraph to read as follows:

"(5.1) 'Construction or demolition waste' means waste building materials and rubble resulting from construction, remodeling, repair, or demolition operations on pavements, houses, commercial buildings, and other structures. Such waste includes but is not limited to waste containing asbestos, wood, bricks, metal, concrete, wallboard, paper, cardboard, and other nonputrescible wastes associated with construction and demolition activities which have a low potential for ground-water contamination. Inert waste landfill materials approved by the board for disposal in landfills permitted by rule and regulation are also included in this definition if disposed in a construction or demolition waste landfill."

### **SECTION 4.**

Said part is further amended by striking paragraph (12) of Code Section 12-8-22, relating to definitions, and inserting in lieu thereof the following:

"(12) 'Hazardous constituent' means any substance listed as a hazardous constituent in regulations promulgated pursuant to the federal act by the administrator of the United States Environmental Protection Agency which are in force and effect on February 1, 1992 2004, codified as Appendix VIII to 40 C.F.R. Part 261 — Identification and Listing of Hazardous Waste."

### **SECTION 5.**

Said part is further amended in Code Section 12-8-22, relating to definitions, by inserting a new paragraph to read as follows:

"(15.1) 'Litter' has the meaning provided by Code Section 16-7-42."

### **SECTION 6.**

Said part is further amended by striking paragraph (18) of Code Section 12-8-22, relating to definitions, and inserting in lieu thereof the following:

"(18) 'Municipal solid waste' means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings, construction or demolition waste, and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations."

### **SECTION 7.**

Said part is further amended by striking paragraph (5) of subsection (e) of Code Section 12-8-24, relating to permits for solid waste or special solid waste handling, disposal, or

thermal treatment technology facilities and inspection of solid waste generators, and inserting in lieu thereof the following:

"(5) Modifications for vertical expansions issued under this Code section may be restricted in duration, but in no case shall be effective ~~beyond July 1, 1998;~~ for municipal solid waste landfills not having liners and leachate collection systems, other than those landfills restricted to construction or demolition waste."

#### **SECTION 8.**

Said part is further amended by striking subsection (c) of Code Section 12-8-37.1, relating to authorization for state grants, and inserting in lieu thereof the following:

"(c) The corpus of the solid waste trust fund established in Code Section 12-8-27.1 may be used to make grants and loans to cities and counties, any combination of cities and counties, authorities, state agencies, or the Georgia Recycling Market Development Council for the cleanup of solid waste disposal facilities, including those used for the disposal of scrap tires; for the development and implementation of solid waste enforcement programs for the prevention and abatement of illegal dumping of solid waste, including without limitation the prevention and abatement of litter; for the funding of grants or loans, in accordance with procedures developed by the division; for the implementation of innovative technologies for the recycling and reuse of solid waste, including without limitation scrap tires; and for educational and other efforts to promote waste reduction, recycling, and recycling market development."

#### **SECTION 9.**

Said part is further amended by striking paragraph (1) of subsection (c) of Code Section 12-8-40.1, relating to tire disposal restrictions, and inserting in lieu thereof the following:

"(c)(1) No person shall collect or transport scrap tires for the purpose of processing or disposal, process scrap tires, or purport to be in the business of collecting or transporting collecting, transporting, or processing scrap tires unless the person has a scrap tire carrier or processor permit issued by the division. For purposes of this paragraph, the term 'process scrap tires' means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires for beneficial use."

#### **SECTION 10.**

Said part is further amended by striking paragraph (3) of subsection (h) of Code Section 12-8-40.1, relating to tire disposal restrictions, and inserting in lieu thereof the following:

"(3) The tire fees authorized in this subsection shall cease to be collected on June 30, 2005 2008. The director shall make an annual report to the House Committee on Natural Resources and the Environment and the Senate Natural Resources and Environment Committee regarding the status of the scrap tire program activities funded by the solid waste trust fund."

**SECTION 11.**

Said part is further amended by striking subsection (k) of Code Section 12-8-40.1, relating to tire disposal restrictions, and inserting in lieu thereof the following:

"(k) The director shall be authorized to order the cessation of operation of any scrap tire carrier or processor who is found not to be operating in compliance with this part or rules adopted pursuant to this part and the seizure of all property used in such unlawful operations; provided, however, that the scrap tire carrier or processor shall be afforded a hearing within 48 hours before an administrative law judge of the Department of Natural Resources upon such order of the director."

**SECTION 12.**

Said part is further amended by striking subsection (l) of Code Section 12-8-40.1, relating to tire disposal restrictions, and inserting in lieu thereof the following:

"(l)(1) A performance surety bond or letter of credit shall be provided to the director by a scrap tire carrier or processor prior to issuance of a permit for collecting or processing scrap tires to ensure compliance with the provisions of this part.

(2) The bond or letter of credit required in this subsection shall be:

(A) Conditioned upon compliance with this part, any rules adopted pursuant to this part, and the carrier's or processor's permit; and

(B) In such amount as determined by the director necessary to ensure compliance, but in any event not to exceed \$10,000.00 \$25,000.00.

(3) Such performance bond or letter of credit shall be payable to the director and issued by an insurance company authorized to issue such bonds in this state or from a bank or other financial institution authorized to issue irrevocable letters of credit.

(4) Upon a determination by the director that a scrap tire carrier or processor has failed to meet the provisions of this part, rules promulgated pursuant to this part, or its permit, the director may, after written notice of such failure:

(A) Forfeit or draw that amount of such bond or letter of credit that the director determines necessary to correct the violation;

(B) Expend such amount for such purposes; and

(C) Require the replacement of that amount of such bond or letter of credit forfeited or drawn upon.

(5) Any moneys received by the director in accordance with paragraph (4) of this subsection shall be deposited into the solid waste trust fund established in Code Section 12-8-27.1."

**SECTION 13.**

Said part is further amended by striking subsection (a) of Code Section 12-8-40.2, relating to yard trimming disposal restrictions, and inserting in lieu thereof the following:

"(a) Effective September 1, 1996, each Each city, county, or solid waste management authority shall impose restrictions on yard trimmings which are generated in or may ultimately be disposed of in its area of jurisdiction. These restrictions shall include but

are not limited to:

- (1) A requirement that yard trimmings not be placed in or mixed with municipal solid waste, except at landfills restricted to construction or demolition waste;
- (2) A ban on the disposal of yard trimmings at municipal solid waste disposal facilities having liners and leachate collection systems or requiring vertical expansion within its jurisdiction;
- (3) A requirement that yard trimmings be sorted and stored for collection in such a manner as to facilitate collection, composting, or other handling; and
- (4) A requirement that yard trimmings be sorted and stockpiled or chipped, composted, used as mulch, or otherwise beneficially reused or recycled to the maximum extent feasible."

#### **SECTION 14.**

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

#### **SECTION 15.**

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

Senator Whitehead of the 24th moved that the Senate agree to the House substitute to SB 122.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
N Butler	Y Johnson	Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	E Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 43, nays 3; the motion prevailed, and the Senate agreed to the House substitute to SB 122.

The following bill was taken up to consider House action thereto:

SB 158. By Senators Whitehead, Sr. of the 24th, Chapman of the 3rd, Grant of the 25th, Seabaugh of the 28th, Chance of the 16th and others:

A BILL to be entitled an Act to amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the comprehensive revision of provisions regarding state property; to provide for consolidation and effective management of the rental of administrative space and the acquisition, use, and disposition of real property by the state and state authorities; to repeal Article 2 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, the "State Space Management Act of 1976"; to repeal Article 6 of Chapter 9 of Title 50 of the Official Code of Georgia Annotated, relating to inventory of state buildings; to amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to repeal certain provisions regarding the lease of property; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the comprehensive revision of provisions regarding state property; to provide for consolidation and effective management of the rental of administrative space and the acquisition, use, and disposition of real property by the state and state authorities; to repeal Article 2 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, the "State Space Management Act of 1976"; to provide for the transfer of powers, duties, and responsibilities of the commissioner of administrative services and the Department of Administrative Services regarding space management to the State Properties Commission; to change certain provisions relating to projects, composition, administrative assignment, powers, and duties of the Georgia Building Authority; to repeal Article 6 of Chapter 9 of Title 50 of the Official Code of Georgia Annotated, relating to inventory of state buildings; to change certain provisions regarding the composition, powers, duties, authority, and administrative assignment of the State Properties Commission; to provide for the transfer to the State Properties Commission of certain assets, contracts, leases, agreements, obligations, funds, and personnel of the commissioner of administrative services and the Department of Administrative Services; to provide for a state property officer and the powers, duties, and authority of such

officer; to provide for powers, duties, and authority of the State Properties Commission with respect to inventory and management of administrative space; to provide for duties and responsibilities of state entities with respect to information compilation regarding state facilities; to amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to repeal certain provisions regarding the lease of property; to amend Code Section 50-16-43 of the Official Code of Georgia Annotated, relating to leasing of state owned lands, so as to change a cross-reference; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by striking Article 2 of Chapter 5, the "State Space Management Act of 1976," and inserting in its place a new Article 2 to read as follows:

"ARTICLE 2

50-5-30.

~~This article shall be known and may be cited as the 'State Space Management Act of 1976.'~~ Reserved.

50-5-31.

As used in this article, the term:

(1) ~~'Administrative space' means any space, whether existing or to be constructed, that is required by a state agency for office, storage, or special purposes. In order to be required, the space must be necessary for and utilized in either (A) the performance of the duties that the state agency is obligated by law to perform or (B) the delivery of the services that the state agency is authorized or required by law to provide. Administrative space does not include the space within or on the following properties; provided, however, such space was not acquired and will not be acquired by a rental agreement or arrangement the initial term of which is for a period of five years or less:~~

- ~~(A) The state capitol. The space utilization of the state capitol shall be as provided by law;~~
- ~~(B) The executive center (Governor's mansion). The space utilization of the executive center (Governor's mansion) shall be as provided by law;~~
- ~~(C) Space utilized by the legislative and judicial branches of the state government. The utilization of space by those branches of the state government shall be as provided by law;~~
- ~~(D) Space in buildings located on and used in direct support of any institution of higher education under the custody, management, control, or supervision (hereinafter for convenience in this article referred to as jurisdiction) of the Board of~~

~~Regents of the University System of Georgia;~~

~~(E) Space in buildings located on and used in direct support of any game preserve, wildlife refuge, or fish hatchery under the jurisdiction of the Department of Natural Resources;~~

~~(F) Space in buildings located on and used in direct support of any part of the system of state parks and historic sites under the jurisdiction of the Department of Natural Resources;~~

~~(G) Space in buildings used in direct support of the construction and maintenance of the state highway system, i.e., maintenance barns, equipment sheds, and district offices, under the jurisdiction of the Department of Transportation;~~

~~(H) Space in buildings located on and used in direct support of any penal institution under the jurisdiction of the Department of Corrections;~~

~~(I) Space in buildings located on and used in direct support of any state patrol post under the jurisdiction of the Department of Public Safety;~~

~~(J) Space in buildings located on and used in direct support of any farmer's market under the jurisdiction of the Department of Agriculture;~~

~~(K) Space in buildings located on and used in direct support of any hospital, rehabilitation center, school for persons with disabilities, or other mental or physical health care institution under the jurisdiction of the Department of Human Resources;~~

~~(L) Space in buildings located on and used in direct support of any forestry unit under the jurisdiction of the State Forestry Commission;~~

~~(M) Space in buildings located on and used in direct support of vocational education schools, schools for the deaf, or the educational television network under the jurisdiction of the State Board of Education;~~

~~(N) Space in buildings located on and used in direct support of any welcome center or rest station under the jurisdiction of the Tourist Division of the Department of Economic Development;~~

~~(O) Space in buildings located on and used in direct support of armories or other military installations under the jurisdiction of the Department of Defense; or~~

~~(P) Any real properties under the jurisdiction of the State Properties Commission.~~

~~(2) 'Commissioner' means the commissioner of administrative services.~~

~~(3) 'Department' means the Department of Administrative Services.~~

~~(4) 'State agency' means any department, division, board, bureau, commission, or other agency within the state government, by whatever name designated.~~

505.32.

~~(a) The department is given the authority and charged with the duty of managing the utilization of administrative space by all state agencies in a manner that is the most cost efficient and operationally effective and which provides decentralization of state government. Such management shall include the authority to assign and reassign administrative space to state agencies based on the needs of the agencies as determined by standards for administrative space utilization promulgated by the commissioner~~

~~pursuant to Code Section 50-5-33 and shall include the obligation to advise the Office of Planning and Budget and state agencies and departments of cost-effective, decentralized alternatives.~~

~~(b) The management of the utilization of administrative space by the department shall include entering into any necessary agreements to rent or lease administrative space, whether existing or to be constructed and shall include administrative space rented or leased by a state agency from the Georgia Building Authority or from any other public or private person, firm, or corporation. When it becomes necessary to rent or lease administrative space, the space shall be rented or leased by the department and assigned to the state agency or agencies requiring the space.~~

~~(c) If the department reassigned all or any portion of any administrative space which is leased or rented by one state agency to another state agency, the state agency to which the administrative space is reassigned shall pay to the department rental charges, as determined by the department, for the utilization of the space; and the department shall, in turn, use the rental charges so paid for the purpose of paying or partially paying, as the case may be, the rent or lease payments due the lessor of the administrative space in accordance with the terms of the lease or rent contract existing at the time of the reassignment of the administrative space. Any such payments to a lessor by the department shall be on behalf of the state agency which is the lessee of the administrative space reassigned as provided herein.~~

~~(d) The management of the utilization of administrative space given to the department by this article shall not be construed to impair the obligation of any contract executed before July 1, 1976, between any state agency and the Georgia Building Authority or between any state agency and any other public or private person, firm, or corporation; and the powers given to the department by this article shall not be implemented or carried out in such a manner as to impair the obligation of any such contract.~~

~~50-5-33.~~

~~(a) The commissioner is authorized and directed to develop and promulgate standards governing the utilization of administrative space by all state agencies which require emphasis on cost effectiveness and decentralization. The standards shall be uniformly applied to all state agencies except as otherwise provided by subsection (b) of this Code section; but the standards shall recognize and provide for different types of administrative space required by the various state agencies and the different types of administrative space that may be required by a single state agency.~~

~~(b) The department shall be authorized to reassign administrative space to the various state agencies in order to bring the utilization of administrative space into conformity with the standards promulgated under subsection (a) of this Code section. Any additional administrative space required by a state agency shall be approved by and obtained through the department. The commissioner shall be authorized to grant exceptions to the standards governing the utilization of administrative space when the reassignment of such space would involve unnecessary expenses or the disruption of services being provided by a state agency. The commissioner shall adopt and~~

~~promulgate rules and regulations governing the granting of such exceptions, and the rules and regulations shall be uniformly applied by the commissioner to all state agencies requesting an exception to the standards.~~

~~50-5-34.~~

~~Any state agency requiring any administrative space shall apply therefor to the department on forms prescribed by the department for such purpose; and the department shall assign the space to the agency in conformity with the standards governing the utilization of administrative space promulgated pursuant to Code Section 50-5-33 and requirement of cost effectiveness and decentralization.~~

~~50-5-35.~~

~~For purposes of cost effectiveness and decentralization, the following factors, among other factors, shall be considered:~~

- ~~(1) Dual location of programs within a city should be considered in order to take advantage of possible economies of scale and as a matter of convenience to the general public; or~~
- ~~(2) When all factors are reasonably equivalent, preferences will be given to location of state government programs and facilities in those counties which are determined by the Department of Community Affairs to be the most economically depressed, such term shall mean those 80 counties of the state designated as 'less developed' under the Job Tax Credit Program.~~

~~50-5-36.~~

~~The commissioner is authorized and directed to promulgate rules and regulations governing budgetary requirements for administrative space utilized by state agencies whereby the agencies shall be accountable in the budgetary process for administrative space assigned to and utilized by them. The budgetary requirements may provide for the payment of rent to the department by state agencies or may otherwise provide procedures for the assessment of rent charges for administrative space utilized by state agencies or any combination of the foregoing.~~

~~50-5-37.~~

~~In addition to the standards and rules and regulations specifically provided for by this article, the commissioner is authorized to adopt such other rules and regulations as may be required to carry out this article efficiently and effectively.~~

~~50-5-38.~~

~~The commissioner shall be authorized to employ such personnel as may be necessary to carry out this article effectively.~~

**50-5-39.**

~~This article shall be liberally construed so as to effectuate the purposes and the intent of the General Assembly."~~

**SECTION 2.**

Said title is further amended by striking paragraph (4) of Code Section 50-9-2, relating to definitions with respect to the Georgia Building Authority, and inserting in its place a new paragraph (4) to read as follows:

"(4) 'Project' means and includes one or a combination of two or more of the following: buildings and facilities intended for use as offices and related uses and all structures, including electric, gas, steam, and water utilities and facilities of every kind and character deemed by the authority necessary or convenient for the efficient operation of any department, board, commission, or agency of the state. Without limiting the foregoing and without further determination of necessity or convenience, the word 'project' also means and includes ~~child care and child development centers;~~ public parks and public parking facilities adjacent to the state capitol other than the facilities within or connected to state owned or state leased buildings; a parking facility on the 'Old Incinerator' site acquired in 1983 by the State of Georgia from the City of Atlanta in Fulton County, Georgia; an executive mansion and buildings, structures, and facilities of every kind and character for use in conjunction with the mansion regardless of whether the buildings, structures, and facilities are physically connected with such mansion; and a Department of Transportation laboratory and buildings, structures, and facilities of every kind and character for use in conjunction with the laboratory, regardless of whether the buildings, structures, and facilities are physically connected with the laboratory, provided that the buildings, structures, and facilities are built and constructed on property owned by the Department of Transportation at Forest Park, Georgia."

**SECTION 3.**

Said title is further amended by striking Code Section 50-9-3, relating to the creation of the Georgia Building Authority, and inserting in its place a new Code Section 50-9-3 to read as follows:

**50-9-3.**

There is created a body corporate and politic to be known as the Georgia Building Authority which shall be deemed to be an instrumentality of the state and a public corporation, and by that name, style, and title the body may contract and be contracted with, implead and be impleaded, and bring and defend actions in all courts. The authority shall consist of the ~~Governor, the state auditor, Lieutenant Governor, Commissioner of Agriculture, and an appointee of the Governor who is not the Attorney General~~ the same persons who comprise the State Properties Commission. Each member shall serve under the same terms and conditions as provided for in Code Section 50-16-32. The state property officer appointed by the Governor pursuant to

~~Code Section 50-16-35 shall serve as executive director of the authority. The authority shall elect one of its members as chairman and a secretary and treasurer who need not necessarily be a member of the authority. Three members of the authority shall constitute a quorum. No vacancy on this authority shall impair the right of the quorum to exercise all the rights and perform all the duties of the authority. The members of the authority shall not be entitled to compensation for their services but shall be entitled to and shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.~~ The authority shall make rules and regulations for its own government. It shall have perpetual existence. Any change in name or composition of the authority shall in no way affect the vested rights of any person under this article and Article 2 of this chapter nor impair the obligations of any contracts existing under this article and Article 2 of this chapter."

#### SECTION 4.

Said title is further amended by striking Code Section 50-9-4, relating to the assignment of the Georgia Building Authority for administrative purposes, and inserting in its place a new Code Section 50-9-4 to read as follows:

"50-9-4.

The authority is assigned to the ~~Department of Administrative Services State Properties Commission~~ for administrative purposes only as prescribed in Code Section 50-4-3."

#### SECTION 5.

Said title is further amended by striking Code Section 50-9-5, relating to the general powers of the Georgia Building Authority, and inserting in its place a new Code Section 50-9-5 to read as follows:

"50-9-5.

The authority shall have the powers:

- (1) To have a seal and alter the same at pleasure;
- (2) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and personal property of every kind and character for its corporate purposes;
- (3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, or by condemnation, in accordance with any and all laws applicable to the condemnation of property for public use, real property or rights of easements therein or franchises necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue and to lease or make contracts with respect to the use of or disposal of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned under this chapter except from the funds provided under the authority of this chapter; and in any proceedings to condemn, such orders may be made by the court having jurisdiction of the action or proceeding as may be just to the authority and to the owners of the property to be condemned. No property shall be acquired under this chapter upon which any lien or

other encumbrance exists unless at the time such property is so acquired a sufficient sum of money is deposited in trust to pay and redeem the fair value of the lien or encumbrance; and if the authority shall deem it expedient to construct any project on lands which are a part of the real estate holdings of the state, the Governor is authorized to execute for and on behalf of the state a lease of the lands to the authority for such parcel or parcels as shall be needed for a period not to exceed 50 years. If the authority shall deem it expedient to construct any project on any other lands the title to which shall then be in the state, the Governor is authorized to convey, for and in behalf of the state, title to such lands to the authority;

- (4) To appoint and select officers, agents, and employees, including engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix their compensation and to serve as financial adviser and agent to other state authorities;
- (5) To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired; and any and all political subdivisions, departments, institutions, or agencies of the state are authorized to enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable. Without limiting the generality of the above, authority is specifically granted to any department, board, commission, agency, or appellate court of the state to enter into contracts and lease agreements for the use or concerning the use of any structure, building, or facilities or a combination of any two or more structures, buildings, or facilities of the authority for a term not exceeding 50 years; and any department, board, commission, or agency of the state may obligate itself to pay an agreed sum for the use of the property so leased and also to obligate itself as part of the lease contract to pay the cost of maintaining, repairing, and operating the property leased from the authority;
- (6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate, and manage projects, as defined in Code Section 50-9-2, to be located on property owned by or leased by the authority, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds of the authority or from such proceeds and any grant from the United States or any agency or instrumentality thereof;
- (7) To accept loans or grants of money or materials or property of any kind from the United States or any agency or instrumentality thereof upon such terms and conditions as the United States or the agency or instrumentality may impose;
- (8) To borrow money for any of its corporate purposes and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof;
- (9) ~~To operate and cause to be operated railroad excursions between and in the vicinity of stated places of public interest, provided that a right of use has been obtained by the authority before private property is used in such purpose; to make contracts with all public and private individuals and entities for the purpose thereof; to purchase, rent, lease, sell, and otherwise acquire and dispose of personal property and~~

~~real property for such purposes; to apply for licenses, permissions, regulatory approvals, and the like; and to do all other things necessary or convenient to carry out such power;~~

~~(9.1) To operate and cause to be operated one or more child care or child development centers; to make contracts with public and private individuals and entities for the operation of such center or centers; to purchase, rent, lease, sell, or otherwise acquire and dispose of personal and real property for the operation of such center or centers; and to apply for and obtain all such licenses, permissions, regulatory approvals, and similar matters for the operation of such center or centers;~~

~~(10)(9) To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of this state; and~~

~~(11)(10) To do all things necessary or convenient to carry out the powers expressly given in this chapter."~~

## SECTION 6.

Said title is further amended by repealing in its entirety Article 6 of Chapter 9, relating to the inventory of state buildings which reads as follows:

### "ARTICLE 6

#### 50-9-110.

As used in this article, the term:

(1) 'Authority' means the Georgia Building Authority.

(2) 'State' means the State of Georgia and any of its offices, agencies, authorities, departments, commissions, boards, divisions, instrumentalities, and institutions but does not include counties, municipalities, school districts, other units of local government, hospital authorities, or housing and other local authorities.

(3) 'State building' means a building owned by the state or under the custody or control of the state or insured by the program of self-insurance established under Code Sections 50-16-8 through 50-16-11.

(4) 'State entity' means either of the entities listed in paragraph (2) of this subsection.

#### 50-9-111.

(a) Beginning July 1, 1999, each state entity shall compile information on all state buildings under the custody or control of such state entity necessary for the compilation of an inventory of all state owned or leased buildings; provided, however, that all improvements acquired for public works that will ultimately be disposed of are excluded from the requirements of this article. On or before October 1, 1999, and as changes occur, but by no later than such date annually, each state entity shall send such information to the authority. The authority shall compile the information in an electronic format and produce a report to the chairperson of the State Institutions and Property Committee of the Georgia House of Representatives and to the chairperson of

the Finance and Public Utilities Committee of the Georgia Senate.

(b) The inventory shall be accomplished by the completion of a form for each state building under the custody or control of such state entity. The form shall be designed and promulgated by the authority.

(c) The inventory required by subsection (a) of this Code section shall include, as a minimum, the following:

- (1) The name of the building or another description identifying the building;
- (2) The location of the building;
- (3) The name of the building manager or, in the case of a state building which is leased to a tenant who is responsible for the operation of the building, the tenant or the tenant's building manager;
- (4) The square footage of the building;
- (5) Information as to whether such building is currently in use by the state entity or is being leased to a private tenant by such state entity;
- (6) The nature of the use of the building at the time inventory is made;
- (7) Estimation of the building's fair market value or replacement value at the time inventory is made, and if the building is leased to a private tenant who is responsible for the operation of the building, an estimation of the fair market value of the building at the time the lease agreement was executed;
- (8) Information on major building components, such as electrical, mechanical, structural, roof, elevators, escalators, underground storage tanks, emergency generators, boilers, and life safety systems, and their estimated expected life;
- (9) Information on the age of the building and its historic significance, if any;
- (10) Information on the accessibility of the building and grounds;
- (11) Information on energy consumption and utility connections and usage; and
- (12) Other information required by the authority, the chairperson of the State Institutions and Property Committee of the Georgia House of Representatives, or the chairperson of the Finance and Public Utilities Committee of the Georgia Senate."

#### SECTION 7.

Said title is further amended by adding a new paragraph immediately following paragraph (1) of Code Section 50-16-31, relating to the definitions regarding the State Properties Code, to be designated paragraph (1.1), to read as follows:

"(1.1) 'Administrative space' means any space, whether existing or to be constructed, that is required by a state entity for office, storage, or special purposes and that is required for the core mission of such state entity. In order to be required, the space must be necessary for and utilized in either:

- (A) The performance of the duties that the state entity is obligated by law to perform; or
- (B) The delivery of the services that the state entity is authorized or required by law to provide."

**SECTION 8.**

Said title is further amended by adding a new paragraph immediately following paragraph (3) of Code Section 50-16-31, relating to the definitions regarding the State Properties Code, to be designated paragraph (3.1), to read as follows:

"(3.1) 'Entities' or 'entity' means any and all constitutional offices, as well as all authorities, departments, divisions, boards, bureaus, commissions, agencies, instrumentalities, or institutions of the state."

**SECTION 9.**

Said title is further amended by striking Code Section 50-16-32, relating to creation, membership, and organization of the State Properties Commission, and inserting in its place a new Code Section 50-16-32, to read as follows:

"50-16-32.

(a) There is created within the executive branch of state government a public body which shall be known as the State Properties Commission and which shall consist of ~~ten~~ seven members and be composed of the Governor; the Secretary of State; the state accounting officer; one citizen appointed by the Governor for terms ending on April 1 in each odd-numbered year; the director of the Office of Treasury and Fiscal Services; the state auditor; three citizens one citizen appointed by the Speaker of the House of Representatives for terms ending on April 1 in each odd-numbered year; and three citizens one citizen appointed by the Lieutenant Governor for terms ending on April 1 in each odd-numbered year. The term of office of the appointed members of the commission is continued until their successors are duly appointed and qualified. The Lieutenant Governor may serve as an appointed citizen member.

(b) The Governor shall be the chairperson of the commission, the state auditor state accounting officer shall be its vice chairperson, and the Secretary of State shall be its secretary. ~~Six~~ Four members of the commission shall constitute a quorum. No vacancy on the commission shall impair the right of the quorum to exercise the powers and perform the duties of the commission. With the sole exception of acquisitions of real property, which acquisitions shall require ~~six~~ four affirmative votes of the membership of the commission present and voting at any meeting, the business, powers, and duties of the commission may be transacted, exercised, and performed by a majority vote of the commission members present and voting at a meeting when more than a quorum is present and voting or by a majority vote of a quorum when only a quorum is present and voting at a meeting. An abstention in voting shall be considered as that member not being present and not voting in the matter on which the vote is taken. No person may be appointed, elected, or serve on the commission who is a member of the legislative or judicial branch of government. In the event any ex officio member is determined to be in either the legislative or judicial branch of government, the General Assembly declares that it would have passed this article without such ex officio position on the commission and would have reduced the quorum and vote required of the commission on all actions accordingly.

(c) Meetings shall be held on the call of the ~~chairman~~ chairperson, ~~vice chairman~~ vice

chairperson, or two commission members whenever necessary to the performance of the duties of the commission. Minutes or transcripts shall be kept of all meetings of the commission and in the minutes or transcripts there shall be kept a record of the vote of each commission member on all questions, acquisitions, transactions, and all other matters coming before the commission. The secretary shall give or cause to be given to each commission member, not less than three days prior to the meeting, written notice of the date, time, and place of each meeting of the commission.

(d) The commission shall adopt a seal for its use and may adopt bylaws for its internal government and procedures.

(e) Members of the commission who are also state officials shall receive only their traveling and other actual expenses incurred in the performance of their official duties as commission members. Citizen members shall receive the same expense allowance per day as that received by a member of the General Assembly for each day any such member of the commission is in attendance at a meeting or carrying out official duties of the commission inside or outside the state, plus reimbursement for actual transportation costs while traveling by public carrier or the legal mileage rate for the use of a personal automobile inside or outside the state while attending meetings or carrying out their official duties as members of the commission.

(f) The commission shall receive all assets of and the commission shall be responsible for any contracts, leases, agreements, or other obligations of the Department of Administrative Services under the former provisions of Article 2 of Chapter 5 of this title, the 'State Space Management Act of 1976.' The commission is substituted as a party to any such contract, agreement, lease, or other obligation and the same responsibilities respecting such matters as if it had been the original party and is entitled to all prerogatives, benefits, and rights of enforcement by the commissioner of administrative services and Department of Administrative Services. Appropriations and other funds of the Department of Administrative Services encumbered, required, or held for functions transferred to the commission shall be transferred to the commission as provided for in Code Section 45-12-90, relating to disposition of appropriations for duties, purposes, and objects which have been transferred. Personnel, equipment, and facilities previously employed by the Department of Administrative Services for such transferred functions shall likewise be transferred to the commission. Upon the effective date of this Code section, all personnel positions authorized by the Department of Administrative Services in fiscal year 2006 for such functions shall be transferred to the commission, and all employees of the department whose positions are transferred by the Department of Administrative Services to the commission shall become employees of the commission in the unclassified service as defined by Code Section 45-20-6."

#### SECTION 10.

Said title is further amended by striking Code Section 50-16-33, relating to assignment of the State Properties Commission to the Department of Administrative Services, and inserting in its place a new Code Section 50-16-33 to read as follows:

"50-16-33.

~~The State Properties Commission is assigned to the Department of Administrative Services for administrative purposes only as prescribed in Code Section 50-4-3 Reserved."~~

### SECTION 11.

Said title is further amended by striking paragraph (17) of Code Section 50-16-34, relating to the providing or performing of acquisition related services to or for state agencies, state authorities, and other instrumentalities of the state, and inserting in its place a new paragraph (17) of Code Section 50-16-34 to read as follows:

"(17) Provide or perform acquisition related services to or for ~~state agencies, state authorities, and other instrumentalities of the state~~ all state entities."

### SECTION 12.

Said title is further amended by striking subsection (a) of Code Section 50-16-35, relating to the employment of personnel by the State Properties Commission and the authority and duties of the executive director, and inserting in its place a new subsection (a) to read as follows:

"(a)(1) The Governor shall appoint a state property officer who shall serve as the executive director of the commission. The state property officer shall:

(A) Advise the Governor on opportunities to achieve the goal of state-wide real property management;

(B) Develop policies and procedures for state-wide real property management;

(C) Maintain a state-wide real property management system that has consolidated real property, building, and lease information for state entities;

(D) Develop and maintain a centralized repository of comprehensive space needs for all state entities including up-to-date space and resource utilization, anticipated needs, and recommended options;

(E) With the advice and counsel of state entities, board members, and industry groups, provide state-wide policy leadership, recommending legislative, policy, and other similar changes and coordinating master planning to guide and organize capital asset management;

(F) As needed, secure portfolio management expertise to accomplish the desired policy outcomes;

(G) Seek the cooperation of all state entities to increase the effectiveness of the portfolio management approach; and

(H) Provide assistance to all entities in achieving space and real property reporting requirements, in accordance with state law, in the acquisition and disposition of real property and leases, and in evaluating compliance and operational practices.

(2) The commission is authorized to employ an executive director and such other employees, on either a full-time or part-time basis, as may be necessary to discharge the duties of the commission. The executive director shall supervise and conduct the

activities of the commission under the commission's direction. Unless the commission or ~~chairman~~ chairperson otherwise directs, the executive director may execute and attest on behalf of the commission any instrument in furtherance of an activity authorized by the commission. Unless the commission, ~~chairman~~ chairperson, or secretary otherwise instructs, the executive director may report the minutes of the commission, keep and affix its seal, attest its instruments, and keep and certify its records."

### SECTION 13.

Said title is further amended by striking Code Section 50-16-38, relating to the acquisition by all state agencies of real property through the State Properties Commission, the procedure for handling acquisition requests, and funds for acquisitions, and inserting in its place a new Code Section 50-16-38, to read as follows:

"50-16-38.

(a) Except for all acquisitions of real property by the Department of Transportation and the Board of Regents of the University System of Georgia, and except for the Department of Natural Resources acquiring by gift parcels of real property, not exceeding three acres each, to be used for the construction and operation thereon of boat-launching ramps, and except for acquisitions of real property by the Department of Technical and Adult Education in connection with student live work projects funded through moneys generated as a result of the sale of such projects, donations, or student supply fees, and except for acquisitions of real property by the commission resulting from transfers of custody and control of real property to the commission by executive order of the Governor or by Act or resolution of the General Assembly, and except as otherwise provided by law, and except as otherwise required by the nature of the transaction conveying real property to the state or any entity thereof:

- (1) All ~~all~~ state agencies entities shall acquire real property through the commission; and
- (2) The title to all real property acquired shall be in the name of the state, except for state authorities which shall hold title in their own name. The conveyance shall have written or printed in the upper right-hand corner of the initial page thereof the name of the state entity for which acquired who is the custodian thereof.

(b) The commission is authorized to establish, and amend when the commission deems it necessary, a procedure to facilitate the handling by the commission of requests for acquisition of real property.

(c) The state agency entity requesting acquisition of real property shall provide all of the funds necessary to acquire the real property."

### SECTION 14.

Said title is further amended by striking Code Section 50-16-41, relating to rental agreements without competitive bidding authorized and limitations, and inserting in its place a new Code Section 50-16-41, to read as follows:

"50-16-41.

(a) Notwithstanding any provisions and requirements of law to the contrary and particularly notwithstanding the requirements of Code Section 50-16-39, the commission is authorized to negotiate, prepare, and enter into in its own name rental agreements whereby a part of the property is rented, without public competitive bidding, to a person for a length of time not to exceed one year and for adequate monetary consideration (in no instance to be less than a rate of \$250.00 per year), which shall be determined by the commission, and pursuant to such terms and conditions as the commission shall determine to be in the best interest of the state. The same property or any part thereof shall not be the subject matter of more than one such rental agreement to the same person unless the commission shall determine that there are extenuating circumstances present which would make additional one-year rental agreements beneficial to the state; provided, however, the same property or any part thereof shall not after April 24, 1975, be the subject matter of more than a total of three such one-year rental agreements to the same person.

(b) The commission is given the authority and charged with the duty of managing the utilization of administrative space by all state entities, except that the Board of Regents of the University System of Georgia and the Georgia Department of Labor may manage their own space but only for leases that are within the State of Georgia and required for their core mission. The commission shall manage in a manner that is the most cost efficient and operationally effective and which provides decentralization of state government. Such management shall include the authority to assign and reassign administrative space to state entities based on the needs of the entities as determined by standards for administrative space utilization promulgated by the commission pursuant to subsection (g) of this Code section and shall include the obligation to advise the Office of Planning and Budget and state entities of cost-effective, decentralized alternatives.

(c) The management of the utilization of administrative space by the commission shall include entering into any necessary agreements to rent or lease administrative space, whether existing or to be constructed, and shall include administrative space rented or leased by a state entity from the Georgia Building Authority or from any other public or private person, firm, or corporation. When it becomes necessary to rent or lease administrative space, the space shall be rented or leased by the commission and assigned to the state entity or entities requiring the space.

(d) If the commission reassigned all or any portion of any administrative space which is leased or rented by one state entity to another state entity, the state entity to which the administrative space is reassigned shall pay to the commission rental charges, as determined by the commission, for the utilization of the space; and the commission shall, in turn, use the rental charges so paid for the purpose of paying or partially paying, as the case may be, the rent or lease payments due the lessor of the administrative space in accordance with the terms of the lease or rent contract existing at the time of the reassignment of the administrative space. Any such payments to a lessor by the commission shall be on behalf of the state entity which is the lessee of the

administrative space reassigned as provided in this Code section.

(e) The management of the utilization of administrative space given to the commission by this Code section shall not be construed to impair the obligation of any contract executed before July 1, 1976, between any state entity and the Georgia Building Authority or between any state entity and any other public or private person, firm, or corporation; and the powers given to the commission by this Code section shall not be implemented or carried out in such a manner as to impair the obligation of any such contract.

(f) The commission is authorized and directed to develop and promulgate standards governing the utilization of administrative space by all state entities which require emphasis on cost effectiveness and decentralization. The standards shall be uniformly applied to all state entities except as otherwise provided by subsection (g) of this Code section, but the standards shall recognize and provide for different types of administrative space required by the various state entities and the different types of administrative space that may be required by a single state entity.

(g) The commission shall be authorized to reassign administrative space to the various state entities in order to bring the utilization of administrative space into conformity with the standards promulgated under subsection (f) of this Code section. Any additional administrative space required by a state entity shall be approved by and obtained through the commission. The commission shall be authorized to grant exceptions to the standards governing the utilization of administrative space when the reassignment of such space would involve unnecessary expenses or the disruption of services being provided by a state entity. The commission shall adopt and promulgate rules and regulations governing the granting of such exceptions, and the rules and regulations shall be uniformly applied by the commission to all state entities requesting an exception to the standards.

(h) For purposes of cost effectiveness and decentralization, the following factors, among other factors, shall be considered:

(1) Dual location of programs within a city should be considered in order to take advantage of possible economies of scale and as a matter of convenience to the general public; or

(2) When all factors are reasonably equivalent, preferences will be given to location of state government programs and facilities in those counties which are determined by the Department of Community Affairs to be the most economically depressed, meaning those 71 tier 1 counties of the state designated as least developed under paragraph (2) of Code Section 48-7-40.

(i) The commission is authorized and directed to promulgate rules and regulations governing budgetary requirements for administrative space utilized by state entities in cooperation with the Office of Planning and Budget whereby the entities shall be accountable in the budgetary process for administrative space assigned to and utilized by them. The budgetary requirements may provide for the payment of rent to the commission by state entities or may otherwise provide procedures for the assessment of rent charges for administrative space utilized by state entities or any combination of the

foregoing.

(j) In addition to the standards and rules and regulations specifically provided for by this Code section, the commission is authorized to adopt such other rules and regulations as may be required to carry out this Code section efficiently and effectively."

### **SECTION 15.**

Said title is further amended by striking Part 1 of Article 6 of Chapter 16, relating to inventory of real property, and inserting in its place a new Part 1 to read as follows:

#### "Part 1

50-16-120.

As used in Code Section 50-16-121 this part, the term:

- (1) 'Entities' or 'entity' means any and all constitutional offices, as well as all authorities, departments, divisions, boards, bureaus, commissions, agencies, instrumentalities, or institutions of the state.
- (4)(2) 'Real property' means any improved or unimproved real property owned by the state and under the jurisdiction of any state official, department, board, bureau, commission, or other state agency, except public road, street, and highway rights of way owned by the Department of Transportation. The words 'real property' also mean real property owned by the following public corporations: the Georgia Building Authority, the Georgia Building Authority (Hospital), the Georgia Building Authority (Markets), the Georgia Building Authority (Penal), the Georgia Education Authority (University), the Georgia Ports Authority, the Jekyll Island—State Park Authority, the Stone Mountain Memorial Association, and the Board of Regents of the University System of Georgia entity.
- (2) 'Department' means any state official, department, board, bureau, commission, or other state agency having real property under its jurisdiction.
- (3) 'Public corporation' means the public authorities listed in paragraph (1) of this Code section, the Stone Mountain Memorial Association, and the Board of Regents of the University System of Georgia.
- (3) 'State' means the State of Georgia and any of its offices, agencies, authorities, departments, commissions, boards, divisions, instrumentalities, and institutions but does not include counties, municipalities, school districts, other units of local government, hospital authorities, or housing and other local authorities.
- (4) 'State facility' means a building owned by the state or under the custody or control of the state or insured by the program of self-insurance established under Code Sections 50-16-8 through 50-16-11.
- (5) 'State lease' means a lease or rental agreement entered into by a state entity for a definite period of time for the use by a state entity of real property or facilities or a lease of state real property or state facilities by a state entity for use by another party.

50-16-121.

(a) All ~~departments and public corporations~~ state entities are directed to maintain at all times a complete current inventory of real property under their jurisdiction. The inventory shall be accomplished by the completion of a form, substantially as follows, for each parcel of real property held by such departments and public corporations:

#### REAL PROPERTY INVENTORY

Date: \_\_\_\_\_  
(Date form completed)

- (1) State Entity Department: \_\_\_\_\_  
(Board, bureau, commission, department, official, or other agency)
- (2) Grantor: \_\_\_\_\_  
(Exactly as it appears on instrument)
- (3) Grantee: \_\_\_\_\_  
(Exactly as it appears on instrument)
- (4) Date of instrument: \_\_\_\_\_
- (5) Acreage: \_\_\_\_\_
- (6) Records, office of the clerk, Superior Court \_\_\_\_\_ County (a) Deed Book \_\_\_\_\_ Folio \_\_\_\_\_ (b) Plat or Map Book \_\_\_\_\_ Folio \_\_\_\_\_
- (7) Location of property: County \_\_\_\_\_ City \_\_\_\_\_ Street address, if applicable, and if not, brief directions to property \_\_\_\_\_
- (8) Type of instrument: (a) Warranty deed ( ), (b) Quitclaim deed ( ), (c) Eminent domain, deed executed ( ), (d) Trustee's deed ( ), (e) Administrator's or Executor's deed ( ), (f) Simple deed, no warranty ( ), (g) Lease ( ), (h) Use permit ( ), (i) Resolution of General Assembly ( ), (j) Deed of gift ( ).
- (9) Kind of conveyance: (a) Fee simple ( ), (b) Other ( ), state terms and conditions
- (10) If acquired by eminent domain by court order and no deed was executed: (a) Name of principal defendant \_\_\_\_\_, (b) Case number \_\_\_\_\_, (c) Date of final judgment \_\_\_\_\_
- (11) Location of original deed \_\_\_\_\_
- (12) Is property surplus? \_\_\_\_\_
- (13) Purchase price of property \_\_\_\_\_
- (14) Purchased with (a) State funds? \_\_\_\_\_, (b) Federal funds? \_\_\_\_\_ (Show percent state & federal)
- (15) Estimated present value: (a) Land \_\_\_\_\_ (b) Improvements \_\_\_\_\_
- (16) Insured for: \$ \_\_\_\_\_ with \_\_\_\_\_ Ins. Co.
- (17) Present use \_\_\_\_\_  
Name of person completing form \_\_\_\_\_  
Title \_\_\_\_\_ Signature \_\_\_\_\_
- (b) The inventory required by subsection (a) of this Code section shall be maintained

current at all times. It shall be the duty of each ~~department and public corporation state entity~~ to file a duplicate of the inventory with the State Properties Commission; and the State Properties Commission shall compile and index all such inventories into a single complete inventory of all real property, but the State Properties Commission shall maintain separate files on the property belonging to the public corporations. It shall be the further duty of each ~~department and public corporation state entity~~ to file with the State Properties Commission a duplicate of each form or other document, as provided in subsection (c) of this Code section, completed by such ~~department or public corporation state entity~~ in maintaining the inventory of the ~~department entity~~ current; and the State Properties Commission shall utilize such forms or other documents to maintain the complete inventory of all real property current.

(c) The State Properties Commission is authorized to devise such forms or other documents as may be necessary to keep the complete inventory of real property current; and it shall be the duty of each ~~department and public corporation state entity~~ to utilize such forms and documents as directed by the State Properties Commission.

(d) The real property inventory form provided in subsection (a) of this Code section shall be completed for each parcel of real property acquired by each ~~department and public corporation state entity~~. The form shall be completed within 30 days after the acquisition of any real property and a duplicate of same shall be forwarded to the State Properties Commission.

50-16-122.

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

(1) 'Real ~~real~~ property' means any real property owned by the state and under the custody of any state ~~official, department, board, bureau, commission, or other state agency entity~~, except public road, street, and highway rights of way and other real property held by the Department of Transportation pursuant to Ga. L. 1919, p. 242, art. 5, Section 5, as amended by Ga. L. 1922, p. 176, Section 1; Ga. L. 1939, p. 188, Section 1; Ga. L. 1945, p. 258, Section 1; and Ga. L. 1953, Jan.-Feb. Sess., p. 421, Section 1. ~~Also expressly excluded from the meaning of 'real property,' as used in this Code section, is all real property held by the Board of Regents of the University System of Georgia and owned by the following public corporations: the Georgia Building Authority, the Georgia Building Authority (Hospital), the Georgia Building Authority (Markets), the Georgia Building Authority (Penal), the Georgia Education Authority (University), the Georgia Ports Authority, the Jekyll Island State Park Authority, and the Stone Mountain Memorial Association.~~

(2) 'Department' means any state official, department, board, bureau, commission, or other state agency having custody of state owned real property.

(b) All real property, the ownership of which is either acquired or disposed of by the state or any ~~department state entity~~ thereof after March 30, 1990, shall be subject to the following requirements:

(1) ~~Except as otherwise provided by law and except as otherwise required by the nature of the transaction conveying real property to the state or any department~~

~~thereof, the title to all real property acquired shall be in the name of the state; but the conveyance shall have written or printed thereon in the upper right-hand corner of the initial page thereof the name of the department for which acquired who is the custodian thereof;~~

(2) (1) The original of any conveyance acquiring real property shall be filed in the office of the State Properties Commission within 30 days after being recorded in the office of the clerk of the superior court of the county or counties wherein the real property is located. When the conveyance is presented to the State Properties Commission for filing, it shall be accompanied by four copies of the recorded plat of the real property conveyed. The State Properties Commission shall index and affix both the commission's stamp and the assigned real property inventory number on the recorded original of the conveyance and all copies of the recorded plat and shall retain the recorded original of the conveyance and two copies of the recorded plat as a part of the permanent real property inventory records kept by such commission; but an exact copy of the recorded original of the conveyance shall be produced by the State Properties Commission and, along with a copy of the recorded plat, forwarded by such commission to the ~~department state entity~~ acquiring the real property;

(3)(2) When real property is acquired by eminent domain and is conveyed to the state by court order or judgment, following recording of the court order or judgment in the deed book records in the office of the clerk of the superior court of the county or counties wherein the real property is located, a certified copy of the recorded court order or judgment, along with four copies of the recorded plat of the real property conveyed, shall be filed in the office of the State Properties Commission. The State Properties Commission shall index and affix both the commission's stamp and the assigned real property inventory number on the certified copy of the recorded court order or judgment and all copies of the recorded plat and shall retain the certified copy and two copies of the recorded plat as a part of the permanent real property inventory records kept by such commission; but an exact copy of the certified copy of the recorded court order or judgment shall be produced by the State Properties Commission and, along with a copy of the recorded plat, forwarded by such commission to the ~~department state entity~~ acquiring the real property;

(4)(3)(A) The original of any fully executed conveyance disposing of real property, except an Act or Resolution Act of the General Assembly, shall be filed in the office of the State Properties Commission before being delivered to the purchaser thereof for recording in the office of the clerk of the superior court of the county or counties wherein the real property is located. When the conveyance is presented to the State Properties Commission for filing, it shall be accompanied by four copies of the plat of the real property conveyed. Though it is encouraged, it is not required that the plat be either already recorded in or eligible to be recorded in the plat book records in the office of the clerk of the superior court of the county or counties wherein the real property is located. The commission shall index and affix both the commission's stamp and the assigned real property inventory number on the original of the conveyance and all copies of the plat. The State Properties Commission shall then

cause the conveyance to be duplicated. The duplicate of the conveyance and two copies of the plat shall be retained by the State Properties Commission as a part of the permanent real property inventory records kept by such commission. The original of the conveyance and a copy of the plat shall be delivered to the purchaser of the real property. Upon receiving the original of the conveyance and a copy of the plat, the purchaser of the real property may then have the original of the conveyance and, if necessary and eligible for recording, the copy of the plat recorded in the office of the clerk of the superior court of the county or counties wherein the real property is located.

(B) The General Assembly may vary or authorize the variance of the requirements of subparagraph (A) of this paragraph in any enactment, including an Act or Resolution Act, authorizing or directing a disposition of real property; and

~~(5)(4)~~ When real property is conveyed by an Act or Resolution Act of the General Assembly, the State Properties Commission shall obtain from the office of the Secretary of State a certified copy of the Act or Resolution Act and retain the same as a part of the permanent real property inventory records kept by such commission. As a part of such retention, the State Properties Commission shall index and affix both the commission's stamp and the assigned real property inventory number on the certified copy of the Act or Resolution Act.

(c) The documents which are required to be maintained by the State Properties Commission as a part of the permanent real property inventory records kept by such commission, as provided by paragraphs (2) through (5) of subsection (b) of this Code section, shall be used by the State Properties Commission in such manner as it shall determine best in maintaining the real property inventory.

50-16-123.

A copy of all conveyances for the acquisition and disposition of real property held or owned by ~~the Board of Regents of the University System of Georgia, the Georgia Building Authority, the Georgia Building Authority (Hospital), the Georgia Building Authority (Markets), the Georgia Building Authority (Penal), the Georgia Education Authority (University), the Georgia Ports Authority, the Jekyll Island State Park Authority, and the Stone Mountain Memorial Association~~ any state entity shall be filed with the State Properties Commission within 30 days after the conveyance in an acquisition has been recorded in the office of the clerk of the superior court in the county in which the land is located and within 30 days after the conveyance in a disposition has been dated, executed, and delivered. When real property is acquired by condemnation by ~~the Board of Regents of the University System of Georgia, the Georgia Building Authority, the Georgia Building Authority (Hospital), the Georgia Building Authority (Markets), the Georgia Building Authority (Penal), the Georgia Education Authority (University), the Georgia Ports Authority, the Jekyll Island State Park Authority, and the Stone Mountain Memorial Association~~ any state entity, a certified copy of the court order vesting title in such ~~board, association, or any such authority~~ state entity shall be filed with the State Properties Commission within 30 days

after the date of the court order.

50-16-124.

Beginning July 1, 2005, each state entity shall compile information on all state facilities, real property, and state leases under the custody or control of such state entity necessary for the compilation of an inventory of all state owned or leased facilities and real property; provided, however, that all improvements acquired for public works that will ultimately be disposed of are excluded from the requirements of this part. On or before October 1, 2005, and as changes occur, but by no later than such date annually, each state entity shall send such information to the commission. The commission shall develop the format for the compilation and reporting of the inventory.

50-16-125

The State Properties Commission is authorized and directed to promulgate such rules and regulations as may be necessary to carry out this part, provided such rules and regulations are not in conflict with this part."

#### **SECTION 16.**

Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended by striking Code Section 34-8-90, relating to authority of the Commissioner of Labor to lease property, and inserting in its place a new Code Section 34-8-90 to read as follows:

"34-8-90.

~~The Commissioner shall have sole authority and responsibility to negotiate for or to enter into any necessary agreements to lease any and all property needed for establishing and maintaining offices for administration of unemployment claims and tax activities and training and placement activities prescribed in the federal Social Security Act, other federal acts, and this chapter and for all other programs which the Commissioner has responsibility for administering under present and future federal laws or by contract. Reserved.~~"

#### **SECTION 16A.**

Code Section 50-16-43 of the Official Code of Georgia Annotated, relating to leasing of state owned lands, is amended by striking paragraph (1) of subsection (j) and inserting in its place a new paragraph (1) to read as follows:

"(1) A written request for a lease and a locational, dimensional, and directional sketch or a plat of survey of the proposed lease premises, prepared at the sole cost and expense of the person requesting the lease, in form and content acceptable to and approved by the commission, and showing and describing thereon the lease premises of the lease, must be received by the commission detailing therein the reason and all the particulars for the request and outlining the purpose and use to be made of any and all products derived from such dredging. If a sketch is submitted to and is approved and accepted by the commission, paragraph (4) (3) of subsection (b) of Code Section 50-16-122, relating to the requirement of the filing with the Secretary of State of a

plat of survey with a conveyance disposing of real property, shall be relaxed; and the Secretary of State in such a transaction shall accept in lieu of the required plat of survey the sketch which was approved and accepted by the commission;"

#### **SECTION 17.**

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

#### **SECTION 18.**

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

Senator Whitehead of the 24th moved that the Senate agree to the House substitute to SB 158.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	E Stephens
Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 48, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 158.

The following bill was taken up to consider House action thereto:

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Senator Wiles of the 37th moved that the Senate adhere to its substitute to HB 244 and that a Conference Committee be appointed.

On the motion, the yeas were 39, nays 0; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Staton of the 18th, Wiles of the 37th and Carter of the 13th.

Senator Harbison of the 15th asked unanimous consent that Senator Hooks of the 14th be excused. The consent was granted, and Senator Hooks was excused.

Senator Stoner of the 6th asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

The Calendar was resumed.

HB 221. By Representatives Burmeister of the 119th, Watson of the 91st, Mosby of the 90th, Morgan of the 39th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, so as to change certain provisions relating to the calculation of child support; to provide guidelines for determining amount of child support to be paid; to provide for factors for apportioning child support obligations; to provide a schedule of basic child support obligation amounts; to change the form of the final judgment in divorce actions to conform such changes in the determination and computation of child support; to remove a certain limitation on petitions to modify alimony and child support; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Harp of the 29th.

Senator Thomas of the 2nd offered the following amendment #1 to HB 221:

By striking the number '15' on line 20 page 28 and inserting in lieu thereof the number "25."

By striking the number '15' on line 25 page 28 and inserting in lieu thereof the number "25."

By striking the phrase "If there is a" from line 29 and striking lines 30 through 34 page 28.

By striking the number '15' on line 4 page 29 and inserting in lieu thereof the number "25."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	Y Stephens
Y Butler	N Johnson	N Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	N Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	N Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
N Golden	Powell	Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	Whitehead
Y Harbison	Schaefner	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 17, nays 31, and the Thomas of the 2nd amendment #1 was lost.

Senator Miles of the 43rd offered the following amendment #2 to HB 221:

By inserting immediately following the word ‘award’ on line 5 of page 29:  
 “and where there is a change in the needs of the child or where the visitation actually  
 exercised differs from the visitation contemplated under the prior award.”

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	N Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
Y Goggans	N Pearson	N Unterman
Y Golden	Y Powell	Walker
N Grant	Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 22, nays 27, and the Miles amendment #2 was lost.

Senators Unterman of the 45th, Thompson of the 5th and Shafer of the 48th offered the following amendment #3 to HB 221:

By striking the number ‘100’ on line 33 page 26 and inserting in lieu thereof the number “121.”

By striking the number ‘100’ on line 6 page 27 and inserting in lieu thereof the number “121.”

By striking the number ‘100’ on line 15 page 27 and inserting in lieu thereof the number “121.”

By striking the number ‘100’ on line 4 page 28 and inserting in lieu thereof the number “121.”

By striking the number ‘100’ on line 8 page 28 and inserting in lieu thereof the number “121.”

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	N Tate
N Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Y Thompson,C
N Douglas	E Moody	N Thompson,S
N Fort	N Mullis	N Tolleson
N Goggans	N Pearson	Y Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	Y Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	Y Williams
N Heath	Y Seay	E Zamarripa
N Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 23, nays 28, and the Unterman et al. amendment #3 was lost.

Senator Miles of the 43rd offered the following amendment #4 to the substitute to HB 221:

By striking lines 4 through 35 of page 2, pages 3 through 30 in their entirety, lines 1 through 17 of page 31, lines 33 through 35 of page 34, pages 35, 36, and 37 in their entirety, and lines 1 through 21 of page 38.

By inserting a new section immediately following line 17 of page 38 to read as following:

**Section 3.**

“The Act shall become effective upon its approval by the Governor or upon its becoming

law without such approval."

By renumbering the sections accordingly.

Senator Miles of the 43rd asked unanimous consent that her amendment #4 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senators Shafer of the 48th, Williams of the 19th, Chapman of the 3rd, Adelman of the 42nd, Schaefer of the 50th and others offered the following amendment #5:

Amend HB 221 by inserting after "require," on line 37 on page 28 the following:

"Where a custodial parent prevails in an upward modification of child support based upon the noncustodial parent's failure to be available and willing to exercise visitation as scheduled under the prior order, reasonable and necessary attorney's fees and expenses of litigation shall be awarded to the custodial parent."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas Fort	E Moody Y Mullis	Thompson,S Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 48, nays 0, and the Shafer et al. amendment #5 was adopted.

Senators Shafer of the 48th, Williams of the 19th, Chapman of the 3rd, Adelman of the 42nd, Schaefer of the 50th and others offered the following amendment #6:

Amend HB 221 by striking "March 1, 2006" on line 33 on page 35 and inserting in lieu thereof "July 1, 2006".

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
Y Goggans	N Pearson	Y Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	Y Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	Y Schaefer	N Wiles
N Harp	N Seabaugh	Y Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 31, nays 20, and the Shafer et al. amendment #6 was adopted.

Senator Harp of the 29th moved that the Senate reconsider its action in adopting the Shafer et al. amendment #6.

On the motion, a roll call was taken, and the vote was as follows:

N Adelman	N Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	E Hooks	N Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Cagle	N Jones	N Tate

Y Carter	Y Kemp	N Thomas,D
N Chance	N Me V Bremen	N Thomas,R
N Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	N Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	N Weber
Y Hamrick	Y Rogers	N Whitehead
N Harbison	N Schaefer	Y Wiles
Y Harp	Y Seabaugh	N Williams
Y Heath	N Seay	E Zamarripa
N Henson	N Shafer,D	

On the motion to reconsider, the yeas were 21, nays 29, the motion lost; and the Senate did not reconsider the Shafer et al. amendment #6.

Senator Powell of the 23rd offered the following amendment to the substitute to HB 221:

By inserting a new section immediately following line 34 of page 37 to read as follows:

#### **SECTION 18.1**

Said Title is further amended by striking Code Section 19-10-1. relating to abandonment of dependent child, and inserting in lieu thereof the following:

“19-10-1.

- (a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter or does not pay child support as ordered by a court for the needs of the child.
- (b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony and shall be imprisoned for not less than one nor more than three years. The felony shall not be reducible to a misdemeanor. Any person, upon conviction of the second offense for violating this Code section, shall be guilty of a high and aggravated misdemeanor and shall be subject to a

fine for not less than \$500.00 nor more than \$1,000.00. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony, ~~and~~ shall be imprisoned for not less than one nor more than three years, ~~and shall be subject to a fine for not less than \$1,000.00 nor more than \$3,000.00,~~ which felony shall be reducible to a misdemeanor. Any person, upon conviction of the fourth or subsequent offense for violating this Code section, shall be guilty of a felony, shall be imprisoned for not less than three nor more than five years, and shall be subject to a fine for not less than \$1,000.00 nor more than \$5,000.00. The husband and wife shall be competent witnesses in such cases to testify for or against the other.

(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.

(d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons

pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child. (h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of majority, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and

conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence."

Senator Powell of the 23rd asked unanimous consent that his amendment #7 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Powell of the 23rd offered the following amendment #8 to the substitute to HB 221:

By inserting a new section immediately following line 34 of page 37 to read as follows:

#### **SECTION 18.1**

Said Title is further amended by striking Code Section 19-10-1. relating to abandonment of dependent child, and inserting in lieu thereof the following:

"19-10-1.

- (a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter or does not pay child support as ordered by a court for the needs of the child.
- (b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it

in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony and shall be imprisoned for not less than one nor more than three years, which felony shall not be reducible to a misdemeanor. Further, the court may order the defendant father or mother's picture to be published in the legal organ of the county. The husband and wife shall be competent witnesses in such cases to testify for or against the other.

(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.

(d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof.

Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child. (h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of majority, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and

the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence."

Senator Powell of the 23rd asked unanimous consent that his amendment #8 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senators Seay of the 34th and Thompson of the 33rd offered the following amendment #9 to HB 221:

By striking lines 24 through 36 of page 26, page 27 in its entirety, and lines 1 through 11 of page 28.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Douglas	E Moody	Y Thompson,S
Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman

Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 20, nays 28, and the Seay, Thompson of the 33rd amendment #9 was lost.

Senator Miles of the 43rd offered the following amendment #10 to HB 221:

By striking lines 4 through 35 of page 2, pages 3 through 31 in their entirety, lines 1 through 5 of page 32, lines 21 through 33 of page 35.

By inserting a new section immediately following line 29 of page 35 to read as following:

### **Section 3.**

“The Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.”

By renumbering the sections accordingly.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	N Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles

N Harp  
N Heath  
Y Henson

N Seabaugh  
Y Seay  
N Shafer,D

N Williams  
E Zamarripa

On the adoption of the amendment, the yeas were 17, nays 33, and the Miles amendment #10 was lost.

Senator Powell of the 23rd offered the following amendment #11 to HB 221:

By inserting a new section immediately following line 29 of page 35 to read as follows:

#### **SECTION 12.1**

Said Title is further amended by striking Code Section 19-10-1. relating to abandonment of dependent child, and inserting in lieu thereof the following:

"19-10-1.

(a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter or does not pay child support as ordered by a court for the needs of the child.  
(b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the second offense for violating this Code section, shall be guilty of a high and aggravated misdemeanor and shall be subject to a fine for not less than \$500.00 nor more than \$1,000.00. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony, and shall be imprisoned for not less than one nor more than three years, and shall be subject to a fine for not less than \$1,000.00 nor more than \$3,000.00, which felony shall not be reducible to a misdemeanor. Any person, upon conviction of the fourth or subsequent offense for violating this Code section, shall be guilty of a felony, shall be imprisoned for not less than three nor more than five years, and shall be subject to a fine for not less than \$1,000.00 nor more than \$5,000.00. The husband and wife shall be competent witnesses in such cases to testify for or against the other.  
(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of

30 days prior to the commencement of prosecution.

(d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child. (h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of majority, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child

support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 23, nays 27, and the Powell amendment #11 was lost.

Senator Powell of the 23rd offered the following amendment #12 to HB 221:

By inserting a new section immediately following line 29 of page 35 to read as follows:

#### **SECTION 12.1**

Said Title is further amended by striking Code Section 19-10-1. relating to abandonment of dependent child, and inserting in lieu thereof the following:

"19-10-1.

- (a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter or does not pay child support as ordered by a court for the needs of the child.
- (b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony and shall be imprisoned for not less than one nor more than three years, which felony shall not be reducible to a misdemeanor. Further, the court may order the defendant father or mother's picture to be published in the legal organ of the county. The husband and wife shall be competent witnesses in such cases to testify for or against the other.
- (c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.
- (d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.
- (e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.
- (f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:
- (1) Where the issue of parentage is to be decided by a jury, where the results of those

blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs. (g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child. (h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court

having jurisdiction thereof at any time before the child or children reach the age of majority, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence."

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	Kemp	Y Thomas,D
N Chance	N Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
Y Goggans	N Pearson	N Unterman

Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	Y Williams
N Heath	Y Seay	E Zamarripa
Y Henson	Shafer,D	

On the adoption of the amendment, the yeas were 22, nays 27, and the Powell amendment #12 was lost.

Senators Adelman of the 42nd and Jones of the 10th offered the following substitute to HB 221:

**A BILL TO BE ENTITLED  
AN ACT**

To provide for legislative findings; to amend Titles 5, 7, 15, and 19 of the Official Code of Georgia Annotated, relating respectively to appeal and error, banking and finance, courts, and domestic relations, so as to change provisions relating to the calculation of child support; to provide for direct appeal in certain domestic relations cases; to change the amount of interest on arrearage of child support; to provide guidelines for determining amount of child support to be paid; to provide for factors for apportioning child support obligations; to provide for definitions; to change the form of the final judgment in divorce actions to conform such changes in the determination and computation of child support; to change provisions relating to petitions to modify alimony and child support; to correct cross-references relating to petitions to modify child support orders; to create the Georgia Child Support Commission; to provide for legislative findings and intent; to provide for composition of the commission and the commission's powers and duties; to provide for compensation of the members of the commission; to provide for officers of the commission; to provide for a quorum for the transaction of business; to provide for reporting; to provide effective dates; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

The General Assembly finds and declares that it is important to assess periodically child support guidelines and determine whether existing guidelines continue to be viable and effective or whether they have failed or ceased to accomplish their original policy objectives. The General Assembly further finds that supporting Georgia's children is vitally important to the citizens of Georgia. Therefore, the General Assembly has determined that it is in the best interests of the state and its citizenry to undertake an

evaluation of the child support guidelines on a continuing basis. The General Assembly declares that it is important that all of Georgia's children are provided with adequate financial support whether the children's parents are living together or not living together. The General Assembly finds that both parents have a continuing obligation with respect to providing financial and emotional stability for their child or children. It is the hope of the members of the General Assembly that all parents work together to advance the best interest of their children.

## **SECTION 2.**

Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended by striking subsection (a) of Code Section 5-6-34, relating to judgments and rulings deemed directly appealable, and inserting in its place the following:

"(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the following judgments and rulings of the superior courts, the constitutional city courts, and such other courts or tribunals from which appeals are authorized by the Constitution and laws of this state:

- (1) All final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35;
- (2) All judgments involving applications for discharge in bail trover and contempt cases;
- (3) All judgments or orders directing that an accounting be had;
- (4) All judgments or orders granting or refusing applications for receivers or for interlocutory or final injunctions;
- (5) All judgments or orders granting or refusing applications for attachment against fraudulent debtors;
- (5.1) Any ruling on a motion which would be dispositive if granted with respect to a defense that the action is barred by Code Section 16-11-184;
- (6) All judgments or orders granting or refusing to grant mandamus or any other extraordinary remedy, except with respect to temporary restraining orders;
- (7) All judgments or orders refusing applications for dissolution of corporations created by the superior courts; and
- (8) All judgments or orders sustaining motions to dismiss a caveat to the probate of a will; and
- (9) All final judgments of child support."

## **SECTION 3.**

Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is amended by striking in its entirety Code Section 7-4-12.1, relating to interest on arrearage of child support, and inserting in lieu thereof the following:

"7-4-12.1.

All awards of child support expressed in monetary amounts shall accrue interest at the rate of 42 7 percent per annum commencing 30 days from the day such award or payment is due. This Code section shall apply to all awards, court orders, decrees, and judgments rendered pursuant to Title 19. It shall not be necessary for the party to whom

the child support is due to reduce any such award to judgment in order to recover such interest. The court shall have discretion in applying or waiving past due interest.

#### **SECTION 4.**

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking subparagraph (c)(2)(A) of Code Section 15-11-28, relating to jurisdiction of juvenile court, and inserting in lieu thereof a new subparagraph (c)(2)(A) to read as follows:

"(A) In any case where a child is alleged to be a deprived child as defined in paragraph (8) of Code Section 15-11-2, the juvenile court upon a finding of deprivation shall have jurisdiction to order temporary child support for such child to be paid by that person or those persons determined to be legally obligated to support such child. In determining such temporary child support, the juvenile court shall apply the child support guidelines provided in Code Section 19-6-15 or 19-6-15.1, as applicable. Where there is an existing order of a superior court or other court of competent jurisdiction setting child support for the child, the juvenile court may order the child support obligor in the existing order to make such payments instead to the caretaker of the child on a temporary basis but shall not otherwise modify the terms of the existing order. A copy of the juvenile court's order shall be filed in the clerk's office of the court that entered the existing order. The juvenile court shall have jurisdiction to order temporary child support for the child to be paid by any other person determined to be legally obligated to support such child."

#### **SECTION 5.**

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended by striking subsection (a) of Code Section 19-5-12, relating to form of judgment and decree in divorce actions, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) This Code section shall apply to all final judgments of divorce entered prior to March 1, 2006. A final judgment of divorce shall be prepared so as to conform to the pleadings and the evidence and may restore a maiden or prior name, if requested. It shall be prepared in form substantially as follows:

#### **FINAL JUDGMENT AND DECREE**

Upon consideration of this case, upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case upon legal principles.

It is considered, ordered, and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into.

Petitioner and Respondent in the future shall be held and considered as separate and

distinct persons altogether unconnected by any nuptial union or civil contract whatsoever and both shall have the right to remarry.

Decree and order entered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

---

Judge, Superior Court"

#### **SECTION 6.**

Said title is further amended by adding a new Code Section 19-5-12.1 to read as follows:  
"19-5-12.1.

(a) This Code section shall apply to all final judgments of divorce entered on and after March 1, 2006. A final judgment of divorce shall be prepared so as to conform to the pleadings and the evidence and may restore a maiden or prior name, if requested. It shall be prepared in form substantially as follows:

#### **FINAL JUDGMENT AND DECREE**

Upon consideration of this case, upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case upon legal principles.

It is considered, ordered, and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into.

Petitioner and Respondent in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or civil contract whatsoever and both shall have the right to remarry.

Decree and order entered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

---

Judge, Superior Court

(b) Where applicable, any one or more of the following clauses shall be included in the form of the judgment:

The court restores to (Petitioner/Respondent) his/her prior or maiden name, to wit:

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.  
The court awards custody of the children of the parties as follows:

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.  
The court fixes alimony as follows:

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(c) In any case which involves the determination of child support, the form of the

judgment shall also include provisions indicating both parties' incomes, the number of children for which support is being provided, the presumptive award calculation, and, if the presumptive award is rebutted, the award amount and the basis for the rebuttal award."

#### SECTION 7.

Said title is further amended by striking subsection (a) of Code Section 19-6-15, relating to guidelines for calculating child support, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) This Code section shall apply to all temporary orders and final verdicts and decrees entered prior to March 1, 2006, and to any modifications of such final verdicts and decrees at any future time after the entry of such final verdicts and decrees. The provisions of this Code section shall not apply with respect to any divorce case in which there are no minor children, except to the limited extent expressly authorized in subsection (e) of this Code section; and in a divorce case in which there are no minor children the requirements of this Code section for findings of fact and inclusion of findings in the verdict or decree shall not apply. In the final verdict or decree, the trier of fact shall specify in what amount and from which party the minor children are entitled to permanent support. The final verdict or decree shall further specify as required by Code Section 19-5-12 in what manner, how often, to whom, and until when the support shall be paid. The final verdict or decree shall further include a written finding of the gross income of the father and the mother and the presence or absence of special circumstances in accordance with subsection (c) of this Code section. The trier of fact must also determine whether the accident and sickness insurance for the child or the children involved is reasonably available at reasonable costs through employment related or other group health insurance policies to an obligor. For purposes of this Code section, accident and sickness coverage shall be deemed available if the obligor has access to any policy of insurance authorized under Title 33 through an employer or other group health insurance plan. If the accident and sickness insurance is deemed available at reasonable cost, the court shall order the obligor to obtain the coverage; provided, however, if the obligee has accident and sickness insurance for the child or children reasonably available at reasonable costs through employment related or other group health insurance policies, then the court may order that the child or children be covered under such insurance and the obligor contribute as part of the child support order such part of the cost of providing such insurance or such part of any medical expenses incurred on behalf of the child or children not covered by such insurance as the court may deem equitable or appropriate. If currently unavailable or unreasonable in cost, the court shall order the obligor to obtain coverage when it becomes available at a reasonable cost, unless such insurance is provided by the obligee as provided in this subsection. When support is awarded, the party who is required to pay the support shall not be liable to third persons for necessities furnished to the children embraced in the verdict or decree. In any contested case, the parties shall submit to the court their proposed findings regarding the gross income of the father and the mother and the

presence or absence of special circumstances. In any case in which child support is determined by a jury, the court shall charge the provisions of this Code section and the jury shall be required to return a special interrogatory similar to the form of the order contained in Code Section 19-5-12 regarding the gross income of the father and the mother and the presence or absence of special circumstances. Furthermore, nothing contained within this Code section shall prevent the parties from entering into an enforceable agreement to the contrary which may be made the order of the court pursuant to the review by the court of child support amounts contained in this Code section; provided, however, any such agreement of the parties shall include a written statement regarding the gross income of the father and the mother and the presence or absence of special circumstances in accordance with subsection (c) of this Code section."

#### **SECTION 8.**

Said title is further amended by adding a new Code Section 19-6-15.1 to read as follows:  
"19-6-15.1.

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

- (1) 'Adjusted gross income' means the net determination of a parent's income, calculated by deducting from that parent's gross income any applicable self-employment taxes being paid by the parent and any preexisting child support order for current child support which is being paid by the parent.
- (2) 'Adjusted support obligation' means the basic child support obligation from the child support obligation table, adjusted for parenting time, health insurance, and work related child care expenses.
- (3) 'Basic child support obligation' means the amount of support displayed on the child support obligation table which corresponds to the combined adjusted gross income of both parents and the number of children for whom support is being determined. This amount is rebuttably presumed to be the appropriate amount of basic child support to be provided by both parents in the case immediately under consideration, prior to consideration of any adjustments for parenting time or additional expenses.
- (4) 'Caretaker' means the person or entity providing care and supervision of a child more than 50 percent of the time. The caretaker may be the child's custodial parent. The caretaker may be a parent of the child or a nonparent relative of the child who voluntarily or otherwise, pursuant to court order or other legal arrangement, is providing care and supervision of the child. A caretaker may also be a private or public agency providing custodial care and supervision for the child through voluntary placement by the child's parent, nonparent relative, or other designated caretaker or by court order or other legal arrangement.
- (5) 'Child support obligation table' means the chart created by the Georgia Child Support Commission which displays the dollar amount of the basic child support obligation corresponding to various levels of combined adjusted gross income of the children's parents and the number of children for whom a child support order is being

established or modified. The table shall be used to calculate the basic child support obligation according to the provisions of this Code section. Deviations from the table shall comply with the requirements of this Code section.

(6) 'Combined adjusted gross income' means the amount of adjusted gross income calculated by adding together the adjusted gross incomes of both parents. This amount is then used to determine the basic child support obligation for both parents for the number of children for whom support is being calculated in the case immediately under consideration.

(7) 'Credit worksheet' means the worksheet used for listing information regarding a parent's preexisting child support order and self-employment tax.

(8) 'Custodial parent' means the parent with whom the child or children resides more than 50 percent of the time. The term also means a nonparent caretaker who has been given physical custody of the child or children. If each parent spends exactly 50 percent of the time with the child or children, then the court shall designate the parent with the lesser child support obligation as the custodial parent and the other parent as the noncustodial parent. If a custodial parent has not been designated, the caretaker with whom the child resides more than 50 percent of the time shall be the custodial parent.

(9) 'Day' or 'days' means that a child spends more than 12 hours of a calendar day with or under the control of a parent and that parent expends a reasonable amount of resources on the child during such time period, such as the cost of a meal or other costs directly related to the care and supervision of the child. Partial days of parenting time that are not consistent with this definition shall not be considered a 'day' under the child support guidelines. A 'day' under the control of a parent includes a day the child is not in the parent's home, but is under the parent's control, for example, with the parent's permission at camp or with friends.

(10) 'Final child support order' means the presumptive child support order adjusted by any deviations ordered by the court.

(11) 'Health insurance' means accident, sickness, health, medical, or dental insurance.

(12) 'Noncustodial parent' means the parent with whom the child resides less than 50 percent of the time.

(13) 'Parenting time adjustment' means an adjustment to the noncustodial parent's portion of the basic child support obligation based upon the noncustodial parent's parenting time with the child.

(14) 'Percentage of income' for each parent is obtained by dividing each parent's adjusted gross income by the combined total of both parents' adjusted gross income. The percentage of income is used to determine each parent's pro rata share of the basic child support obligation and each parent's share of the amount of additional expense for health insurance and work related child care. The percentage of income is also used to designate the amount of uninsured medical expenses that each parent is financially responsible to pay, absent an order of a court setting a different amount.

(15) 'Preexisting orders' means:

(A) An order in another case that requires a parent to make child support payments

for another child or children, which child support the parent is actually paying, as evidenced by documentation including, but not limited to, payment history from a court clerk, Title IV-D agency, as defined in Code Section 19-6-31, the Department of Human Resources computer system, the department's Internet child support payment history, or canceled checks or other written proof of payments paid directly; and

(B) That the date of filing of the initial order for each such other case is earlier than the date of filing of the initial order in the case immediately before the court, regardless of the age of any child in any of the cases.

(16) 'Presumptive child support order' means the amount of support to be paid for the child or children derived from the parent's proportional share of the basic child support obligation, adjusted for parenting time, plus the parent's proportional share of any additional expenses. This amount is rebuttably presumed to be the appropriate child support order.

(17) 'Pro rata' means the proportion of one parent's adjusted gross income to both parents' combined adjusted gross income, or the proportion of one parent's support obligation to the whole support obligation. A parent's pro rata share of income is calculated by combining both parents' adjusted gross income and dividing each parent's separate adjusted gross income by the combined adjusted gross income. A parent's pro rata share of the basic support obligation is calculated by multiplying the basic child support obligation obtained from the child support obligation table by each parent's pro rata percentage of the combined adjusted gross income.

(18) 'Split parenting' can only occur in a child support case if there are two or more children of the same parents, where one parent is the custodial parent for at least one child of the parents, and the other parent is custodial parent for at least one other child of the parents. In a split parenting case, each parent is the custodial parent of any child spending more than 50 percent of the time with that parent and is the noncustodial parent of any child spending more than 50 percent of the time with the other parent. A split parenting situation will have two custodial parents and two noncustodial parents, but no child will have more than one custodial parent or noncustodial parent.

(19) 'Standard parenting' means a child support case in which all of the children supported under the order spend more than 50 percent of the time with the same custodial parent. There is only one custodial parent and one noncustodial parent in a standard parenting case.

(20) 'Theoretical support order' means a hypothetical order which allows the court to determine the amount of a child support obligation if an order existed. A theoretical support order is used to determine the amount of credit allowed as a deduction from a parent's gross income for a parent's qualified other child or children who are not under a preexisting child support order.

(21) 'Uninsured health care expenses' means the child's or children's uninsured medical expenses including, but not limited to, health insurance copayments, deductibles, and such other costs as are reasonably necessary for orthodontia, dental

treatment, asthma treatments, physical therapy, vision care, and any acute or chronic medical or health problem or mental health illness, including counseling and other medical or mental health expenses, that are not covered by insurance.

(22) 'Work related child care costs' means expenses for the care of the child or children for whom support is being determined which are due to employment of either parent. In an appropriate case, the court may consider the child care costs associated with a parent's job search or the training or education of a parent necessary to obtain a job or enhance earning potential, not to exceed a reasonable time as determined by the court, if the parent proves by a preponderance of the evidence that the job search, job training, or education will benefit the child or children being supported. The term shall be projected for the next consecutive 12 months and averaged to obtain a monthly amount.

(23) 'Worksheet' or 'child support worksheet' means the worksheet used to record information necessary to determine and calculate gross income and child support.

(b)(1) The child support guidelines contained in this Code section are a minimum basis for determining child support obligations and shall apply as a rebuttable presumption in all legal proceedings involving the child support obligation of a parent, including, but not limited to, orders entered in criminal and juvenile proceedings, orders entered pursuant to Article 3 of Chapter 11 of this title, the 'Uniform Interstate Family Support Act,' and voluntary support agreements and consent orders approved by the court. The child support guidelines do not apply to orders for prior maintenance for reimbursement of child care costs incurred prior to the date an action for child support is filed or to child support orders entered against stepparents or other persons or agencies secondarily liable for child support. The child support guidelines shall be used when the court enters a temporary or permanent child support order in a contested or noncontested hearing. The rebuttable presumption award provided by these child support guidelines may be increased according to the best interest of the child for whom support is being considered, the circumstances of the parties, the grounds for deviation set forth in subsection (i) of this Code section, and to achieve the state policy of affording to children of unmarried parents, to the extent possible, the same economic standard of living enjoyed by children living in intact families consisting of parents with similar financial means.

(2) The provisions of this Code section shall not apply with respect to any divorce case in which there are no minor children, except to the limited extent authorized by subsection (d) of this Code section. In the final judgment or decree in a divorce case in which there are minor children, or in other cases which are governed by the provisions of this Code section, the court shall:

- (A) Specify in what amount and from which party the minor children are entitled to permanent support as determined by use of the worksheets;
- (B) Specify as required by Code Section 19-5-12 in what manner, how often, to whom, and until when the support shall be paid;
- (C) Include a written finding of the gross income of the father and the mother as determined by the factfinder;

- (D) Determine whether health insurance for the child or children involved is reasonably available at a reasonable cost to either parent. If the insurance policy is reasonably available at a reasonable cost to the parent, then the court may order that the child or children be covered under such insurance; and
- (E) Include written findings of fact as to whether one or more of the deviations allowed under this Code section are applicable; and if one or more such deviations are applicable, the written findings of fact shall further set forth:
- (i) The reasons the court deviated from the presumptive amount of child support;
  - (ii) The amount of child support that would have been required under the child support guidelines if the presumptive amount had not been rebutted; and
  - (iii) A finding that states how application of the child support guidelines would be unjust or inappropriate in the case immediately under consideration considering the relative ability of each parent to provide support and how the best interests of the child or children who are subject to the support award determination are served by deviation from the presumptive guideline amount.
- (3) When support is awarded, the party who is required to pay the support shall not be liable to third persons for necessities furnished to the child or children embraced in the judgment or decree. In any contested case, the parties shall submit to the court their worksheets and the presence or absence of other factors to be considered by the court pursuant to the provisions of this Code section. In any case in which the gross incomes of the father and the mother are determined by a jury, the court shall charge the provisions of this Code section applicable to the determination of gross income and the jury shall be required to return a special interrogatory. Based upon the jury's verdict as to gross income, the court shall determine the child support obligation in accordance with the provisions of this Code section.
- (4) Nothing contained within this Code section shall prevent the parties from entering into an enforceable agreement to the contrary which may be made the order of the court pursuant to the review by the court of the adequacy of the child support amounts negotiated by the parties, including the provision for medical expenses and health insurance; provided, however, that if the agreement negotiated by the parties does not comply with the provisions contained in this Code section and does not contain findings of fact as required to support a deviation, the court shall reject such agreement. To assist in this determination by the court, the parties shall provide all child support worksheets utilized by the parties to determine the child support amounts proposed in the agreement.
- (c) In the event of a hearing or trial on the issue of child support, the guidelines enumerated in this Code section are intended by the General Assembly to be guidelines only and any court so applying these guidelines shall not abrogate its responsibility in making the final determination of child support based on the evidence presented to it at the time of the hearing or trial.
- (d) The duty to provide support for a minor child shall continue until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs; provided, however, that, in any temporary or final order for child support with respect

to any proceeding for divorce, separate maintenance, legitimacy, or paternity entered on or after March 1, 2006, the court, in the exercise of sound discretion, may direct either or both parents to provide financial assistance to a child who has not previously married or become emancipated, who is enrolled in and attending a secondary school, and who has attained the age of majority before completing his or her secondary school education, provided that such financial assistance shall not be required after a child attains 20 years of age. The provisions for support provided in this subsection may be enforced by either parent or the child for whose benefit the support is ordered.

(e) *Gross income.*

(1)(A) Gross income of each parent shall be determined in the process of setting the presumptive child support order and shall include all income from any source, before deductions for taxes and other deductions such as preexisting child support orders and credits for other qualified children, whether earned or unearned, and includes, but is not limited to, the following:

- (i) Salaries;
- (ii) Commissions, fees, and tips;
- (iii) Income from self-employment;
- (iv) Bonuses;
- (v) Overtime payments;
- (vi) Severance pay;
- (vii) Recurring income from pensions or retirement plans including, but not limited to, Veterans' Administration, Railroad Retirement Board, Keoughs, and individual retirement accounts;
- (viii) Interest income;
- (ix) Dividend income;
- (x) Trust income;
- (xi) Income from annuities;
- (xii) Capital gains;
- (xiii) Disability or retirement benefits that are received from the Social Security Administration pursuant to Title XI of the federal Social Security Act;
- (xiv) Workers' compensation benefits, whether temporary or permanent;
- (xv) Unemployment insurance benefits;
- (xvi) Judgments recovered for personal injuries and awards from other civil actions;
- (xvii) Gifts that consist of cash or other liquid instruments, or which can be converted to cash;
- (xviii) Prizes;
- (xix) Lottery winnings;
- (xx) Alimony or maintenance received from persons other than parties to the proceeding before the court; and
- (xxi) Assets which are used for the support of the family.

(B) Excluded from gross income are the following:

- (i) Child support payments received by either parent for the benefit of a child or

- children of another relationship; and
- (ii) Benefits received from means-tested public assistance programs such as, but not limited to:
- (I) PeachCare for Kids Program, Temporary Assistance for Needy Families, or similar programs in other states or territories under Title IV-A of the federal Social Security Act;
  - (II) Food stamps or the value of food assistance provided by way of electronic benefits transfer procedures by the Department of Human Resources;
  - (III) Supplemental security income received under Title XVI of the federal Social Security Act;
  - (IV) Benefits received under Section 402(d) of the federal Social Security Act for disabled adult children of deceased disabled workers; and
  - (V) Low Income Heating and Energy Assistance Program payments.
- (2)(A) When establishing an initial order of child support, if a parent fails to produce reliable evidence of income, such as tax returns for prior years, check stubs, or other information for determining current ability to support or ability to support in prior years, and the court has no other reliable evidence of the parent's income or income potential, gross income for the current year shall be determined by imputing gross income based on a 40 hour workweek at minimum wage.
- (B) When cases with established orders are reviewed for modification and a parent fails to produce reliable evidence of income, such as tax returns for prior years, check stubs, or other information for determining current ability to support or ability to support in prior years, and the court has no other reliable evidence of that parent's income or income potential, the court may enter an order to increase the child support obligation of the parent failing or refusing to produce evidence of income by an increment of at least 10 percent per year of that parent's pro rata share of the basic child support obligation for each year since the support order was entered or last modified.
- (C) In either circumstance in subparagraph (A) or (B) of this paragraph, either parent may later provide within 90 days, upon motion to the court, the reliable evidence necessary to determine the appropriate amount of support based upon reliable evidence. The court may increase or reduce the amount of current support from the date of filing of either parent's initial filing or motion to modify child support, but arrearages or retroactive amounts entered in an order based upon imputed income shall not be forgiven. When a parent, whose income has been imputed under subparagraph (A) or (B) of this paragraph, provides reliable evidence to support a modification of the amount of income imputed for that parent, the parent is not required to demonstrate the existence of a significant variance otherwise required for modification of an order pursuant to subsection (l) of this Code section.
- (3)(A) Income from self-employment includes income from, but not limited to, business operations, work as an independent contractor or consultant, sales of goods or services, and rental properties, less ordinary and reasonable expenses necessary

to produce such income. Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership, limited liability company, or closely held corporation is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operations. Ordinary and reasonable expenses of self-employment or business operations necessary to produce income do not include:

- (i) Excessive promotional, travel, vehicle, or personal living expenses, depreciation on equipment, or costs of operation of home offices; or
- (ii) Amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the court to be inappropriate for determining gross income.

In general, income and expenses from self-employment or operation of a business should be carefully reviewed by the factfinder and the court to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. Generally, this amount will differ from a determination of business income for tax purposes.

- (B)(i) An additional deduction of 6.2 percent of FICA and 1.45 percent of medicare, or in any amount subsequently set by federal law as FICA and medicare tax, shall be deducted from a parent's gross income earned from self-employment, up to the amounts allowed under federal law.
  - (ii) Any self-employment tax paid shall be deducted from gross income as part of the calculation of a parent's adjusted gross income.
- (4)(A) Fringe benefits for inclusion as income or 'in kind' remuneration received by a parent in the course of employment, or operation of a trade or business, shall be counted as income if they significantly reduce personal living expenses.
- (B) Such fringe benefits might include, but are not limited to, use of a company car, housing, or room and board.
- (C) Basic allowance for housing, basic allowance for subsistence, and variable housing allowances for members of the armed services are considered income for the purposes of determining child support.
- (D) Fringe benefits do not include employee benefits that are typically added to the salary, wage, or other compensation that a parent may receive as a standard added benefit, including, but not limited to, employer paid portions of health insurance premiums or employer contributions to a retirement or pension plan.
- (5)(A) Benefits received under Title XI of the federal Social Security Act by a child on the obligor's account shall be counted as child support payments and shall be applied against the child support obligation ordered to be paid by the obligor for the child.
- (B) If after calculating the obligor's gross income as defined in this subsection, including the countable Social Security benefits in division (1)(A)(xiii) of this subsection, and after calculating the amount of the child support obligation using the child support worksheet, the amount of the child support obligation is greater than

the Social Security benefits paid on behalf of the child on the obligor's account, the obligor shall be required to pay the amount exceeding the Social Security benefit as part of the child support obligation in the case.

(C)(i) If after calculating the obligor's gross income as defined in this subsection, including the countable Social Security benefits in division (1)(A)(xiii) of this subsection, and after calculating the amount of the child support obligation using the child support worksheet, the amount of the child support obligation is equal to or less than the Social Security benefits paid to the caretaker on behalf of the child on the obligor's account, the child support obligation of that parent is met and no further child support obligation shall be paid.

(ii) Any benefit amounts under Title XI of the federal Social Security Act as determined by the Social Security Administration sent to the caretaker by the Social Security Administration for the child's benefit which are greater than the child support obligation ordered by the court shall be retained by the caretaker for the child's benefit and shall not be used as a reason for decreasing the child support order or reducing arrearages.

(D) The court shall make a written finding of fact in the child support order regarding the use of the Social Security benefits in the calculation of the child support obligation.

(6) Variable income such as commissions, bonuses, overtime pay, and dividends shall be averaged by the factfinder over a reasonable period of time consistent with the circumstances of the case and added to a parent's fixed salary or wages to determine gross income. When income is received on an irregular, nonrecurring or one-time basis, the court may, but is not required to, average or prorate the income over a reasonable specified period of time or require the parent to pay as a one-time support amount a percentage of his or her nonrecurring income, taking into consideration the percentage of recurring income of that parent.

(7)(A) A determination of whether a parent is willfully or voluntarily unemployed or underemployed shall ascertain the reasons for the parent's occupational choices and assess the reasonableness of these choices in light of the parent's obligation to support his or her child or children and to determine whether such choices benefit the child or children. A determination of willful and voluntary unemployment or underemployment is not limited to occupational choices motivated only by an intent to avoid or reduce the payment of child support. A determination of willful and voluntary unemployment or underemployment can be based on any intentional choice or act that affects a parent's income.

(B) Factors for the court to consider when determining willful and voluntary unemployment or underemployment include, but are not limited to:

- (i) The parent's past and present employment;
- (ii) The parent's education and training;

(iii) Whether unemployment or underemployment for the purpose of pursuing additional training or education is reasonable in light of the parent's obligation to support his or her child or children and, to this end, whether the training or

education may ultimately benefit the child or children in the case immediately under consideration by increasing the parent's level of support for that child or those children in the future;

(iv) A parent's ownership of valuable assets and resources, such as an expensive home or automobile, that appear inappropriate or unreasonable for the income claimed by the parent; and

(v) The parent's role as caretaker of a handicapped or seriously ill child of that parent, or any other handicapped or seriously ill relative for whom that parent has assumed the role of caretaker, which eliminates or substantially reduces the parent's ability to work outside the home, and the need of that parent to continue in that role in the future.

(C) When considering the income potential of a parent whose work experience is limited due to the caretaker role of that parent, the court shall consider the following factors:

(i) Whether the parent acted in the role of full-time caretaker immediately prior to separation by the married parties or prior to the divorce or annulment of the marriage or dissolution of another relationship in which the parent was a full-time caretaker;

(ii) The length of time the parent staying at home has remained out of the workforce for this purpose;

(iii) The parent's education, training, and ability to work; and

(iv) Whether the parent is caring for a child or children who are four years of age or younger.

(D) If the court determines that a parent is willfully and voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, as evidenced by educational level or previous work experience. In the absence of any other reliable evidence, income may be imputed to the parent pursuant to a determination that gross income for the current year is based on a 40 hour workweek at minimum wage.

(E) A determination of willful and voluntary unemployment or underemployment shall not be made when an individual is activated from the National Guard or other armed forces unit or enlists or is drafted for full-time service in the armed forces of the United States.

(8)(A) An adjustment to the parent's gross income shall be made on the child support worksheet for current preexisting orders actually being paid under an order of support for a period of not less than 12 consecutive months immediately prior to the date of the hearing before the court to set, modify, or enforce child support.

(B) In calculating the adjustment for preexisting orders, the court shall include only those preexisting orders where the date of entry of the initial support order precedes the date of entry of the initial order in the case immediately under consideration.

(C) The priority for preexisting orders is determined by the date of the initial order in each case. Subsequent modifications of the initial support order shall not affect the priority position established by the date of the initial order.

(D) Adjustments are allowed for current preexisting support only to the extent that the payments are actually being paid as evidenced by documentation including, but not limited to, payment history from a court clerk, a Title IV-D agency, as defined in Code Section 19-6-31, the Department of Human Resources computer system, the department's Internet child support payment history, or canceled checks or other written proof of payments paid directly. The maximum credit allowed for a preexisting order is an average of the amount of current support actually paid under the preexisting order over the past 12 months prior to the hearing date.

(E) All preexisting orders shall be entered on the credit worksheet for the purpose of calculating the total amount of the credit to be included on the child support worksheet, but the preexisting orders shall not be used on the credit worksheet as a deduction against gross income for the purpose of calculating a theoretical child support order.

(F) Payments being made by a parent on any arrearages shall not be considered payments on preexisting or subsequent orders and shall not be used as a basis for reducing gross income.

(9)(A) In addition to the adjustments to gross income for self-employment tax provided in subparagraph (B) of paragraph (3) of this subsection and for preexisting orders provided in paragraph (8) of this subsection, credits for either parent's other child or children qualified under this paragraph may be considered by the court for the purpose of reducing the parent's gross income or as a reason for deviation. Credits may be considered for a qualified child:

- (i) For whom the parent is legally responsible and in whose home that child resides;
- (ii) The parent is actually supporting;
- (iii) Who is not subject to a preexisting order for child support; and
- (iv) Who is not before the court to set, modify, or enforce support in the case immediately under consideration.

Stepchildren and other minors in the home that the parent has no legal obligation to support shall not be considered in the calculation of this credit. To consider a parent's qualified other child or children for credit, a parent must present documentary evidence of the parent-child relationship to the court.

(B) Credits against income pursuant to this paragraph may be considered in such circumstances in which the failure to consider such child or children would cause substantial hardship to the parent. Use of this credit is appropriate when a child support order is entered. Credits may also be appropriate when a child support order is modified to rebut a claim for increased child support brought by the custodial parent. If the court, in its discretion, decides to apply this credit, a parent's current financial responsibility for his or her natural or adopted child or children who currently reside with the parent, other than a child or children for whom child support is being determined in the pending action, can be no greater than an amount (i) equal to the basic child support obligation for that child or those children based on the parent's income if the other parent of such child or children does not live

with the parent and child or children or (ii) one-half of the basic child support obligation for such child or children based on the combined incomes of both of the parents of such child or children if the other parent of such child or children lives with the parent and the child or children.

(C) Credits against income for another qualified child or other qualified children shall be calculated and recorded on the credit worksheet and then entered on the child support worksheet for the purpose of reducing the parent's gross income on the child support worksheet. However, except for self-employment taxes paid, no other amounts shall be subtracted from the parent's gross income on the credit worksheet when calculating a theoretical support order under this paragraph.

(10) Actual payments of alimony should not be considered as a deduction from gross income but may be considered as a factor to vary from the final presumptive child support order. If the court considers the actual payment of alimony, the court shall make a written finding of such consideration as a basis for deviation from the final presumptive child support order.

(11) In multiple family situations, the adjustments to a parent's gross income shall be calculated in the following order:

(A) Preexisting orders according to the date of the initial order; and

(B) After applying the deductions on the child support worksheet for preexisting orders, if any, in subparagraph (E) of paragraph (8) of this subsection, any credit for a parent's qualified other child or children may be considered using the procedure set forth in subparagraph (A) of this paragraph.

(f) The basic child support obligation is determined based upon the parent's gross income and by using the corresponding child support obligation table as established and maintained by the Georgia Child Support Commission. If the combined monthly adjusted gross income falls between the amounts shown in the table, then the child support obligation shall be based on the income bracket mostly closely matched to the combined monthly adjusted gross income. The number of children column on the table corresponds to children for whom parents share joint legal responsibility and for whom support is being sought.

(g)(1) The child support obligation table does not include the cost of the child's work related child care costs or the cost of health insurance premiums or uninsured health expenses. The additional expenses for the child's health insurance premium and work related child care shall be included in the calculations to determine child support.

(2)(A) Work related child care expenses necessary for the parent's employment, education, or vocational training that are determined by the court to be appropriate, and that are appropriate to the parents' financial abilities and to the lifestyle of the child or children if the parents and child or children were living together, shall be averaged for a monthly amount and entered on the child support worksheet in the column of the parent initially paying the expense. Work related child care expenses of a nonparent caretaker shall be considered when determining the amount of this expense.

(B) If a child care subsidy is being provided pursuant to a means-tested public

assistance program, only the amount of the child care expense actually paid by either parent shall be included in the calculation.

(C) If either parent is the provider of child care services to the child or children for whom support is being determined, the value of those services shall not be added to the basic child support obligation when calculating the support award.

(D) If child care is provided by a family member, other unpaid person, or provided by a parent's employer without charge to the parent, then the value of these services shall not be added to the basic child support obligation.

(3)(A) The amount that is, or will be, paid by a parent for health insurance for the child or children for whom support is being determined shall be added to the basic child support obligation and prorated between the parents based upon their respective incomes. Payments made by a parent's employer for health insurance and not deducted from the parent's wages are not included. When a child or children for whom support is being determined are covered by a family policy, only the health insurance premium actually attributable to that child or those children is added. If this amount is not available or cannot be verified, the total cost of the premium shall be divided by the total number of persons covered by the policy and then multiplied by the number of covered children for whom support is being determined.

(B) The amount of the cost for the child's or children's health insurance premium and work related child care expenses shall be determined and added to the basic child support obligation as 'additional expenses' whether paid directly by the parent or through a payroll deduction.

(C) The total amount of the cost for the child's or children's health insurance premium and work related child care shall be divided between the parents pro rata to determine the total presumptive child support order and shall be included in the worksheet and written order of the court together with the amount of the basic child support obligation.

(4)(A) If health insurance that provides for the health care needs of the child or children can be obtained by a parent at reasonable cost, then an amount to cover the cost of the premium shall be added to the basic child support obligation. A health insurance premium paid by a nonparent caretaker shall be included when determining the amount of this expense. In determining the amount to be added to the order for this cost, only the amount of the insurance cost attributable to the child or children who are the subject of the support order shall be included.

(B) If coverage is applicable to other persons and the amount of the health insurance premium attributable to the child or children who are the subject of the current action for support is not verifiable, the total cost to the parent paying the premium shall be prorated by the number of persons covered so that only the cost attributable to the child or children who are the subject of the order under consideration is included. This amount shall be determined by dividing the total amount of the insurance premium by the number of persons covered by the insurance policy and taking the resulting amount and multiplying it by the number

of children covered by the insurance policy. This monthly cost shall be entered on the child support worksheet in the column of the parent paying the premium.

(C) Eligibility for or enrollment of the child or children in Medicaid shall not satisfy the requirement that the child support order provide for the child's or children's health care needs.

(h)(1) The court shall determine each parent's pro rata share of the additional expenses by multiplying the percentage of income of each parent by the combined total additional expenses.

(2)(A) In standard parenting situations, the adjusted support obligation is the parent's share of the basic child support obligation plus the parent's share of any additional expenses for the child's or children's health insurance premium and work related child care.

(B) In split parenting situations, the adjusted support obligation is each parent's basic child support obligation for the child or children in the other parent's care plus each parent's share of any additional expenses for the child or children's health insurance premium and work related child care.

(C) If a parenting time adjustment has been calculated in either a standard or split parenting situation and that parent's share of the basic child support obligation is adjusted as specified in paragraph (5) of this subsection, then each parent's adjusted support obligation is calculated pursuant to this paragraph.

(3)(A) If a parent pays directly or through payroll deduction the child's or children's health insurance premium, or pays through payroll deduction work related child care costs, the total amount of the expenses paid in this manner shall first be entered on the child support worksheet to be used in calculating total additional expenses and each parent's adjusted support obligation.

(B) Once the adjusted support obligation has been calculated, the expenses paid by the parent as indicated in subparagraph (A) of this paragraph shall be deducted from the adjusted support obligation of that parent to credit the parent for the payment of these expenses. The amount of the deduction for the health insurance premium or payroll deduction for the work related child care expense shall be included in the child support order to identify the amount and nature of the child support obligation. These expenses shall not be included in the noncustodial parent's income deduction order. The order shall require that these expenses continue to be paid in the same manner as they were being paid prior to the instant action.

(C) To the extent that work related child care expenses are not included in subsection (g) of this Code section, the expense shall be accounted for in the noncustodial parent's income deduction order as part of the child support order. The custodial parent shall pay this expense in full out of his or her income and the child support award.

(4)(A) The child's or children's uninsured health expenses, including, but not limited to, deductibles, copayments, and dental, orthodontic, counseling, psychiatric, vision, hearing, and other medical needs not covered by insurance, shall be the financial responsibility of both parents. The order of the court shall include

provisions for payment of the uninsured medical expenses. The parents shall divide these expenses pro rata, unless otherwise specifically ordered by the court.

(B) If a parent fails to pay his or her pro rata share of the child's or children's, uninsured medical expenses, as specified in the child support order, within a reasonable time after receipt of evidence documenting the uninsured portion of the expense, the other parent, the nonparent caretaker, or the state or its Title IV-D agency, as defined in Code Section 19-6-31, may enforce payment of the expense by any means permitted by law.

(5) No adjustment to gross income shall be made in the calculation of a child support obligation which seriously impairs the ability of the custodial parent in the case immediately under consideration to maintain minimally adequate housing, food, and clothing for the child or children being supported by the order and to provide other basic necessities, as determined by the court.

(i)(1) The amount of child support established by this Code section and the child support obligation table are rebuttable, and the court may deviate from the presumptive child support order in compliance with this subsection. In deviating from the child support guidelines, primary consideration shall be given to the best interest of the child or children for whom support under the child support guidelines are being determined.

(2) When ordering a deviation from the presumptive amount of child support established by the child support guidelines, the court's order shall contain written findings of fact stating:

(A) The reasons for the change or deviation from the presumptive child support order;

(B) The amount of child support that would have been required under the child support guidelines if the presumptive child support order had not been rebutted; and

(C) How, in its determination,

(i) Application of the child support guidelines would be unjust or inappropriate in the case immediately under consideration; and

(ii) The best interests of the child for whom support is being determined will be served by deviation from the presumptive child support order.

No deviation in the amount of the child support obligation shall be made which seriously impairs the ability of the custodial parent in the case immediately under consideration to maintain minimally adequate housing, food, and clothing for the child or children being supported by the order and to provide other basic necessities, as determined by the court.

(3)(A) For purposes of this paragraph, parents are considered to be high-income parents if their combined adjusted gross income exceeds \$20,000.00 per month.

(B) For high-income parents, the court shall set the child support obligation at the highest amount allowed by the child support obligation table but may consider upward deviation to attain an appropriate award of child support for high-income parents which is considered in the best interest of the child or children.

(4) Deviation from the child support guidelines may be appropriate for reasons in

addition to those established under subsection (g) of this Code section when the court finds it is in the best interest of the child, in accordance with the requirements of subsection (e) of this Code section and the following procedures:

(A) In making its determination regarding a request for deviation pursuant to this subsection, the court shall consider all available income of the parents and shall make a written finding that an amount of child support other than the amount calculated under the child support guidelines is reasonably necessary to provide for the needs of the child or children for whom support is being determined in the case immediately under consideration. If the circumstances which supported the deviation cease to exist, the child support order may be modified to eliminate the deviation;

(B) In cases where the child or children are in the legal custody of the Department of Human Resources, the child protection or foster care agency of another state or territory, or any other child caring entity, public or private, the court may consider a deviation from the presumptive child support order if the deviation will assist in accomplishing a permanency plan or foster care plan for the child or children that has a goal of returning the child or children to the parent or parents and the parent's or parents' need to establish an adequate household or to otherwise adequately prepare herself or himself or themselves for the return of the child or children clearly justifies a deviation for this purpose;

(C) If parenting time related travel expenses are substantial due to the distance between the parents, the court may order the allocation of such costs by deviation from the basic child support obligation, taking into consideration the circumstances of the respective parties as well as which parent moved and the reason that the move was made; and

(D)(i) The child support obligation table includes average child rearing expenditures for families given the parents' monthly combined income and number of children. Extraordinary expenses are in excess of these average amounts and are highly variable among families. For these reasons, extraordinary expenses, other than the health insurance premium and work related child care, shall be considered on a case by case basis in the calculation of support and added to the basic support award as a deviation so that the actual amount of the expense is considered in the calculation of the final child support order for only those families actually incurring the expense.

(ii)(I) Extraordinary educational expenses may be added to the basic child support as a deviation. Extraordinary educational expenses include, but are not limited to, tuition, room and board, lab fees, books, fees, and other reasonable and necessary expenses associated with special needs education or private elementary and secondary schooling that are appropriate to the parent's financial abilities and to the lifestyle of the child or children if the parents and child or children were living together.

(II) In determining the amount of deviation for extraordinary educational expenses, scholarships, grants, stipends, and other cost reducing programs

received by or on behalf of the child or children shall be considered.

(III) If a deviation is allowed for extraordinary educational expenses, a monthly average of these expenses shall be based on evidence of prior or anticipated expenses and entered on the child support worksheet in the deviation section.

(iii)(I) Special expenses incurred for child rearing, including but not limited to expense variations related to the food, clothing, and hygiene costs of children at different age levels, which can be quantified may be added to the child support obligation as a deviation from the presumptive child support order. Such expenses include, but are not limited to, summer camp, music or art lessons, travel, school sponsored extra curricular activities, such as band, clubs, and athletics, and other activities intended to enhance the athletic, social, or cultural development of a child but are not otherwise required to be used in calculating the child support order as are health insurance premiums and work related child care costs.

(II) A portion of the basic child support obligation is intended to cover average amounts of special expenses incurred in the rearing of a child. When special expenses exceed 7 percent of the monthly basic child support obligation, the court shall consider additional amounts of support as a deviation to cover the full amount of these special expenses.

(iv) In instances of extreme economic hardship, such as in cases involving extraordinary medical needs not covered by insurance or other extraordinary special needs for the child or children of a parent's current family, deviation from the child support guidelines may be considered. In such cases, the court shall consider the resources available for meeting such needs, including those available from agencies and other adults.

(5)(A) For purposes of this paragraph, a parent is considered to be a low-income person if his or her annual gross income is at or below the federal poverty level for a single person.

(B) The court may consider the low income of the custodial parent or the noncustodial parent as a basis for deviation from the guideline amounts.

(C) The court shall consider all nonexempt sources of income available to each party and all expenses actually paid by each party.

(D) The party seeking a low-income deviation shall present to the court documentation of all his or her income and expenses or provide sworn statements of all his or her income and expenses in support of the requested deviation.

(E) The court shall make a written finding in its order that the deviation from the child support guidelines based upon the low income and reasonable expenses of a party are clearly justified and shall make the necessary written findings pursuant to this paragraph.

(F) The court may deviate from the lowest amount of child support provided for in the basic child support guideline table and shall make the necessary written findings if it chooses to deviate.

(j)(1) The child support guidelines presume that when parents live separately, the

child or children will typically reside primarily with the custodial parent and stay overnight with the noncustodial parent a minimum of every other weekend from Friday to Sunday, two weeks in the summer, and two weeks during holidays throughout the year, for a total of 80 days per year. The child support guidelines also recognize that some families may have different parenting situations and thus allow for an adjustment in the noncustodial parent's child support obligation, as appropriate, in compliance with the criteria specified in this subsection. The calculations made for each parenting situation shall be based on specific factual information regarding the amount of time each parent has with the child or children.

(2)(A) If the noncustodial parent spends 100 or more days per calendar year with a child or children, an assumption is made that the noncustodial parent is making greater expenditures on the child or children due to the duplication of some child rearing expenditures between the two households, for example, housing or food, and a reduction to the noncustodial parent's child support obligation may be made to account for these expenses.

(B) The noncustodial parent's child support obligation may be reduced for the days of additional parenting time based upon the following schedule:

<u>Number of Days</u>	<u>Percent Reduction in Support</u>
<u>100-136 days</u>	<u>10 percent</u>
<u>137-151 days</u>	<u>20 percent</u>
<u>152-166 days</u>	<u>30 percent</u>
<u>167-181 days</u>	<u>40 percent</u>
<u>182 or more days</u>	<u>50 percent</u>

(C) The presumption that more parenting time by the noncustodial parent shall result in a reduction to the noncustodial parent's support obligation may be rebutted by evidence.

(D) If there is more than one child in the case with whom the noncustodial parent spends 100 days or more per year, and the noncustodial parent is spending different amounts of time with each child, then the time the noncustodial parent spends with each child shall be averaged to determine the parenting time adjustment.

(3)(A) If the noncustodial parent spends 60 or fewer days per calendar year with a child or children, an assumption is made that the custodial parent is making greater expenditures on the child or children for items such as food and baby-sitting associated with the increased parenting time by the custodial parent, and an increase in the noncustodial parent's child support obligation may be made.

(B) The noncustodial parent's child support obligation may be increased for the reduction in days of the noncustodial parent's parenting time based upon the following schedule:

<u>Number of Days</u>	<u>Percent Increase in Support</u>
<u>60-39 days</u>	<u>10 percent</u>
<u>38-24 days</u>	<u>20 percent</u>
<u>23-9 days</u>	<u>30 percent</u>
<u>8-0 days</u>	<u>35 percent</u>

- (C) The presumption that less parenting time by the noncustodial parent shall result in an increase to the noncustodial parent's support obligation may be rebutted by evidence.
- (D) If there is more than one child in the case with whom the noncustodial parent spends 60 or fewer days per year, and the noncustodial parent is spending different amounts of time with each child, then the time the noncustodial parent spends with each child is averaged to determine the parenting time adjustment.
- (4) If there are additional children for whom support is being calculated with whom the noncustodial parent spends more than 60 days but less than 100 days per calendar year, the days with these children are not included in the calculation for the parenting time adjustment.
- (5) If a child support obligation is being calculated for multiple children, and the noncustodial parent spends 100 days or more per year with at least one child and 60 or fewer days with at least one child, then the percentage increase is offset against the percentage decrease and the resulting percentage is applied to the child support obligation.
- (k) In the event a parent suffers an involuntary termination of employment, has an extended involuntary loss of average weekly hours, is involved in an organized strike, incurs a loss of health, or similar involuntary adversity resulting in a loss of income of 25 percent or more, then the portion of child support attributable to lost income shall not accrue from the date of the filing of the petition for modification, provided that service is made on the other parent.
- (l)(1) The adoption of these child support guidelines constitutes a significant material change in the establishment and calculation of child support orders. In any proceeding to modify an existing order, an increase or decrease of 15 percent or more between the amount of the existing order and the amount of child support resulting from the application of these child support guidelines shall be presumed to constitute a substantial change of circumstances as may warrant a modification based upon the court's considerations of the parent's financial circumstances and the needs of the children. This differential shall be calculated by applying 15 percent to the existing award. If there is a material change in the father's income, the mother's income, the needs of the child or children, or the needs of either parent, either parent shall have the right to petition for modification of the child support award regardless of the length of time since the establishment or most recent modification of the child support award. If there is a difference of 30 percent or more between a new award and a prior

award, the court may, at its discretion, phase in the new child support award over a period of up to one year with the phasing in being largely evenly distributed with at least an initial immediate adjustment of not less than 25 percent of the difference and at least one intermediate adjustment prior to the final adjustment at the end of the phase-in period.

(2) In proceedings for the modification of a child support award pursuant to the provisions of this Code section, the court may award attorneys' fees, costs, and expenses of litigation to the prevailing party as the interests of justice may require.

(3) No petition to modify child support may be filed by either parent within a period of two years from the date of the final order on a previous petition by the same parent except where the child support obligation table created by the Georgia Child Support Commission creates a difference of 15 percent or more between a new award and a prior award.

(m) For split custody situations, a worksheet shall be prepared separately for the child or children for whom the father is custodial parent and for the child or children for whom the mother is the custodial parent; and that worksheet shall be entered into the record. For each of these two custodial situations, the court shall enter which parent is the obligor, the presumptive award, and the actual award, if different from the presumptive award; how and when the net cash support owed shall be paid; and any other child support responsibilities for each of the parents.

(n) The child support obligation table shall be proposed by the Georgia Child Support Commission and set as determined by joint resolution of the General Assembly.

(o) This Code section shall apply to all temporary orders and final verdicts and decrees entered on and after March 1, 2006, and to any modifications of such final verdicts and decrees at any future time after the entry of such final verdicts and decrees."

## SECTION 9.

Said title is further amended by striking Code Section 19-6-19, relating to revision of judgment for permanent alimony or child support generally, and inserting in lieu thereof the following:

"19-6-19.

(a) The judgment of a court providing permanent alimony for the support of a spouse rendered on or after July 1, 1977, shall be subject to revision upon petition filed by either former spouse showing a change in the income and financial status of either former spouse. ~~The judgment of a court providing permanent alimony for the support of a child or children rendered on or after July 1, 1977, shall be subject to revision upon petition filed by either former spouse showing a change in the income and financial status of either former spouse or in the needs of the child or children. In either case a~~ A petition shall be filed and returnable under the same rules of procedure applicable to divorce proceedings. No petition may be filed by either former spouse under this subsection within a period of two years from the date of the final order on a previous petition by the same former spouse. After hearing both parties and the evidence, the jury, or the judge where a jury is not demanded by either party, may modify and revise

the previous judgment, in accordance with the changed income and financial status of either former spouse in the case of permanent alimony for the support of a former spouse, or in accordance with the changed income and financial status of either former spouse

~~or in the needs of the child or children in the case of permanent alimony for the support of a child or children;~~ if such a change in the income and financial status is satisfactorily proved so as to warrant the modification and revision. In the hearing upon a petition filed as provided in this subsection, testimony may be given and evidence introduced relative to the income and financial status of either former spouse.

(b) Subsequent to a final judgment of divorce awarding periodic payment of alimony for the support of a spouse, the voluntary cohabitation of such former spouse with a third party in a meretricious relationship shall also be grounds to modify provisions made for periodic payments of permanent alimony for the support of the former spouse. As used in this subsection, the word 'cohabitation' means dwelling together continuously and openly in a meretricious relationship with another person, regardless of the sex of the other person. In the event the petitioner does not prevail in the petition for modification on the ground set forth in this subsection, the petitioner shall be liable for reasonable attorney's fees incurred by the respondent for the defense of the action.

(c) When an action for revision of a judgment for permanent alimony under this Code section is pending, the court in its discretion may allow, upon motion, the temporary modification of such a judgment, pending the final trial on the petition. In considering an application for temporary modification under this subsection, the court shall consider evidence of any changed circumstances of the parties and the reasonable probability of the petitioner obtaining revision upon final trial. The order granting temporary modification shall be subject to revision by the court at any time before final trial.

(d) In proceedings for the modification of alimony for the support of a spouse

~~or child~~

pursuant to the provisions of this Code section, the court may award attorneys' fees, costs, and expenses of litigation to the prevailing party as the interests of justice may require."

#### SECTION 10.

Said title is further amended by striking Code Section 19-6-20, relating to revision of judgment for permanent alimony or child support generally, merits not an issue, and inserting in lieu thereof the following:

"19-6-20.

In the trial on a petition authorized in subsection (a) of Code Section 19-6-19, the merits of whether a party,

~~a child or children, or both, are~~

~~is~~ entitled to alimony

~~and support~~ are not an issue. The only issue is whether there has been such a substantial change in the income and financial status of either former spouse

~~or in the needs of the child or children,~~

~~in cases of permanent alimony for the support of a child or children,~~

~~or in the income and financial status of either former spouse,~~ in cases of permanent alimony for the support of a former spouse, as to warrant either a downward or upward revision or modification of the permanent alimony judgment."

**SECTION 11.**

Said title is further amended by striking Code Section 19-6-21, relating to revision of judgment for permanent alimony or child support not available in case of lump sum award, and inserting in lieu thereof the following:

"19-6-21.

A petition authorized in subsection (a) of Code Section 19-6-19 can be filed only where a party has been ordered by the final judgment in an alimony or divorce and alimony action to pay permanent alimony in weekly, monthly, annual, or similar periodic payments and not where the former spouse of such party, ~~the child or children, or both,~~ ~~have has~~ been given an award from the corpus of the party's estate in lieu of such periodic payment."

**SECTION 12.**

Said title is further amended by striking Code Section 19-6-22, relating to revision of judgment for permanent alimony or child support, expenses for defense of litigation, and inserting in lieu thereof the following:

"19-6-22.

Where a petition authorized by subsection (a) of Code Section 19-6-19 is filed by a party obligated to pay alimony, the court may require the party to pay the reasonable expenses of litigation as may be incurred by the party's former spouse, ~~either~~ on behalf of the former spouse, ~~or the child or children, or both,~~ in defense thereof."

**SECTION 13.**

Said title is further amended by striking Code Section 19-6-24, relating to applicability of Code Section 19-6-18 or Code Sections 19-6-19 through 19-6-22 to judgments prior to March 9, 1955, and inserting in lieu thereof the following:

"19-6-24.

Code Section 19-6-18 or Code Sections 19-6-19 through 19-6-22, as applicable, shall apply to all judgments for permanent alimony for the support of a wife, ~~a child or children, or both,~~ rendered prior to March 9, 1955, where all the following conditions are met:

- (1) Both parties to the case in which the judgment for permanent alimony was rendered consent in writing to the revision, amendment, alteration, settlement, satisfaction, or release thereof;
- (2) There are no minor children involved or, if there were minor children at the time the original judgment was rendered, the children are all of age at the time the application is filed;
- (3) The judge of the court wherein the original judgment for permanent alimony was rendered approves the revision, amendment, alteration, settlement, satisfaction, or release; and
- (4) The consent of the parties, together with the court's approval, is filed with the clerk of the court wherein the original judgment for permanent alimony was rendered."

**SECTION 14.**

Said title is further amended by striking subsection (b) of Code Section 19-6-34, relating to inclusion of life insurance in order of support, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The amount of the premium for such life insurance shall be counted as a part of the support ordered pursuant to the provisions of Code Section 19-6-15 or 19-6-15.1, as applicable, provided that the court shall review the amount of the premium for reasonableness in the circumstances of the child, the parent ordered to pay support, and the other parent."

**SECTION 15.**

Said title is further amended by designating the existing matter in Chapter 6 as Article 1 and adding a new Article 2 to the end of the chapter to read as follows:

**"ARTICLE 2****19-6-50.**

There is created the Georgia Child Support Commission for the purposes of studying and collecting information and data relating to awards of child support and to create and revise the child support obligation table. The commission shall be responsible for conducting a comprehensive review of the child support guidelines, economic conditions, and all matters relevant to maintaining effective and efficient child support guidelines and modifying child support orders that will serve the best interest of Georgia's children and take into account the changing dynamics of family life. Further, the commission shall determine whether adjustments are needed to the child support obligation table taking into consideration the guidelines set forth in Code Section 19-6-53. Nothing contained in the commission's report shall be considered to authorize or require a change in the child support obligation table without action by the General Assembly.

**19-6-51.**

(a) The Georgia Child Support Commission shall be composed of 15 members. The Governor shall appoint all of the members as follows:

- (1) Three members who shall be judges in a superior court;
- (2) One member who shall be a Justice of the Supreme Court of Georgia or a Judge of the Georgia Court of Appeals or the Justice's or Judge's designee;
- (3) Two members of the House of Representatives and two members of the Senate; and
- (4) Seven other members.

Each member of the commission shall be appointed to serve for a term of four years or until his or her successor is duly appointed except the members of the General Assembly, who shall serve until completion of their current terms of office. The initial members of the commission appointed pursuant to paragraph (1) of this subsection shall

serve for terms of three years. The initial member of the commission appointed pursuant to paragraph (2) of this subsection shall serve for a term of four years. The initial members of the commission appointed pursuant to paragraph (4) of this subsection shall serve for terms of two years. The initial members of the commission shall be appointed within 30 days of the effective date of this Act and shall serve until their terms expire. The succeeding members of the commission shall begin their terms of office on July 1 of the year in which appointed. A member may be appointed to succeed himself or herself on the commission. If a member of the commission is an elected official, he or she shall be removed from the commission if he or she no longer serves as an elected official.

(b) The Governor shall designate the chairperson of the commission. The commission may elect other officers as deemed necessary. The chairperson of the commission may designate and appoint committees from among the membership of the commission as well as appoint other persons to perform such functions as he or she may determine to be necessary as relevant to and consistent with this article. The chairperson shall only vote to break a tie.

(c) The commission shall be attached for administrative purposes only to the Department of Human Resources. The Department of Human Resources shall provide staff support for the commission. The Department of Human Resources shall use any funds specifically appropriated to it to support the work of the commission.

19-6-52.

(a) The Georgia Child Support Commission shall hold meetings at the call of the chairperson or as called by the Governor. Meetings shall be open to the public.

(b) A quorum for transacting business shall be a majority of the members of the commission.

(c) Any legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or transportation allowance authorized for state employees. Members of the commission who are state officials, other than legislative members, or state employees shall receive no compensation for their services on the commission, but they shall be reimbursed for expenses incurred by them in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or state employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective departments. All other funds necessary to carry out the provisions of this article shall come from funds appropriated to the House of Representatives and the Senate.

19-6-53.

(a) The Georgia Child Support Commission shall have the following duties:

- (1) To study and evaluate the effectiveness and efficiency of Georgia's child support guidelines;
- (2) To evaluate and consider the experiences and results in other states which utilize child support guidelines;
  - (3)(A) To create and recommend to the General Assembly a child support obligation table consistent with Code Section 19-6-15.1. Prior to January 1, 2006, the commission shall produce the child support obligation table and provide an explanation of the underlying data and assumptions to the General Assembly by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.
    - (B)(i) The child support obligation table shall include deductions from a parent's gross income for the employee's share of the contributions for the first 6.2 percent in Federal Insurance Contributions Act (FICA) and 1.45 percent in medicare taxes.
    - (ii) FICA tax withholding for high-income persons may vary during the year. Six and two-tenths percent is withheld on the first \$90,000.00 of gross earnings. After the maximum \$5,580.00 is withheld, no additional FICA taxes shall be withheld.
    - (iii) Self-employed persons are required by law to pay the full FICA tax of 12.4 percent up to the \$90,000.00 gross earnings limit and the full medicare tax rate of 2.9 percent on all earned income.
    - (iv) The percentages and dollar amounts established or referenced in this subparagraph with respect to the payment of self-employment taxes shall be adjusted by the commission, as necessary, as relevant changes occur in the federal tax laws.
  - (C) After reviewing the commission's report, the General Assembly shall consider and approve by joint resolution the initial child support obligation table before the table shall become effective and shall authorize by joint resolution all subsequent child support obligation tables;
  - (4) To determine periodically, and at least every two years, if the child support obligation table results in appropriate presumptive awards;
  - (5) To identify and recommend whether and when the child support obligation table or child support guidelines should be modified;
  - (6) To develop and publish the child support obligation table and worksheets associated with the use of such table;
  - (7) To develop or cause to be developed software and a calculator associated with the use of the child support obligation table and child support guidelines;
  - (8) To develop training manuals and information to educate judges, attorneys, and litigants on the use of the child support obligation table and child support guidelines;
  - (9) To collaborate with the Institute for Continuing Judicial Education, the Institute of Continuing Legal Education, and other agencies for the purpose of training persons who will be utilizing the child support table and child support guidelines; and
  - (10) To make recommendations for proposed legislation.

(b) The commission shall have the following powers:

  - (1) To evaluate the child support guidelines in Georgia and any other program or

matter relative to child support in Georgia;

(2) To request and receive data from and review the records of appropriate agencies to the greatest extent allowed by state and federal law;

(3) To accept public or private grants, devises, and bequests;

(4) To enter into all contracts or agreements necessary or incidental to the performance of its duties;

(5) To establish rules and procedures for conducting the business of the commission; and

(6) To conduct studies, hold public meetings, collect data, or take any other action the commission deems necessary to fulfill its responsibilities.

(c) The commission shall be authorized to retain the services of auditors, attorneys, financial consultants, child care experts, economists, and other individuals or firms as determined appropriate by the commission."

#### **SECTION 16.**

Said title is further amended by striking in its entirety Code Section 19-7-2, relating to parents' obligations to child, and inserting in lieu thereof the following:

"19-7-2.

It is the joint and several duty of each parent to provide for the maintenance, protection, and education of his or her child until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs, except as otherwise authorized and ordered pursuant to subsection (e) of Code Section 19-6-15 or subsection (d) of Code Section 19-6-15.1 and except to the extent that the duty of the parents is otherwise or further defined by court order."

#### **SECTION 17.**

Said title is further amended by striking subsection (a) of Code Section 19-7-46.2, relating to temporary order of support, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Upon motion by a party to a paternity action, a temporary order shall be issued in accordance with the guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable, if there is clear and convincing evidence of paternity. Such temporary order will be valid pending an administrative or judicial determination of parentage."

#### **SECTION 18.**

Said title is further amended by striking Code Section 19-11-12, regarding determination of ability to support, and inserting in lieu thereof a new Code Section 19-11-12 to read as follows:

"19-11-12.

(a) The IV-D agency shall determine the ability of the noncustodial parent to support his or her child or children in accordance with the guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable.

(b)(1) The IV-D agency shall periodically give notice to the obligor and obligee who are subject to a IV-D court order for child support, as defined in paragraph (1) of Code Section 19-11-3, of the right of each to request a review of the order by the IV-D agency for possible recommendation for adjustment of such order. Such notification should be provided within 36 months after the establishment of the order or the most recent review; however, failure to provide the notice within 36 months shall not affect the right of either party to request a review nor the right of the IV-D agency to conduct a review and to recommend an adjustment to the order. The notice can be included in the initial order or review recommendation.

(2) The establishment of a child support order or the entry of an order to modify a child support order or a determination of no change to a child support order under this Code section shall commence a 36 month cycle, the purpose of which is to provide the parties the right to a review of the order at least every 36 months or in such shorter cycle as the IV-D agency may determine. The failure of either party to request a review at least once every 36 months shall not affect the right of either party to request a review nor the right of the IV-D agency to conduct a review and to recommend an adjustment to the order at any time beyond the 36 month cycle.

(c)(1) The IV-D agency shall review IV-D court orders for child support, as defined in paragraph (1) of Code Section 19-11-3, for possible modification under this chapter. The review shall be performed upon the written request of either the obligor or obligee, or, if there is an assignment under subsection (a) of Code Section 19-11-6, upon the request of the IV-D agency or of the obligor or obligee. Exceptions to this procedure are cases where the IV-D agency determines that such a review would not be in the best interest of the child or children involved.

(2) If the request for the review occurs less than 36 months since the last issuance or last review of the order, the IV-D agency shall review, and if the requesting party demonstrates a substantial change in circumstances, seek to modify the order in accordance with the guidelines as provided by paragraph (2) of subsection (d) of this Code section.

(3) If the request for the review occurs at least 36 months after the last issuance or last review, the requesting party shall not be required to demonstrate a substantial change in circumstances, the need for additional support, or that the needs of the child have decreased. The sole basis for a recommendation for a change in the award of support under this paragraph shall be a significant inconsistency between the existing child support order and the amount of child support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable.

(d)(1) The IV-D agency shall notify the obligor and obligee at least 30 days before the commencement of a review of a child support order.

(2) The IV-D agency shall review and, if there is a significant inconsistency between the amount of the existing child support order and the amount of child support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable, the agency shall make a recommendation for an increase or decrease in the amount of an existing order for support. The IV-D agency shall not be deemed to be

representing either the obligee or obligor in a proceeding under this Code section.

(3) Upon completion of a review, the IV-D agency shall send notice by first-class mail to the obligor and obligee at their last known addresses of a proposed adjustment or a determination that there should be no change in the child support award amount. Each party shall have 30 days from the date of the notice to object in writing to the IV-D agency's proposed adjustment or determination of no change.

(4)(A) In the case of an administrative order, the agency shall request the administrative law judge to increase or decrease the amount in the existing order in accordance with the agency recommendation. If either the obligor or the obligee files with the agency within 30 days written objections to the agency's proposed adjustment to the child support order or determination of no change to the child support order, the matter shall be scheduled for an administrative hearing within the Office of State Administrative Hearings. The administrative order adjusting the child support award amount which results from a hearing or the failure to object to the agency's proposed adjustment or determination of no change shall, upon filing with the local clerk of the court, have the full effect of a modification of the original order or decree of support. As part of the order adjusting the child support award the administrative law judge shall issue an income and earnings deduction order which shall also be filed with the court pursuant to Code Sections 19-6-30 through 19-6-33.

(B) In the case of a judicial order, the agency shall file a petition asking the court to adopt the agency's recommendation for an increase or decrease in the amount in the existing order. Upon the filing of a written objection to the agency's proposed adjustment or determination of no change with the clerk of the superior court and with the agency, a de novo proceeding shall be scheduled with the court on the matter. If neither party files an objection within the 30 day notice period, the court shall issue an order adopting the recommendation of the IV-D agency. As part of the order adjusting the child support award, the court shall issue an income and earnings deduction order pursuant to Code Sections 19-6-30 through 19-6-33.

(e) When the trier of fact, the administrative law judge for administrative orders, or a judge of the superior court for court orders, as the case may be, determines that there is a significant inconsistency between the existing child support order and the amount of child support which would result from the application of Code Section 19-6-15 or 19-6-15.1, as applicable, the trier of fact may use this inconsistency as the basis to increase or decrease the amount of support ordered. The trier of fact may also address the repayment of any arrears accumulated under the existing order.

(f) An obligor shall not be relieved of his or her duty to provide support when such obligor has brought about his or her own unstable financial condition by voluntarily incurring subsequent obligations.

(g) The department shall be authorized to promulgate rules and regulations to implement the provisions of this Code section."

**SECTION 19.**

Said title is further amended by striking subsection (a) of Code Section 19-11-15, relating to voluntary support agreement, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) When the department has completed its investigation, has determined the ability of the absent parent to support his or her child or children in accordance with guidelines prescribed in Code Section 19-6-15 or 19-6-15.1, as applicable, and believes that the absent parent is able to furnish a certain amount of support, the department may, as an exception to Code Section 9-12-18, request the absent parent to enter into a proposed consent order and income deduction order to provide the support amount and accident and sickness insurance coverage consistent with Code Section 19-11-26 prior to the filing of an action with the superior court. The orders may not be set aside on the grounds that the parties consented thereto prior to the filing of the action. An income deduction order shall issue consistent with Code Sections 19-6-30 through 19-6-34. If the department is unable to secure a proposed consent order from the parent, the department may file an action in superior court or may initiate an administrative action pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

**SECTION 20.**

Section 15 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, and the remaining sections of this Act shall become effective on March 1, 2006.

**SECTION 21.**

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

On the adoption of the substitute, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
N Balfour	N Hill,Judson	E Starr
Y Brown	E Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Y Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber

N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	E Zamarripa
Y Henson	N Shafer,D	

On the adoption of the substitute, the yeas were 18, nays 33, and the Adelman, Jones substitute was lost.

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:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	N Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	E Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 32, nays 19.

HB 221, having received the requisite constitutional majority, was passed as amended.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House insists on its position in disagreeing to the Senate substitutes, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bills of the House:

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Barnard of the 166th, Cole of the 125th and Cox of the 102nd.

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Knox of the 24th, Ehrhart of the 36th and Willard of the 49th.

The House adheres to its position in insisting on its substitutes, and has appointed a Committee of Conference on the part of the House to confer with a like committee on the part of the Senate on the following Bills of the Senate:

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17

of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Willard of the 49th, Ehrhart of the 36th and Franklin of the 43rd.

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives O'Neal of the 146th, Rice of the 51st and Cummings of the 16th.

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 295. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Jeff Davis County, approved March 25, 1958 (Ga. L. 1958, p. 3288), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 226. By Senators Smith of the 52nd, Thomas of the 54th, Mullis of the 53rd, Cagle of the 49th, Unterman of the 45th and others:

A BILL to be entitled an Act to amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, so as to provide a short title; to create the Georgia Driver's Education Commission; to provide for the membership, appointment, terms, and duties of such commission; to provide for the ability of the commission to accept federal grants and funds and donations from other sources and the disposition of such funds; to provide for the imposition, collection, and disposition of certain additional fees for violation of certain criminal and traffic laws of this state; to provide for appropriations; to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so as to change the minimum age for the issuance of certain licenses and permits; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

The House adheres to its position in insisting on its substitute, and has appointed a Committee of Conference on the part of the House to confer with a like committee on the part of the Senate on the following Resolution of the Senate:

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

The Speaker has appointed on the part of the House, Representatives Hill of the 21st, Keown of the 173rd and Holt of the 112th.

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 254. By Senators Hill of the 4th, Williams of the 19th and Johnson of the 1st:

A BILL to be entitled an Act to amend Title 2 of the O.C.G.A., relating to agriculture; Title 8 of the O.C.G.A., relating to buildings; Title 15 of the O.C.G.A., relating to courts; Title 17 of the O.C.G.A., relating to criminal procedure; Title 20 of the O.C.G.A., relating to education; Title 26 of the

O.C.G.A., relating to food, drugs, and cosmetics; Title 28 of the O.C.G.A., relating to the General Assembly; Title 35 of the O.C.G.A., relating to law enforcement; Title 40 of the O.C.G.A., relating to motor vehicles; Title 43 of the O.C.G.A., relating to professions; Title 45 of the O.C.G.A., relating to public officers; Title 49 of the O.C.G.A., relating to social services; and Title 50 of the O.C.G.A., relating to state government; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Chapman of the 3rd asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

The Calendar was resumed.

SR 503. By Senators Mullis of the 53rd, Williams of the 19th, Whitehead, Sr. of the 24th and Pearson of the 51st:

A RESOLUTION urging the Department of Transportation to proceed with the initiation in 2005 of a pilot performance based asset maintenance project for highway maintenance; and for other purposes.

The Senate Transportation Committee offered the following substitute to SR 503:

**A RESOLUTION**

Urging the Department of Transportation to proceed with the initiation in 2005 of a pilot performance based asset management project for highway maintenance or bundling of certain maintenance functions; and for other purposes.

WHEREAS, the State of Georgia, like many states throughout the country today, is facing tough challenges with transportation infrastructure; and

WHEREAS, the Georgia Department of Transportation currently operates, maintains, and improves the existing 18,086 miles of roads and highways in Georgia; and

WHEREAS, vehicle miles traveled on our roadways in Georgia continue to increase by two percent annually, while budgetary constraints make it more and more difficult to keep up with the overwhelming needs of the traveling public; and

WHEREAS, the Federal Highway Administration has estimated that 12 percent of the bridges in Georgia are either structurally deficient; and

WHEREAS, no federal funding can be used for maintenance of bridges or roadways, requiring the state to use 100 percent state motor fuel tax; and

WHEREAS, the Governor, the General Assembly, and the Department of Transportation are attempting to meet these challenges and are deserving of support in fully exploring all avenues for innovation and improvement; and

WHEREAS, the Senate Appropriations Subcommittee on Economic Development governing the Department of Transportation budget held a hearing in 2005 to hear testimony on "best practices" in other states including piloting programs involving a "performance based asset management" approach to transportation maintenance; and

WHEREAS, particularly the State of Florida's Department of Transportation has embarked upon an asset management program for maintenance that has generated proven cost savings of 17 percent without impacting the level of service; and

WHEREAS, other state Departments of Transportation, such as the Texas Department of Transportation, have found that management tools other than performance based asset management, like building of certain noncost effective maintenance functions or blending of public and private resources provides better utilization of resources; and

WHEREAS, the Senate is committed to investigating new and innovative means to save tax dollars while at the same time providing a high level of service to the citizens of our state; and

WHEREAS, the commissioner of the Department of Transportation has during the past year initiated a research study to determine the feasibility of applying asset management concepts and other management tools, such as bundling of maintenance functions or blended public-private resources to highway maintenance in Georgia.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that the members of this body recommend the Department of Transportation to consider the feasibility of a pilot performance based asset management project or other management tool such as bundling of maintenance functions or blending of public-private resources for highway maintenance in a location or district it deems most feasible for the benefit of the citizens of the State of Georgia.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to the commissioner of the Department of Transportation.

On the adoption of the substitute, the yeas were 32, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the adoption of the resolution by substitute, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	E Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 50, nays 0.

SR 503, having received the requisite constitutional majority, was adopted by substitute.

HB 319. By Representatives Bridges of the 10th, Golick of the 34th, Cummings of the 16th and Coleman of the 97th:

A BILL to be entitled an Act to amend Code Section 47-20-84 of the Official Code of Georgia Annotated, relating to large retirement systems, so as to provide that such retirement systems may invest in certain types of securities; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Heath of the 31st.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 2, 2005

The Honorable Ben Bridges  
State Representative  
State Capitol, Room 402  
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification

Dear Representative Bridges:

This bill would amend provisions relating to the Public Retirement Systems Investment Authority Law. Specifically, this bill would allow 'large retirement systems' to invest in securities issued by a unit investment trust or an open-end company, provided that:

- The unit investment trust or open-end company is listed on a securities exchange;
- The assets consist of securities managed so that the fund replicates a listed index or specific market sector;
- Continuous markets are quoted by market markers in the applicable unit investment trust or open-end company; and
- The unit investment trust or open-end company has the capability of creating or redeeming shares as necessary to reflect demand.

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

Respectfully,

/s/ Russell W. Hinton  
State Auditor

Senator Thomas of the 2nd offered the following amendment:

Amend HB 319 by adding Sect 2 new language:

Employees shall be informed in writing an 'opt-out' clause. Any employee desiring to 'opt-out' shall do so in writing and express what is to be done with their retirement.

Renumbering Sect 2 - 'Section 3'

Senator Thomas of the 2nd moved that HB 319 be placed on the Table.

On the motion the yeas were 12, nays 25; the motion lost, and HB 319 was not placed on the Table.

Senator Heath of the 31st asked for a ruling on the Thomas of the 2nd amendment pursuant to Senate Rule 3-1.4(e), requiring a fiscal note for the amendment.

The President ruled a fiscal note was required and the Thomas of the 2nd amendment out of order.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman Douglas	N Miles E Moody	Y Thompson,C N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant Hamrick	Y Reed Y Rogers	Y Weber Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 41, nays 9.

HB 319, having received the requisite constitutional majority, was passed.

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

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

- SB 258. By Senators Douglas of the 17th, Staton of the 18th, Johnson of the 1st, Shafer of the 48th, Balfour of the 9th and others:

A BILL to be entitled an Act to amend Code Section 15-12-1 of the O.C.G.A., relating to exemptions from jury duty, so as to provide that any service member on ordered military duty and his or her spouse may be exempt from jury duty; to amend Article 3 of Chapter 4 of Title 26 of the O.C.G.A., relating to the practice of pharmacy, so as to provide that a service member whose license expired while he or she was on duty outside the state may practice pharmacy on such expired license; to amend Code Section 27-2-4 of the O.C.G.A., relating to honorary hunting and fishing licenses, so as to provide for an honorary license for returning veterans; to amend Article 2 of Chapter 5 of Title 40 of the O.C.G.A.; to amend Chapter 1 of Title 43 of the O.C.G.A.; to amend Article 1 of Chapter 7 of Title 44 of the O.C.G.A.; to amend Article 1 of Chapter 5 of Title 46 of the O.C.G.A.; to repeal conflicting laws; and for other purposes.

The Calendar was resumed.

- HB 559. By Representatives Smith of the 70th, Ehrhart of the 36th, Jones of the 46th, Graves of the 12th and Fleming of the 117th:

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 from state sales and use tax only with respect to sales of certain energy efficient products for a limited period of time; to provide for a definition; to provide for conditions and limitations; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

THURSDAY, MARCH 31, 2005

3189

February 17, 2005

Honorable Lynn R. Smith, Chairman  
House Natural Resources and Environment Committee  
State Capitol, Room 228  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 559 (LC 18 4144)

Dear Chairman Smith:

This bill would exempt from state sales and use tax purchases of certain energy efficient products for the four days commencing on Thursday October 6, 2005 and concluding on Sunday October 9, 2005. The exemption would not include any applicable local sales and use taxes. The products identified are dishwashers, clothes washers, air conditioners, ceiling fans, incandescent or fluorescent light bulbs, programmable thermostats and refrigerators which meet the Energy Star efficiency standards.

The Georgia State University Fiscal Research Center estimates the impact of this legislation would be to reduce state tax revenues for Fiscal Year 2006 by \$187,000. The Center provided the following narrative:

To develop this estimate, data were gathered in several categories  
2005 forecast of total U.S. shipments of home appliances by product type  
(Source: Association of Home Appliance Manufacturers)  
Market share data for products which meet the Energy Star standards  
(Source: D&R International LTD)  
Georgia and U.S. personal income to estimate the share of purchases made in Georgia (Source: Bureau of Economic Analysis)

In addition, assumptions were made regarding unit prices per product line to calculate annual expenditures on each product line. Assumptions were also made to account for missing data on shipments for ceiling fans, light bulbs and thermostats and Energy Star market share information on these products plus dehumidifiers.

Shipment data and pricing assumptions indicate that 2005 expenditures on all product lines will total about \$21.4 billion in the U.S. Based on available market share data, sales of Energy Star compliant products included in the proposed legislation will equal about \$8.3 billion in the U.S. These sales were increased by 10% to account for product lines included in the legislation but for which no shipment data was located.

Based on the ratio of Georgia personal income to total U.S. personal income of 2.65% for September, 2004, Georgia's purchases of Energy Star compliant devices covered by the legislation equals about \$243 million for 2005. This equates to average weekly sales of \$4.7 million.

Energy Star compliant products are more expensive than non-compliant products. Some states and utility companies actively promote sales of these products as part of a state-wide energy efficiency plan. Many customers are unwilling to pay the higher up front price for higher efficiency products in order to gain lower energy cost savings for the life of the product. The assessment here is that the reduction in the up front cost via the exemption from the 4% state sales tax will not elicit a measurable shift in market share from non-Energy Star compliant to Energy Star compliant products.

Further, given the tendency for most consumers to buy appliances either with the purchase of a home or as a replacement for a worn out, existing appliance, the size of the exemption is unlikely to have a measurable impact on timing of purchases – that is consumers are not likely to accelerate purchases of appliances in response to the sales tax exemption. Rather, the conclusion is that consumers who would have otherwise purchased an Energy Star compliant product during the one week period around the exemption period will crowd their purchases into the exemption period to capture the 4% exemption. Thus, the revenue impact is calculated based on one week of sales of Energy Star compliant products multiplied by the 4% states sales tax. The impact is estimated at \$187,000 for FY 2006.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

The Senate Finance Committee offered the following substitute to HB 559:

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 from state sales and use tax only with respect to certain sales of certain energy efficient products for a limited period of time; to provide for a definition; to provide for conditions and

limitations; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use tax, is amended by striking "or" at the end of paragraph (79), by striking the period at the end of paragraph (80) and inserting in its place ";" or", and by adding a new paragraph immediately following paragraph (80) to be designated paragraph (81) to read as follows:

"(81)(A) Purchase of energy efficient products with a sales price of \$1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales occurring during a period commencing at 12:01 A.M. on October 6, 2005, and concluding at 12:00 Midnight on October 9, 2005.

(B) For the purposes of this exemption, an energy efficient product is any dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's energy saving efficiency requirements or which have been designated as meeting or exceeding such requirements under each such agency's Energy Star program.

(C) The exemption provided for in subparagraph (A) of this paragraph shall not apply to purchases of energy efficient products purchased for trade, business, or resale.

(D)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3 of this chapter; by or pursuant to Article 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(E) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph."

**SECTION 2.**

This Act shall become effective July 1, 2005.

**SECTION 3.**

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

On the adoption of the substitute, the yeas were 34, nays 0, 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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 4.

HB 559, having received the requisite constitutional majority, was passed by substitute.

HB 320. By Representatives Forster of the 3rd, Knox of the 24th, Meadows of the 5th, Dodson of the 75th, Watson of the 91st and others:

A BILL to be entitled an Act to amend Title 33 of the O.C.G.A., relating to insurance, so as to create the Georgia Health Insurance Risk Pool; to provide

alternative mechanism coverage for the availability of individual health insurance; to provide definitions; to provide for a risk pool board; to provide for powers, duties, and authority of the board; to provide for the selection of an administrator; to provide for the duties of the Commissioner of Insurance with respect to the board and pool; to provide for the establishment of rates; to provide for eligibility for and termination of coverage; to provide for minimum pool benefits; to provide for funding and assessments; to provide for complaint procedures; to provide for audits; to provide for applicability; to provide for related matters; to repeal the Georgia High Risk Health Insurance Plan; to provide effective dates; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Rogers of the 21st.

The Senate Insurance and Labor Committee offered the following substitute to HB 320:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to create the Georgia Health Insurance Risk Pool; to provide alternative mechanism coverage for the availability of individual health insurance; to change the rate of the insurance premium tax; to provide for the use of such tax; to provide definitions; to provide for a risk pool board; to provide for powers, duties, and authority of the board; to provide for the selection of an administrator; to provide for the duties of the Commissioner of Insurance with respect to the board and pool; to provide for the establishment of rates; to provide for eligibility for and termination of coverage; to provide for minimum pool benefits; to provide for certain exclusions for preexisting conditions; to provide for funding; to provide for assessments under certain circumstances; to provide for certain tax credits; to provide for complaint procedures; to provide for audits; to provide for certain reports; to provide for applicability; to provide for related matters; to repeal the Georgia High Risk Health Insurance Plan; to provide effective dates; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by striking subparagraph (b)(15)(D) of Code Section 33-6-4, relating to the enumeration of unfair methods of competition and unfair or deceptive acts or practices, and inserting in lieu thereof a new subparagraph (b)(15)(D) to read as follows:

"(D) It is unfairly discriminatory to terminate group coverage for a subject of family violence because coverage was originally issued in the name of the perpetrator of the family violence and the perpetrator has divorced, separated from, or lost custody

of the subject of family violence, or the perpetrator's coverage has terminated voluntarily or involuntarily. If termination results from an act or omission of the perpetrator, the subject of family violence shall be deemed ~~a qualifying an~~ eligible individual under Code Section 33-24-21.1 ~~or 33-29A-2~~ and may obtain continuation and conversion of such coverages alternative mechanism coverage for the availability of individual health insurance coverage, as contemplated by Section 2741 of the federal Public Health Service Act, 42 U.S.C. Section 300gg-41, notwithstanding the act or omission of the perpetrator. A person may request and receive family violence information to implement the continuation and conversion of coverages under this subparagraph."

## SECTION 2.

Said title is further amended by striking Code Section 33-8-4, relating to amount and method of computing tax on insurance premiums generally, and inserting in lieu thereof a new Code Section 33-8-4 to read as follows:

"33-8-4.

(a) All foreign, alien, and domestic insurance companies doing business in this state shall pay a tax of 2 1/4 percent upon the gross direct premiums received by them on and after July 1, 1955. The tax shall be levied upon persons, property, or risks in Georgia, from January 1 to December 31, both inclusive, of each year without regard to business ceded to or assumed from other companies. The tax shall be imposed upon gross premiums received from direct writings without any deductions allowed for premium abatements of any kind or character or for reinsurance or for cash surrender values paid, or for losses or expenses of any kind; provided, however, deductions shall be allowed for premiums returned on change of rate or canceled policies; provided, further, that deductions may be permitted for return premiums or assessments, including all policy dividends, refunds, or other similar returns paid or credited to policyholders and not reapplied as premium for additional or extended life insurance. The term 'gross direct premiums' shall not include annuity considerations.

(b) For purposes of this chapter, annuity considerations received by nonprofit corporations licensed to do business in this state issuing annuities to fund retirement benefits for teachers and staff personnel of private secondary schools and colleges and universities shall not be considered gross direct premium."

## SECTION 3.

Said title is further amended by striking Code Section 33-24-21.1, relating to group accident and sickness contracts, and inserting in lieu thereof a new Code Section 33-24-21.1 to read as follows:

"33-24-21.1.

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

(1) 'Creditable coverage' under another health benefit plan means medical expense coverage with no greater than a 90 day gap in coverage under any of the following:

- (A) Medicare or Medicaid;
  - (B) An employer based accident and sickness insurance or health benefit arrangement;
  - (C) An individual accident and sickness insurance policy, including coverage issued by a health maintenance organization, nonprofit hospital or nonprofit medical service corporation, health care corporation, or fraternal benefit society;
  - (D) A spouse's benefits or coverage under medicare or Medicaid or an employer based health insurance or health benefit arrangement;
  - (E) A conversion policy;
  - (F) A franchise policy issued on an individual basis to a member of a true association as defined in subsection (b) of Code Section 33-30-1;
  - (G) A health plan formed pursuant to 10 U.S.C. Chapter 55;
  - (H) A health plan provided through the Indian Health Service or a tribal organization program or both;
  - (I) A state health benefits risk pool;
  - (J) A health plan formed pursuant to 5 U.S.C. Chapter 89;
  - (K) A public health plan; or
  - (L) A Peace Corps Act health benefit plan.
- (2) 'Eligible dependent' means a person who is entitled to medical benefits coverage under a group contract or group plan by reason of such person's dependency on or relationship to a group member.
- (3) 'Group contract or group plan' is synonymous with the term 'contract or plan' and means:
- (A) A group contract of the type issued by a nonprofit medical service corporation established under Chapter 18 of this title;
  - (B) A group contract of the type issued by a nonprofit hospital service corporation established under Chapter 19 of this title;
  - (C) A group contract of the type issued by a health care plan established under Chapter 20 of this title;
  - (D) A group contract of the type issued by a health maintenance organization established under Chapter 21 of this title; or
  - (E) A group accident and sickness insurance policy or contract, as defined in Chapter 30 of this title.
- (4) 'Group member' means a person who has been a member of the group for at least six months and who is entitled to medical benefits coverage under a group contract or group plan and who is an insured, certificate holder, or subscriber under the contract or plan.
- (5) 'Insurer' means an insurance company, health care corporation, nonprofit hospital service corporation, medical service nonprofit corporation, health care plan, or health maintenance organization.
- (6) ~~'Qualifying eligible individual' means:~~
- (A) ~~A Georgia domiciliary, for whom, as of the date on which the individual seeks coverage under this Code section, the aggregate of the periods of creditable~~

~~coverage is 18 months or more; and~~

~~(B) Who is not eligible for coverage under any of the following:~~

- ~~(i) A group health plan, including continuation rights under this Code section or the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA);~~
- ~~(ii) Part A or Part B of Title XVIII of the federal Social Security Act; or~~
- ~~(iii) The state plan under Title XIX of the federal Social Security Act or any successor program.~~

(b) Each group contract or group plan delivered or issued for delivery in this state, other than a group accident and sickness insurance policy, contract, or plan issued in connection with an extension of credit, which provides hospital, surgical, or major medical coverage, or any combination of these coverages, on an expense incurred or service basis, excluding contracts and plans which provide benefits for specific diseases or accidental injuries only, shall provide that members ~~and qualifying eligible individuals~~ whose insurance under the group contract or plan would otherwise terminate shall be entitled to continue their hospital, surgical, and major medical insurance coverage under that group contract or plan for themselves and their eligible dependents.

(c) Any group member ~~or qualifying eligible individual~~ whose coverage has been terminated and who has been continuously covered under the group contract or group plan, and under any contract or plan providing similar benefits which it replaces, for at least six months immediately prior to such termination, shall be entitled to have his or her coverage and the coverage of his or her eligible dependents continued under the contract or plan. Such coverage must continue for the fractional policy month remaining, if any, at termination plus three additional policy months upon payment of the premium by cash, certified check, or money order, at the option of the employer, to the policyholder or employer, at the same rate for active group members set forth in the contract or plan, on a monthly basis in advance as such premium becomes due during this coverage period. Such premium payment must include any portion of the premium paid by a former employer or other person if such employer or other person no longer contributes premium payments for this coverage. At the end of such period, the group member shall have the same conversion rights that were available on the date of termination of coverage in accordance with the conversion privileges contained in the group contract or group plan.

(d)~~(+) A group member shall not be entitled to have coverage continued if: (A) termination of coverage occurred because the employment of the group member was terminated for cause; (B) termination of coverage occurred because the group member failed to pay any required contribution; or (C) any discontinued group coverage is immediately replaced by similar group coverage including coverage under a health benefits plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq. Further, a group member shall not be entitled to have coverage continued if the group contract or group plan was terminated in its entirety or was terminated with respect to a class to which the group member belonged. This subsection shall not affect conversion rights available to a qualifying~~

~~eligible individual under any contract or plan.~~

~~(2) A qualifying eligible individual shall not be entitled to have coverage continued if the most recent creditable coverage within the coverage period was terminated based on one of the following factors: (A) failure of the qualifying eligible individual to pay premiums or contributions in accordance with the terms of the health insurance coverage or failure of the issuer to receive timely premium payments; (B) the qualifying eligible individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of coverage; or (C) any discontinued group coverage is immediately replaced by similar group coverage including coverage under a health benefits plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq. This subsection shall not affect conversion rights available to a group member under any contract or plan.~~

(e) If the group contract or group plan terminates while any group member ~~or qualifying eligible individual~~ is covered or whose coverage is being continued, the group administrator, as prescribed by the insurer, must notify each such group member ~~or qualifying eligible individual~~ that he or she must exercise his or her conversion rights within:

~~(1) Thirty 30 days of such notice for group members who are not qualifying eligible individuals; or~~

~~(2) Sixty three days of such notice for qualifying eligible individuals.~~

(f) Every group contract or group plan, other than a group accident and sickness insurance policy, contract, or plan issued in connection with an extension of credit, which provides hospital, surgical, or major medical expense insurance, or any combination of these coverages, on an expense incurred or service basis, excluding policies which provide benefits for specific diseases or for accidental injuries only, shall contain a conversion privilege provision.

(g) Eligibility for the converted policies or contracts shall be as follows:

~~(1) Any qualifying eligible individual whose insurance and its corresponding eligibility under the group policy, including any continuation available, elected, and exhausted under this Code section or the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), has been terminated for any reason, including failure of the employer to pay premiums to the insurer, other than fraud or failure of the qualifying eligible individual to pay a required premium contribution to the employer or, if so required, to the insurer directly and who has at least 18 months of creditable coverage immediately prior to termination shall be entitled, without evidence of insurability, to convert to individual or group based coverage covering such qualifying eligible individual and any eligible dependents who were covered under the qualifying eligible individual's coverage under the group contract or group plan. Such conversion coverage must be, at the option of the individual, retroactive to the date of termination of the group coverage or the date on which continuation or COBRA coverage ended, whichever is later. The insurer must offer qualifying eligible individuals at least two distinct conversion options from which to choose.~~

One such choice of coverage shall be comparable to comprehensive health insurance coverage offered in the individual market in this state or comparable to a standard option of coverage available under the group or individual health insurance laws of this state. The other choice may be more limited in nature but must also qualify as creditable coverage. Each coverage shall be filed, together with applicable rates, for approval by the Commissioner. Such choices shall be known as the 'Enhanced Conversion Options';

(2) Premiums for the enhanced conversion options for all qualifying eligible individuals shall be determined in accordance with the following provisions:

(A) Solely for purposes of this subsection, the claims experience produced by all groups covered under comprehensive major medical or hospitalization accident and sickness insurance for each insurer shall be fully pooled to determine the group pool rate. Except to the extent that the claims experience of an individual group affects the overall experience of the group pool, the claims experience produced by any individual group of each insurer shall not be used in any manner for enhanced conversion policy rating purposes;

(B) Each insurer's group pool shall consist of each insurer's total claims experience produced by all groups in this state, regardless of the marketing mechanism or distribution system utilized in the sale of the group insurance from which the qualifying eligible individual is converting. The pool shall include the experience generated under any medical expense insurance coverage offered under separate group contracts and contracts issued to trusts, multiple employer trusts, or association groups or trusts, including trusts or arrangements providing group or group type coverage issued to a trust or association or to any other group policyholder where such group or group type contract provides coverage, primarily or incidentally, through contracts issued or issued for delivery in this state or provided by solicitation and sale to Georgia residents through an out of state multiple employer trust or arrangement; and any other group type coverage which is determined to be a group shall also be included in the pool for enhanced conversion policy rating purposes; and

(C) Any other factors deemed relevant by the Commissioner may be considered in determination of each enhanced conversion policy pool rate so long as it does not have the effect of lessening the risk spreading characteristic of the pooling requirement. Duration since issue and tier factors may not be considered in conversion policy rating. Notwithstanding subparagraph (A) of this paragraph, the total premium calculated for all enhanced conversion policies may deviate from the group pool rate by not more than plus or minus 50 percent based upon the experience generated under the pool of enhanced conversion policies so long as rates do not deviate for similarly situated individuals covered through the pool of enhanced conversion policies;

(3) Any group member who is not a qualifying eligible individual and whose insurance under the group policy has been terminated for any reason, including failure of the employer to pay premiums to the insurer, other than eligibility for medicare

(reaching a limiting age for coverage under the group policy) or failure of the group member to pay a required premium contribution, and who has been continuously covered under the group contract or group plan, and under any contract or plan providing similar benefits which it replaces, for at least six months immediately prior to termination shall be entitled, without evidence of insurability, to convert to individual or group coverage covering such group member and any eligible dependents who were covered under the group member's coverage under the group contract or group plan. Such conversion coverage must be, at the option of the individual, retroactive to the date of termination of the group coverage or the date on which continuation or COBRA coverage ended, whichever is later. The premium of the basic converted policy shall be determined in accordance with the insurer's table of premium rates applicable to the age and classification of risks of each person to be covered under that policy and to the type and amount of coverage provided. This form of conversion coverage shall be known as the 'Basic Conversion Option'; and  
~~(4)(2)~~ Nothing in this Code section shall be construed to prevent an insurer from offering additional options to ~~qualifying eligible individuals or~~ group members.

(h) Each group certificate issued to each group member ~~or qualifying eligible individual~~, in addition to setting forth any conversion rights, shall set forth the continuation right in a separate provision bearing its own caption. The provisions shall clearly set forth a full description of the continuation and conversion rights available, including all requirements, limitations, and exceptions, the premium required, and the time of payment of all premiums due during the period of continuation or conversion.

(i) This Code section shall not apply to limited benefit insurance policies. For the purposes of this Code section, the term 'limited benefit insurance' means accident and sickness insurance designed, advertised, and marketed to supplement major medical insurance. The term limited benefit insurance includes accident only, CHAMPUS supplement, dental, disability income, fixed indemnity, long-term care, medicare supplement, specified disease, vision, and any other accident and sickness insurance other than basic hospital expense, basic medical-surgical expense, and comprehensive major medical insurance coverage.

(j) The Commissioner shall adopt such rules and regulations as he or she deems necessary for the administration of this Code section. Such rules and regulations may prescribe various conversion plans, including minimum conversion standards and minimum benefits, but not requiring benefits in excess of those provided under the group contract or group plan from which conversion is made, scope of coverage, preexisting limitations, optional coverages, reductions, notices to covered persons, and such other requirements as the Commissioner deems necessary for the protection of the citizens of this state.

(k) This Code section shall apply to all group plans and group contracts delivered or issued for delivery in this state on or after July 1, 1998, and to group plans and group contracts then in effect on the first anniversary date occurring on or after July 1, 1998."

**SECTION 4.**

Said title is further amended by striking Chapter 29A, relating to individual health insurance coverage availability and assignment systems, and inserting a new Chapter 29A to read as follows:

**"CHAPTER 29A****33-29A-1.**

- (a) It is the intention of this chapter to provide an acceptable alternative mechanism for the availability of individual health insurance coverage, as contemplated by Section 2741 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-41. This chapter shall be construed and administered so as to accomplish such intention.
- (b) Any reference in this chapter to any federal statute shall refer to that federal statute as it existed on January 1, 1997, including its amendment by the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.

**33-29A-2.**

- (a) As used in this chapter, the term:
  - (1) 'Benefit Plan' means coverage offered by the pool to eligible persons.
  - (2) 'Board' means the board of directors of the Georgia Health Insurance Risk Pool created under this chapter.
  - (3) 'Commissioner' means the Commissioner of Insurance.
  - (4) 'Covered Person' means any individual resident of this state, excluding dependents, who is eligible to receive benefits from any insurer.
  - (5) 'Creditable coverage' and 'eligible individual' have the same meaning as specified in Sections 2701 and 2741 of the federal Public Health Service Act, 42 U.S.C.A. Sections 300gg and 300gg-41, except that a person shall not be an eligible individual under this chapter if such person is eligible for or has declined any continuation or conversion coverage or has terminated any such coverage prior to its exhaustion.
  - (6) 'Department' means the Georgia Department of Insurance.
  - (7) 'Dependent' means a spouse or unmarried child under the age of 18 years residing with the individual and a child who is a full-time student according to the provisions of subparagraph (3) of subsection (a) of Code Section 33-29-2 or paragraph (4) of Code Section 33-30-4.
  - (8) 'Family member' means a parent, grandparent, brother, or sister.
  - (9) 'Health insurance' means any hospital or medical expense incurred policy, nonprofit health care services plan contract, health maintenance organization, subscriber contract, or any other health care plan or arrangement that pays for or furnishes medical or health care services, whether by insurance or otherwise, when sold to an individual or as a group policy. This term does not include limited benefit insurance policies. For the purposes of this Code section, the term 'limited benefit insurance' means accident and sickness insurance designed, advertised, and marketed to supplement major medical insurance. The term 'limited benefit insurance' includes accident only, CHAMPUS supplement, dental, disability income, fixed indemnity,

long-term care, medicare supplement, specified disease, vision, limited benefit, or credit insurance; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, and includes any other accident and sickness insurance other than basic hospital expense, basic medical-surgical expense, and comprehensive major medical insurance coverage.

(10) 'Health insurance issuer' and 'health maintenance organization' have the same meaning as specified in Section 2791 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-92.

(11) 'Health insurer' means any health insurance issuer which is not a managed care organization.

(12) 'Insurance arrangement' means a plan, program, contract, or other arrangement through which health care services are provided by an employer to its officers, employees, or other personnel, but does not include health care services covered through an insurer.

(13) 'Insured' means a person who is a resident of this state and a citizen of the United States and who is eligible to receive benefits from the pool. The term 'insured' may include dependents and family members.

(14) 'Insurer' means any entity that is authorized in this state to write health insurance or that provides health insurance in this state. For the purposes of this chapter, the term 'insurer' includes an insurance company; nonprofit health care services plan; health care corporation or surviving health care corporation as defined in Code Section 33-20-3; fraternal benefits society; health maintenance organization; any other entity providing a plan of health insurance or health benefits subject to state insurance regulation; association plans; and any stop-loss plan providing stop-loss coverage to a health insurer or health plan in Georgia.

(15) 'Managed care organization' means a health maintenance organization or a nonprofit health care corporation.

(16) 'Medicare' means coverage provided by Part A and Part B of Title XVIII of the federal Social Security Act, 42 U.S.C. Section 1395c, et seq.

(17) 'Payer' means any person or entity that contributes financially toward the operation of the pool.

(18) 'Physician' means a person licensed to practice medicine in Georgia.

(19) 'Plan of operation' means the plan of operation of the pool and includes the articles, bylaws, and operating rules of the pool that are adopted by the board.

(20) 'Pool' means the Georgia Health Insurance Risk Pool.

(21) 'Resident' means:

(A) An individual who has been legally domiciled in Georgia for a minimum of 90 days;

(B) An individual who is legally domiciled in Georgia on the date of application to the pool and who is eligible for enrollment in the pool as a result of the federal

Health Insurance Portability and Accountability Act of 1996, P. L. 104-191; or

(C) An individual who is legally domiciled in Georgia on the date of application to the pool and is eligible for the credit for health insurance costs under Section 35 of the federal Internal Revenue Code of 1986.

(22) 'Third-party administrator' as used in this chapter shall have the same meaning as the term 'administrator' as defined in Code Section 33-23-100.

(b) Any other term which is used in this chapter and which is also defined in Section 2791 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-92, and not otherwise defined in this chapter shall have the same meaning specified in said Section 2791.

33-29A-3.

(a) There is created a body corporate and politic to be known as the 'Georgia Health Insurance Risk Pool' which shall be deemed to be an instrumentality of the state and a public corporation. The Georgia Health Insurance Risk Pool shall have perpetual existence and any change in the name or composition of the plan shall in no way impair the obligations of any contracts existing under this chapter.

(b) The Commissioner, Governor, Speaker of the House of Representatives, and President of the Senate shall appoint members of the board for staggered six-year terms as provided by this Code section.

(c) The Commissioner shall appoint:

(1) Two persons affiliated with different insurers admitted and authorized to write health insurance in this state, one of whom must represent a domestic insurer;

(2) One person affiliated with a third-party administrator or other case management organization having, as a line of business or specialty, disease state management, case management, patient safety management, or other risk reduction methodologies; and

(3) One person licensed to sell health insurance in the state.

(d) The Speaker of the House of Representatives shall appoint one person representing the medical provider community, such as a physician licensed to practice medicine in this state, a hospital administrator, or an advanced nurse practitioner.

(e) The Governor shall appoint one employer whose principal business location is in the State of Georgia and who can reasonably be expected to offer health insurance coverage to his or her employees.

(f) The President of the Senate shall appoint one representative of the general public who is not employed by or affiliated with an insurance company or plan, group hospital, or other health care provider, and can reasonably be expected to qualify for coverage in the pool. Representatives of the general public include persons whose only affiliation with an insurance company or plan, group hospital service corporation, or health maintenance organization is as an insured or person who has coverage through a plan provided by the corporation or organization.

(g) If a vacancy occurs on the board, the person or officer who made the original appointment to the board shall fill the vacancy for the unexpired term with a person who has the appropriate qualifications to fill that position on the board.

- (h) The Commissioner shall designate one of the appointees to the board to serve as chairperson. The chairperson shall serve at the pleasure of the Commissioner.
- (i) A member of the board shall not be liable for an action or omission performed in good faith in the performance of the powers and duties under this chapter and a cause of action shall not arise against a member for such action or omission.
- (j) Initial terms for board members shall be staggered as follows:
  - (1) One of the persons affiliated with insurers shall have a two-year initial term and one shall have a six-year initial term, as designated by the Commissioner at the time of such appointment;
  - (2) The person licensed to sell insurance in the state shall have a four-year initial term;
  - (3) The employer representative shall have a six-year initial term;
  - (4) The provider representative shall have a four-year initial term;
  - (5) The board member affiliated with a third-party administrator or other case management organization shall have a four-year initial term; and
  - (6) The general public representative shall have a two-year initial term.

Thereafter, members shall be appointed and serve six-year terms.

33-29A-4.

- (a) The initial board of the pool shall submit to the Commissioner a plan of operation for the pool that will assure the fair, reasonable, and equitable administration of the pool.
- (b) In addition to the other requirements of this chapter, the plan of operation must include procedures for:
  - (1) Operation of the pool;
  - (2) Selecting an administrator;
  - (3) Creating a fund, under management of the board, for administrative expenses;
  - (4) Handling, accounting, and auditing of money and other assets of the pool;
  - (5) Developing and implementing a program to publicize the existence of the pool, the eligibility requirements for coverage under the pool, enrollment procedures, and to foster public awareness of the plan;
  - (6) Creation of a grievance committee to review complaints presented by applicants for coverage from the pool and insureds who receive coverage from the pool; and
  - (7) Other matters as may be necessary and proper for the execution of the board's powers, duties, and obligations under this chapter.
- (c) After notice and hearing, the Commissioner shall approve the plan of operation if it is determined that the plan is suitable to assure the fair, reasonable, and equitable administration of the pool.
- (d) The plan of operation shall become effective on the date it is approved by the Commissioner.
- (e) If the initial board fails to submit a suitable plan of operation within 180 days following the appointment of the initial board, the Commissioner, after notice and hearing, may adopt all necessary and reasonable rules to provide a plan for the pool.

The rules adopted under this subsection shall continue in effect until the initial board submits, and the Commissioner approves, a plan of operation as provided under this Code section.

(f) The board shall amend the plan of operation as necessary to carry out this chapter. All amendments to the plan of operation shall be submitted to the Commissioner for approval before becoming part of the plan.

(g) By not later than December 1, 2005, the board shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the results of an actuarial study conducted by the board to determine, including, but not limited to:

- (1) The impact that the creation of the plan will have on the small group insurance market and the individual market on premiums paid by insureds. This shall include an estimate of the total anticipated aggregate savings for all small employers in the state;
- (2) The number of individuals the pool could reasonably cover at various premium levels; and
- (3) An analysis of various sources of funding and a recommendation as to the best source of funding for the future anticipated deficits of the pool.

33-29A-5.

- (a) The pool is authorized to exercise any of the authority that an insurance company authorized to write health insurance in this state may exercise under the laws of this state.
- (b) As part of its authority, the pool shall have the authority to:
  - (1) Provide health benefits coverage to persons who are eligible for that coverage under this chapter;
  - (2) Enter into contracts that are necessary to carry out its powers and duties under this chapter including, with the approval of the Commissioner, entering into contracts with similar pools in other states for the joint performance of common administrative functions or with other organizations for the performance of administrative functions;
  - (3) Sue and be sued, including taking any legal actions necessary or proper to recover or collect assessments due the pool;
  - (4) Institute any legal action necessary to avoid payment of improper claims against the pool or the coverage provided by or through the pool, to recover any amounts erroneously or improperly paid by the pool, to recover any amount paid by the pool as a mistake of fact or law, and to recover other amounts due the pool;
  - (5) Establish appropriate rates, rate schedules, rate adjustments, expense allowance, agents' referral fees, and claim reserve formulas and perform any actuarial function appropriate to the operation of the pool;
  - (6) Adopt policy forms, endorsements, and riders and applications for coverage;
  - (7) Issue insurance policies subject to this chapter and the plan of operation;
  - (8) Appoint appropriate legal, actuarial, and other committees that are necessary to provide technical assistance in operating the pool and performing any of the functions of the pool;

- (9) Employ and set the compensation of any persons necessary to assist the pool in carrying out its responsibilities and functions;
  - (10) Contract for stop-loss insurance for risks incurred by the pool;
  - (11) Borrow money as necessary to implement the purposes of the pool;
  - (12) Issue additional types of health insurance policies to provide optional coverages which comply with applicable provisions of state and federal law;
  - (13) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization case management, disease-state management, and other risk reduction practices for the purpose of maximizing effectiveness and cost savings to the pool, its insureds, and payers;
  - (14) Design, utilize, contract, or otherwise arrange for delivery of cost-effective health care services, including establishing or contracting with preferred provider organizations and health maintenance organizations;
  - (15) Provide for reinsurance on either a facultative or treaty basis, or both; and
  - (16) Develop through research and surveys of insurers offering individual health insurance coverage in this state reasonable guidelines for acceptance of risk in the individual health insurance market.
- (c) The board shall promulgate a list of medical or health conditions for which a person shall be eligible for pool coverage without applying for health insurance. The list shall be effective on the first day of the operation of the pool and may be amended from time to time as may be appropriate and as treatment outcomes and disease state management practices change due to advances in medicine.
- (d) Not later than June 1 of each year, the board shall make an annual report to the Governor, the General Assembly, and the Commissioner. The report shall summarize the activities of the pool in the preceding calendar year, including information regarding net written and earned premiums, plan enrollment, administration expenses, and paid and incurred losses.

33-29A-6.

- (a) After completing a competitive bidding process as provided by the plan of operation, the board may select one or more insurers or a third-party administrator certified by the department to administer the pool.
- (b) The board shall establish criteria for evaluating the bids submitted. The criteria shall include:
  - (1) An insurer's or third-party administrator's proven ability to handle individual accident and sickness insurance;
  - (2) The efficiency of an insurer's or third-party administrator's claims paying procedures;
  - (3) An estimate of total charges for administering the pool;
  - (4) An insurer's or third-party administrator's ability to administer the pool in a cost-efficient manner; and
  - (5) The financial condition and stability of the insurer or third-party administrator.

- (c) The administering insurer or third-party administrator shall perform such functions relating to the pool as may be assigned to it, including:
- (1) Perform eligibility and administrative claims payment functions for the pool;
  - (2) Establish a billing procedure for collection of premiums from persons insured by the pool;
  - (3) Perform functions necessary to assure timely payment of benefits to persons covered under the pool, including:
    - (A) Providing information relating to the proper manner of submitting a claim for benefits to the pool and distributing claim forms; and
    - (B) Evaluating the eligibility of each claim for payment by the pool;
  - (4) Submit regular reports to the board relating to the operation of the pool; and
  - (5) Determine after the close of each calendar year the net written and earned premiums, expense of administration, and paid and incurred losses of the pool for that calendar year and report this information to the board and the Commissioner on forms prescribed by the Commissioner.

33-29A-7.

The Commissioner may by rule and regulation establish additional powers and duties of the board and may adopt other rules and regulations as are necessary and proper to implement this chapter. The Commissioner by rule and regulation shall provide the procedures, criteria, and forms necessary to implement, collect, and deposit assessments made and collected under Code Section 33-29A-12.

33-29A-8.

- (a) Rates and rate schedules may be adjusted for appropriate risk factors, including age and variation in claim costs, and the board may consider appropriate risk factors in accordance with established actuarial and underwriting practices.
- (b) The pool shall determine the standard risk rate by considering the premium rates charged by other insurers offering health insurance coverage to individuals. The standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage. The initial pool rate may not be less than 125 percent and may not exceed 150 percent of rates established as applicable for individual standard rates. Subsequent rates shall be established to provide fully for the expected costs of claims, including recovery of prior losses, expenses of operation, investment income of claim reserves, and any other cost factors subject to the limitations described in this subsection; however, in no event shall pool rates exceed 150 percent of rates applicable to individual standard risks.
- (c) All rates and rate schedules shall be submitted to the Commissioner for approval, and the Commissioner must approve the rates and rate schedules of the pool before use by the pool. The Commissioner in evaluating the rates and rate schedule of the pool shall consider the factors provided for in this Code section.

## 33-29A-9.

- (a) Any individual person who is and continues to be a resident of Georgia and a citizen of the United States shall be eligible for coverage from the pool if evidence is provided of:
- (1) A notice of rejection or refusal to issue substantially similar insurance for health reasons by two insurers. A rejection or refusal by an insurer offering only stop-loss, excess loss, or reinsurance coverage with respect to the applicant shall not be sufficient evidence under this subsection;
  - (2) A refusal by an insurer to issue insurance except at a rate exceeding the pool rate;
  - (3) Diagnosis of the individual with one of the medical or health conditions listed by the board in accordance with subsection (c) of Code Section 33-29A-5. A person diagnosed with one or more of these conditions shall be eligible for a pool coverage without applying for other health insurance coverage;
  - (4) In the case of an individual who is eligible for coverage under the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191, the individual's maintenance of health insurance coverage for the previous 18 months with no gap in coverage greater than 63 days of which the most recent coverage was through an employer sponsored plan;
  - (5) In the case of an individual who is eligible for coverage under the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191, the individual's maintenance of health insurance coverage through this state's 'Enhanced Conversion Option,' 'Georgia Health Insurance Assignment System' or 'Georgia Health Benefits Assignment System' at a rate exceeding the pool rate; or
  - (6) Legal domicile in Georgia and eligibility for the credit for health insurance costs under Section 35 of the federal Internal Revenue Code of 1986.
- (b) Each dependant of a person who is eligible for coverage from the pool shall also be eligible for coverage from the pool unless that person is enrolled in or is eligible to enroll in any form of health insurance or insurance arrangement, whether public or private. In the case of a child who is the primary insured, resident family members shall also be eligible for coverage if they are the siblings, parents, or guardians of the child.
- (c) A person may maintain pool coverage for the period of time the person is satisfying a preexisting waiting period under another health insurance policy or insurance arrangement intended to replace the pool policy.
- (d) A person is not eligible for coverage from the pool if the person:
- (1) Has in effect on the date pool coverage takes effect, or is eligible to enroll in, health insurance coverage from an insurer or insurance arrangement;
  - (2) Is eligible for other health care benefits at the time application is made to the pool, including COBRA continuation, except:
    - (A) Coverage, including COBRA continuation, other continuation, or conversion coverage, maintained for the period of time the person is satisfying any preexisting condition waiting period under a pool policy; or
    - (B) Individual coverage conditioned by the limitation described by paragraphs (1)

- through (3) of subsection (a) of this Code section.
- (3) Has terminated coverage in the pool within 12 months of the date that application is made to the pool, unless the person demonstrates a good faith reason for the termination;
- (4) Is confined in a county jail or imprisoned in a state prison;
- (5) Has premiums that are paid for or reimbursed under any government sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent thereof, of a government agency or health care provider, except as provided in paragraph (6) of subsection (a) of this Code section;
- (6) Has had prior coverage with the pool terminated for nonpayment of premiums or fraud; or
- (7) Has voluntarily terminated coverage outside the pool within six months of the date that application is made to the pool unless the person demonstrates a good faith reason for the termination.
- (e) Pool coverage shall cease:
- (1) On the date a person is no longer a resident of this state, except for a child who is a full-time student according to provisions of subparagraph (3) of subsection (a) of Code Section 33-29-2 or paragraph (4) of Code Section 33-30-4 and who is financially dependent upon the parent, a child for whom a person may be obligated to pay child support, or a child of any age who is disabled and dependent upon the parent;
- (2) On the date a person requests coverage to end;
- (3) Upon the death of the covered person;
- (4) On the date state law requires cancellation of the policy;
- (5) At the option of the pool, 30 days after the pool sends to the person any inquiry concerning the person's eligibility, including an inquiry concerning the person's residence, to which the person does not reply;
- (6) On the thirty-first day after the day on which a premium payment for pool coverage becomes due if the payment is not made before that date; or
- (7) At such time as the person ceases to meet the eligibility requirements of this Code section.
- (f) A person who ceases to meet the eligibility requirements of this Code section may have his or her coverage terminated at the end of the policy period.

33-29A-10.

- (a) The pool shall offer pool coverage consistent with major medical expense coverage to each eligible person who is not eligible for medicare. The board, with the approval of the Commissioner, shall establish:
- (1) The coverages to be provided by the pool;
- (2) At least two health benefit products to be offered by the pool;
- (3) The applicable schedules of benefits; and
- (4) Any exclusions to coverage and other limitations.

- (b) The benefits provisions of the pool's health benefits coverages shall include the following:
- (1) All required or applicable definitions;
  - (2) A list of any exclusions or limitations to coverage;
  - (3) A description of covered services required under the pool; and
  - (4) The deductibles, coinsurance options, and copayment options that are required or permitted under the pool.
- (c) The board may adjust deductibles, the amounts of stop-loss coverage, and the time periods governing preexisting conditions to preserve the financial integrity of the pool. If the board makes such an adjustment, it shall report in writing that adjustment together with its reasons for the adjustment to the Commissioner. The report shall be submitted not later than the thirtieth day after the date the adjustment is made.
- (d) Benefits otherwise payable under pool coverage shall be reduced by amounts paid or payable through any other health insurance or insurance arrangement and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, automobile insurance whether provided on the basis of fault or no-fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.
- (e) The pool shall have a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the pool may be reduced or refused as an offset against any amount recoverable under this subsection.

33-29A-11.

- (a) Except as otherwise provided by this Code section, pool coverage shall exclude charges or expenses incurred during the first 12 months following the effective date of coverage with regard to any condition for which medical advice, care, or treatment was recommended or received during the six-month period preceding the effective date of coverage.
- (b) The preexisting conditions limitation provided in this Code section shall be reduced by aggregated creditable coverage that was in effect up to a date not more than 63 days before application for coverage in the pool.
- (c) An eligible individual who is eligible for enrollment in the pool as a result of the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191, and has 18 months of prior creditable coverage, the most recent of which is employer sponsored coverage, shall be eligible for coverage without regard to the 12 month preexisting conditions limitation.
- (d) An eligible individual who is eligible for the credit for health insurance under Section 35 of the federal Internal Revenue Code of 1986 shall be eligible for coverage without regard to the 12 month preexisting conditions limitation only if he or she had three months of prior creditable coverage as of the date on which the individual seeks to enroll in pool coverage, not counting any period prior to a 63 day break in coverage.

## 33-29A-12.

- (a) The General Assembly shall appropriate the funds necessary to carry out the powers and duties of the pool.
- (b) If the General Assembly should fail in any year to appropriate sufficient funds necessary to carry out the powers and duties of the pool, the board, by July 1 of that year, shall assess insurers in accordance with subsection (c) of this Code section an amount necessary for the continued operation of the pool for the next fiscal year. Assessments shall be due not less than 30 days after the end of each calendar quarter and shall accrue interest at a rate not to exceed 12 percent per annum on and after the due date.
- (c) Each insurer shall be assessed in an amount established by the risk pool board not to exceed \$2.00 per covered person insured by each insurer, or 3 percent of total premium, including aggregate and specific premium, whichever is less, per month excluding persons insured under limited benefit insurance policies as defined in paragraph (9) of subsection (a) of Code Section 33-29A-2. Health insurance and health plans established by federal, state, or local governments shall not be included in such assessments.
- (d) To the extent not otherwise prohibited by law, each insurer may itemize the cost of this assessment in statements or invoices to employers or insureds.
- (e) The board shall make reasonable efforts designed to ensure that each covered person is counted only once with respect to any assessment. For that purpose, the board shall require each insurer that obtains excess or stop-loss insurance to include in its count of covered persons all individuals whose coverage is insured, including by way of excess or stop-loss coverage, in whole or in part. The board shall allow an insurer to exclude from its number of covered persons those who have been counted by the primary insurer or by the primary excess or stop-loss insurer for the purposes of determining its assessment under this Code section.
- (f) Each insurer's assessment may be verified by the board based on annual statements and other reports deemed to be necessary by the board. The board may use any reasonable method of estimating the number of covered persons of an insurer if the specific number is unknown.
- (g) If assessments and other receipts by the pool, board, or administering insurer exceed the actual losses and administrative expenses of the plan, the excess shall be held at interest and used by the board to offset future losses or to reduce plan premiums. Future losses shall include reserves for claims incurred but not reported.
- (h) The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment. As an alternative, the Commissioner may levy a forfeiture on any insurer that fails to pay an assessment when due. Such forfeiture may not exceed 5 percent of the unpaid assessment per month, but no forfeiture shall be less than \$100.00 per month.
- (i) Each insurer and excess or stop-loss carrier assessed under this Code section shall be allowed a tax credit to the extent of that insurer's or excess or stop-loss carrier's

liability to pay state premium tax as required under subsection (b) of Code Section 33-8-4.

(j) Notwithstanding other limitations, each insurer's and excess or stop-loss carrier's assessment shall not exceed that insurer's or excess or stop-loss carrier's net premium tax due for the previous calendar year.

(k) If the board has established or is in the process of establishing through legislation or regulation an alternative funding mechanism other than assessments of insurers for future anticipated deficits of the pool as a result of recommendations pursuant to subsection (g) of Code Section 33-29A-4, such funding mechanism shall be used in lieu of assessments of insurers as soon as is reasonably practicable, but not beyond 24 months after the deadline provided in such Code section for such recommendations. Nothing in this subsection shall be interpreted to convey authority to the board to take any actions not expressly authorized by law.

33-29A-13.

An applicant or participant in coverage from the pool is entitled to have complaints against the pool reviewed by a grievance committee appointed by the board. The grievance committee shall report to the board after completion of the review of each complaint. The board shall retain all written complaints regarding the pool at least until the third anniversary of the date the pool received the complaint.

33-29A-14.

(a) The state auditor shall conduct annually a special audit of the pool. The state auditor's report shall include a financial audit and an economy and efficiency audit.  
(b) The state auditor shall report the cost of each audit conducted under this chapter to the board. The board shall then promptly remit that amount to the state auditor for deposit to the general fund.

33-29A-15.

Notwithstanding other changes in law contained in this chapter, coverage for persons eligible as a result of the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191, shall continue to be issued health insurance coverage through this state's 'Georgia Health Insurance Assignment System,' 'Georgia Health Benefits Assignment System,' or 'Enhanced Conversion Options,' under rules and procedures established under this chapter or under Code Section 33-24-21.1 prior to July 1, 2005, until December 31, 2005, or such time as the pool is able to issue coverage and pay claims to eligible individuals as defined in Code Section 33-29A-2, whichever occurs later.

33-29A-16.

Coverages available under the Georgia Health Insurance Risk Pool must be made available not later than January 1, 2006, unless the board with the agreement of the Commissioner determines that reasonably sufficient funds necessary to issue coverage

and pay claims are not available to the pool as provided in Code Section 33-29A-12."

#### **SECTION 5.**

Said title is further amended by striking paragraph (2) of subsection (b) of Code Section 33-30-15, relating to continuation of similar coverage, and inserting in lieu thereof a new paragraph (2) to read as follows:

"(2) Once such creditable coverage terminates, including termination of such creditable coverage after any period of continuation of coverage required under Code Section 33-24-21.1 or the provisions of Title X of the Omnibus Budget Reconciliation Act of 1986, the insurer must ~~offer a conversion policy provide notice of eligibility for coverage under the state's alternative mechanism of the availability of individual health insurance coverage as provided under Chapter 29A of this title, as contemplated by Section 2741 of the federal Public Health Service Act, 42 U.S.C. Section 300gg-41,~~ to the eligible employee, member, subscriber, enrollee, or dependent."

#### **SECTION 6.**

Said title is further amended by repealing and reserving Chapter 44, relating to high risk health insurance plans.

#### **SECTION 7.**

Sections 1, 3, and 5 of this Act shall become effective on January 1, 2006. The remainder of this Act shall become effective on July 1, 2005.

#### **SECTION 8.**

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

Senators Rogers of the 21st, Hudgens of the 47th and Shafer of the 48th offered the following amendment #1:

Amend the Senate Insurance and Labor Committee substitute to HB 320 by striking from line 1 through 13 on page 1 and inserting in lieu thereof the following:

"To amend Chapter 29A of Title 33 of the Official Code of Georgia Annotated, relating to individual health insurance coverage availability and assignment systems, so as to create the Commission on the Georgia Health Insurance Risk Pool; to provide for its membership, duties, and functions; to provide for related matters; to repeal conflicting laws; and for other purposes."

By redesignating Section 8 as Section 2 and by striking from line 16 on page 1 through line 29 on page 22 and inserting in lieu thereof the following:

"Chapter 29A of Title 33 of the Official Code of Georgia Annotated, relating to individual health insurance coverage availability and assignment systems, is amended

by designating the existing text as Article 1 and adding a new Article 2 to read as follows:

## 'ARTICLE 2

33-29A-20.

(a) As used in this article, the term:

- (1) "Commission" means the Commission on the Georgia Health Insurance Risk Pool.
  - (2) "Commissioner" means the Commissioner of Insurance.
  - (3) "Eligible individual" has the same meaning as specified in Sections 270l and 2741 of the federal Public Health Service Act, 42 U.S.C.A. Sections 300gg and 300gg-41.
  - (4) "Dependent" means a spouse or unmarried child under 18 years of age residing with the eligible individual or a child who is a full-time student according to paragraph (3) of subsection (a) of Code Section 33-29-2 or paragraph (4) of Code Section 33-30-4.
  - (5) "Insured" means a resident who is eligible to receive benefits from the pool.
  - (6) "Insurer" means any entity authorized to write health insurance in this state.
  - (7) "Pool" means the Georgia Health Insurance Risk Pool.
  - (8) "Resident" means an individual who has legally domiciled in Georgia for a minimum of 90 days; who is legally domiciled in Georgia and eligible for enrollment in the pool as a result of the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191; or is eligible for federal Health Coverage Tax Credits.
- (b) Any other term which is used in this article and which is also defined in Section 2791 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-92, and not otherwise defined in this article shall have the same meaning specified in said Section 2791.

33-29A-21.

(a) There is created the Commission on the Georgia Health Insurance Risk Pool, consisting of nine members appointed as provided in this Code section, to conduct a feasibility study and provide recommendations for establishment of the Georgia Health Insurance Risk Pool as an acceptable alternative mechanism, as contemplated by Section 2741 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-41, for coverage for uninsurable individuals and persons eligible for federal Health Coverage Tax Credits. The commission shall exist for such time as needed to carry out its duties and powers, but not beyond June 30, 2006.

(b) The Commissioner shall appoint one person affiliated with an insurer licensed to write health insurance in this state; one person affiliated with an organization having, as a line of business or specialty, disease state management; and one person licensed to sell health insurance in this state.

(c) The Governor shall appoint one person representing the medical provider community, such as a physician licensed to practice medicine in this state or a hospital

administrator; one employer whose principal business location is in this state and who offers health insurance coverage to his or her employees and purchases stop loss insurance; and one representative of the general public reasonably expected to qualify for pool coverage and not employed by or affiliated with an insurance company or plan. The Governor shall appoint one additional member to serve as chairperson who shall not vote except to break a tie. The chairperson shall serve at the pleasure of the Governor.

(d) The Senate Committee on Assignments and the Speaker of the House shall each appoint one member to the commission.

(e) The commission shall hold meetings at the call of the chairperson. A quorum shall be a majority of the members of the commission.

(f) Any legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 and the same mileage or transportation allowance as authorized for state employees. Any members of the commission who are state officials, other than legislative members, or state employees shall receive no compensation for their services on the commission, but shall be reimbursed for expenses incurred in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or employees. Funds necessary for reimbursement of expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective agencies or departments.

33-29A-22.

(a) On or before December 15, 2005, the commission shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on any recommendations for legislation and the results of an actuarial and feasibility study conducted by the commission to determine, without limitation, the following:

(1) The impact that the creation of the pool will have on the small and large group insurance markets and the individual market, on premiums paid by insureds, including an estimate of total anticipated savings for all purchasers of health insurance in this state;

(2) The number of individuals and dependents the pool could reasonably cover at various premium levels, along with cost estimates for such coverage;

(3) An analysis of various sources of funding and a recommendation as to the best source of funding for the future anticipated deficits of the pool; and

(4) The impact that eligibility of persons qualifying for federal health coverage tax credits will have on the pool.

(b) The commission is authorized to:

(1) Enter into contracts to carry out its powers and duties under this article;

(2) Appoint appropriate legal, actuarial, and other committees that are necessary to provide technical assistance in carrying out the purposes of the commission;

(3) Evaluate cost containment measures and risk reduction practices, along with

opportunities for delivery of cost-effective health care services through the pool; and  
(4) Evaluate the feasibility of a list of medical conditions for which a person shall be eligible for pool coverage without applying for health insurance.

- (c) The commission shall have authority to evaluate and apply for grants and resources, public and private, for which it may qualify for executing its powers and duties under this article, including, but not limited to, start-up funds for state high risk pools under the federal Trade Act of 2002 or related legislation to extend such funding and funds as they are available for expansion of coverage to persons eligible for federal Health Coverage Tax Credits.  
(d) Not later than June 30, 2006, the commission shall make a final report to the Governor, the General Assembly, and the Commissioner with all of its findings and recommendations."

Senator Rogers of the 21st asked unanimous consent that his amendment #1 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senators Hudgens of the 47th and Rogers of the 21st offered the following amendment #2:

Amend the Senate Insurance and Labor Committee substitute to HB 320 by striking from line 1 through 13 on page 1 and inserting in lieu thereof the following:

"To amend Chapter 29A of Title 33 of the Official Code of Georgia Annotated, relating to individual health insurance coverage availability and assignment systems, so as to create the Commission on the Georgia Health Insurance Risk Pool; to provide for its membership, duties, and functions; to provide for related matters; to repeal conflicting laws; and for other purposes."

By redesignating Section 8 as Section 2 and by striking from line 16 on page 1 through line 29 on page 22 and inserting in lieu thereof the following:

"Chapter 29A of Title 33 of the Official Code of Georgia Annotated, relating to individual health insurance coverage availability and assignment systems, is amended by designating the existing text as Article 1 and adding a new Article 2 to read as follows:

## 'ARTICLE 2

33-29A-20.

- (a) As used in this article, the term:  
(1) "Commission" means the Commission on the Georgia Health Insurance Risk Pool.  
(2) "Commissioner" means the Commissioner of Insurance.  
(3) "Eligible individual" has the same meaning as specified in Sections 2701 and 2741

of the federal Public Health Service Act, 42 U.S.C.A. Sections 300gg and 300gg-41.

(4) "Dependent" means a spouse or unmarried child under 18 years of age residing with the eligible individual or a child who is a full-time student according to paragraph (3) of subsection (a) of Code Section 33-29-2 or paragraph (4) of Code Section 33-30-4.

(5) "Insured" means a resident who is eligible to receive benefits from the pool.

(6) "Insurer" means any entity authorized to write health insurance in this state.

(7) "Pool" means the Georgia Health Insurance Risk Pool.

(8) "Resident" means an individual who has legally domiciled in Georgia for a minimum of 90 days; who is legally domiciled in Georgia and eligible for enrollment in the pool as a result of the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191; or is eligible for federal Health Coverage Tax Credits.

(b) Any other term which is used in this article and which is also defined in Section 2791 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-92, and not otherwise defined in this article shall have the same meaning specified in said Section 2791.

### 33-29A-21.

(a) There is created the Commission on the Georgia Health Insurance Risk Pool, consisting of seven members appointed as provided in this Code section, to conduct a feasibility study and provide recommendations for establishment of the Georgia Health Insurance Risk Pool as an acceptable alternative mechanism, as contemplated by Section 2741 of the federal Public Health Service Act, 42 U.S.C.A. Section 300gg-41, for coverage for uninsurable individuals and persons eligible for federal Health Coverage Tax Credits. The commission shall exist for such time as needed to carry out its duties and powers, but not beyond June 30, 2006.

(b) The Governor shall appoint one citizen of this state who is familiar with health insurance matters to serve as chairperson who shall not vote except to break a tie. The chairperson shall serve at the pleasure of the Governor.

(c) The Senate Committee on Assignments shall appoint two members of the Senate and one citizen of this state who is familiar with health insurance matters to the commission.

(d) The Speaker of the House of Representatives shall appoint two members of the House of Representatives and one citizen of this state who is familiar with health insurance matters to the commission.

(e) The commission shall hold meetings at the call of the chairperson. A quorum shall be a majority of the members of the commission.

(f) Any legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 and the same mileage or transportation allowance as authorized for state employees. Any members of the commission who are state officials, other than legislative members, or state employees shall receive no compensation for their services on the commission, but shall be

reimbursed for expenses incurred in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or employees. Funds necessary for reimbursement of expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective agencies or departments.

33-29A-22.

(a) On or before December 15, 2005, the commission shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on any recommendations for legislation and the results of an actuarial and feasibility study conducted by the commission to determine, without limitation, the following:

- (1) The impact that the creation of the pool will have on the small and large group insurance markets and the individual market, on premiums paid by insureds, including an estimate of total anticipated savings for all purchasers of health insurance in this state;
- (2) The number of individuals and dependents the pool could reasonably cover at various premium levels, along with cost estimates for such coverage;
- (3) An analysis of various sources of funding and a recommendation as to the best source of funding for the future anticipated deficits of the pool; and
- (4) The impact that eligibility of persons qualifying for federal health coverage tax credits will have on the pool.

(b) The commission is authorized to:

- (1) Enter into contracts to carry out its powers and duties under this article;
- (2) Appoint appropriate legal, actuarial, and other committees that are necessary to provide technical assistance in carrying out the purposes of the commission;
- (3) Evaluate cost containment measures and risk reduction practices, along with opportunities for delivery of cost-effective health care services through the pool; and
- (4) Evaluate the feasibility of a list of medical conditions for which a person shall be eligible for pool coverage without applying for health insurance.

(c) The commission shall have authority to evaluate and apply for grants and resources, public and private, for which it may qualify for executing its powers and duties under this article, including, but not limited to, start-up funds for state high risk pools under the federal Trade Act of 2002 or related legislation to extend such funding and funds as they are available for expansion of coverage to persons eligible for federal Health Coverage Tax Credits.

(d) Not later than June 30, 2006, the commission shall make a final report to the Governor, the General Assembly, and the Commissioner with all of its findings and recommendations."

On the adoption of the amendment, the yeas were 30, nays 0, and the Hudgens, Rogers amendment #2 was adopted.

On the adoption of the substitute, the yeas were 39, nays 0, 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	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
E Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

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

HB 320, having received the requisite constitutional majority, was passed by substitute.

Senator Heath of the 31st asked unanimous consent that Senator Hill of the 32nd be excused. The consent was granted, and Senator Hill was excused.

The following bill was taken up to consider the Conference Committee Report thereto:

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to

medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on SB 140 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SB 140 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Williams of the 19th  
/s/ Senator Goggans of the 7th  
/s/ Senator Unterman of the 45th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Brown of the 69th  
/s/ Representative Ehrhart of the 36th  
/s/ Representative Stephens of the 164th

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 140

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to managed health care plans, so as to create the Joint Committee to Study Prescription Costs in State Funded Health Care Plans; to provide for its membership, operation, and duties; to provide for automatic repeal; to amend Article 2 of Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to PeachCare for Kids, so as to provide

for a definition; to change certain provisions relating to the creation of PeachCare, availability, eligibility, payment of premiums, and enrollment; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to managed health care plans, is amended by adding a new article to the end of such chapter to read as follows:

**"ARTICLE 4**

33-20A-70.

- (a) There is created as a joint committee of the General Assembly the Joint Committee to Study Prescription Costs in State Funded Health Care Plans. The committee shall be composed of three members of the House of Representatives to be appointed by the Speaker of the House of Representatives and three members of the Senate to be appointed by the President Pro Tempore of the Senate. The members of the committee shall be appointed no later than May 1, 2005. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate one of the members appointed to serve as cochairpersons of the committee. The committee shall meet at the call of the cochairpersons.
- (b) The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this Code section.
- (c) The committee shall study and review prior authorization, formularies, and any other related issues with respect to coverage of prescription drugs under any state funded health care plans, including, but not limited to, plans and health care services offered, established, and provided pursuant to Article 1 of Chapter 18 of Title 45, Article 7 of Chapter 4 of Title 49, and Article 13 of Chapter 5 of Title 49. In the event the committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2005.
- (d) The Department of Community Health shall cooperate with the committee and its authorized personnel in order that the committee may efficiently and effectively carry out its duties. The Department of Community Health shall submit to the committee such reports and data as the committee shall reasonably require of said department in order that the committee may adequately inform itself.
- (e) The members of the committee shall receive the same expenses and allowances for their services on the committee as are authorized by law for members of interim

legislative study committees. The expenses and allowances authorized by this subsection shall not be received by any member of the committee for more than five days unless additional days are authorized by the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The funds necessary for the purposes of the committee shall come from the funds appropriated to and available to the legislative branch of government.

(f) The committee shall stand abolished and this Code section shall be automatically repealed on December 31, 2005."

## SECTION 2.

Article 2 of Chapter 20A of Title 33 of the Official Code of Georgia Annotated, relating to the patient's right to independent review, is amended by striking such article in its entirety and inserting in lieu thereof a new Article 2 to read as follows:

### "ARTICLE 2

33-20A-30.

This article shall be known and may be cited as the 'Patient's Right to Independent Review Act.'

33-20A-31.

As used in this article:

(1) 'Department' means the Department of Community Health established under Chapter 5A of Title 31.

(2) 'Eligible enrollee' means a person who:

(A) Is an enrollee or an eligible dependent of an enrollee of a managed care plan or was an enrollee or an eligible dependent of an enrollee of such plan at the time of the request for treatment; and

(B) Seeks a treatment which reasonably appears to be a covered service or benefit under the enrollee's evidence of coverage; provided, however, that this subparagraph shall not apply if the notice from a managed care plan of the outcome of the grievance procedure was that a treatment is experimental; and

(C) Is not a Medicaid care management member.

(2)(3) 'Grievance procedure' means the grievance procedure established pursuant to Code Section 33-20A-5.

(3)(4) 'Independent review organization' means any organization certified as such by the planning agency department under Code Section 33-20A-39.

(5) 'Medicaid care management member' means a recipient of medical assistance, as that term is defined in paragraph (7) of Code Section 49-4-141, and shall also include a child receiving health care benefits pursuant to Article 13 of Chapter 5 of Title 49.

(4)(6) 'Medical and scientific evidence' means:

(A) Peer reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific

manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(B) Peer reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base or Health Services Technology Assessment Research (HSTAR);

(C) Medical journals recognized by the United States secretary of health and human services, under Section 1861(t)(2) of the Social Security Act;

(D) The following standard reference compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information; or

(E) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, the Centers for Medicare and Medicaid Services, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

~~(5)~~(7) 'Medical necessity,' 'medically necessary care,' or 'medically necessary and appropriate' means care based upon generally accepted medical practices in light of conditions at the time of treatment which is:

(A) Appropriate and consistent with the diagnosis and the omission of which could adversely affect or fail to improve the eligible enrollee's condition;

(B) Compatible with the standards of acceptable medical practice in the United States;

(C) Provided in a safe and appropriate setting given the nature of the diagnosis and the severity of the symptoms;

(D) Not provided solely for the convenience of the eligible enrollee or the convenience of the health care provider or hospital; and

(E) Not primarily custodial care, unless custodial care is a covered service or benefit under the eligible enrollee's evidence of coverage.

~~(6) 'Planning agency' means the Health Planning Agency established under Chapter 6 of Title 31 or its successor agency.~~

~~(7)~~(8) 'Treatment' means a medical service, diagnosis, procedure, therapy, drug, or device.

~~(8)~~(9) Any term defined in Code Section 33-20A-3 shall have the meaning provided for that term in Code Section 33-20A-3 except that 'enrollee' shall include the enrollee's eligible dependents.

33-20A-32.

An eligible enrollee shall be entitled to appeal to an independent review organization

when:

- (1) The eligible enrollee has received notice of an adverse outcome pursuant to a grievance procedure or the managed care entity has not complied with the requirements of Code Section 33-20A-5 with regard to such procedure; or
- (2) A managed care entity determines that a proposed treatment is excluded as experimental under the managed care plan, and all of the following criteria are met:
  - (A) The eligible enrollee has a terminal condition that, according to the treating physician, has a substantial probability of causing death within two years from the date of the request for independent review or the eligible enrollee's ability to regain or maintain maximum function, as determined by the treating physician, would be impaired by withholding the experimental treatment;
  - (B) After exhaustion of standard treatment as provided by the evidence of coverage or a finding that such treatment would be of substantially lesser or of no benefit, the eligible enrollee's treating physician certifies that the eligible enrollee has a condition for which standard treatment would not be medically indicated for the eligible enrollee or for which there is no standard treatment available under the evidence of coverage of the eligible enrollee more beneficial than the treatment proposed;
  - (C) The eligible enrollee's treating physician has recommended and certified in writing treatment which is likely to be more beneficial to the eligible enrollee than any available standard treatment;
  - (D) The eligible enrollee has requested a treatment as to which the eligible enrollee's treating physician, who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the eligible enrollee's condition, has certified in writing that scientifically valid studies using accepted protocols, such as control group or double-blind testing, published in peer reviewed literature, demonstrate that the proposed treatment is likely to be more beneficial for the eligible enrollee than available standard treatment; and
  - (E) A specific treatment recommended would otherwise be included within the eligible enrollee's certificate of coverage, except for the determination by the managed care entity that such treatment is experimental for a particular condition.

33-20A-33.

Except where required pursuant to Code Section 51-1-49, a proposed treatment must require the expenditure of a minimum of \$500.00 to qualify for independent review.

33-20A-34.

- (a) The parent or guardian of a minor who is an eligible enrollee may act on behalf of the minor in requesting independent review. The legal guardian or representative of an incapacitated eligible enrollee shall be authorized to act on behalf of the eligible enrollee in requesting independent review. Except as provided in Code Section 51-1-49, independent review may not be requested by persons other than the eligible enrollee or a person acting on behalf of the eligible enrollee as provided in this Code section.

- (b) A managed care entity shall be required to pay the full cost of applying for and obtaining the independent review.
- (c) The eligible enrollee and the managed care entity shall cooperate with the independent review organization to provide the information and documentation, including executing necessary releases for medical records, which are necessary for the independent review organization to make a determination of the claim.

33-20A-35.

- (a) In the event that the outcome of the grievance procedure under Code Section 33-20A-5 is adverse to the eligible enrollee, the managed care entity shall include with the written notice of the outcome of the grievance procedure a statement specifying that any request for independent review must be made to the planning agency department on forms developed by the planning agency department, and such forms shall be included with the notification. Such statement shall be in simple, clear language in boldface type which is larger and bolder than any other typeface which is in the notice and in at least 14 point typeface.
- (b) An eligible enrollee must submit the written request for independent review to the planning agency department. Instructions on how to request independent review shall be given to all eligible enrollees with the written notice required under this Code section together with instructions in simple, clear language as to what information, documentation, and procedure are required for independent review.
- (c) Upon receipt of a completed form requesting independent review as required by subsection (a) of this Code section, the planning agency department shall notify the eligible enrollee of receipt and assign the request to an independent review organization on a rotating basis according to the date the request is received.
- (d) Upon assigning a request for independent review to an independent review organization, the planning agency department shall provide written notification of the name and address of the assigned organization to both the requesting eligible enrollee and the managed care entity.
- (e) No managed care entity may be certified by the Commissioner under Article 1 of this chapter unless the entity agrees to pay the costs of independent review to the independent review organization assigned by the planning agency department to conduct each review involving such entity's eligible enrollees.

33-20A-36.

- (a) Within three business days of receipt of notice from the planning agency department of assignment of the application for determination to an independent review organization, the managed care entity shall submit to that organization the following:
  - (1) Any information submitted to the managed care entity by the eligible enrollee in support of the eligible enrollee's grievance procedure filing;
  - (2) A copy of the contract provisions or evidence of coverage of the managed care plan; and
  - (3) Any other relevant documents or information used by the managed care entity in

determining the outcome of the eligible enrollee's grievance.

Upon request, the managed care entity shall provide a copy of all documents required by this subsection, except for any proprietary or privileged information, to the eligible enrollee. The eligible enrollee may provide the independent review organization with any additional information the eligible enrollee deems relevant.

(b) The independent review organization shall request any additional information required for the review from the managed care entity and the eligible enrollee within five business days of receipt of the documentation required under this Code section. Any additional information requested by the independent review organization shall be submitted within five business days of receipt of the request, or an explanation of why the additional information is not being submitted shall be provided.

(c) Additional information obtained from the eligible enrollee shall be transmitted to the managed care entity, which may determine that such additional information justifies a reconsideration of the outcome of the grievance procedure. A decision by the managed care entity to cover fully the treatment in question upon reconsideration using such additional information shall terminate independent review.

(d) The expert reviewer of the independent review organization shall make a determination within 15 business days after expiration of all time limits set forth in this Code section, but such time limits may be extended or shortened by mutual agreement between the eligible enrollee and the managed care entity. The determination shall be in writing and state the basis of the reviewer's decision. A copy of the decision shall be delivered to the managed care entity, the eligible enrollee, and the ~~planning agency department~~ by at least first-class mail.

(e) The independent review organization's decision shall be based upon a review of the information and documentation submitted to it.

(f) Information required or authorized to be provided pursuant to this Code section may be provided by facsimile transmission or other electronic transmission.

33-20A-37.

(a) A decision of the independent review organization in favor of the eligible enrollee shall be final and binding on the managed care entity and the appropriate relief shall be provided without delay. A managed care entity bound by such decision of an independent review organization shall not be liable pursuant to Code Section 51-1-48 for abiding by such decision. Nothing in this Code section shall relieve the managed care entity from liability for damages proximately caused by its determination of the proposed treatment prior to such decision.

(b) A determination by the independent review organization in favor of a managed care entity shall create a rebuttable presumption in any subsequent action that the managed care entity's prior determination was appropriate and shall constitute a medical record for purposes of Code Section 24-7-8.

(c) In the event that, in the judgment of the treating health care provider, the health condition of the enrollee is such that following the provisions of Code Section 33-20A-36 would jeopardize the life or health of the eligible enrollee or the eligible enrollee's

ability to regain maximum function, as determined by the treating health care provider, an expedited review shall be available. The expedited review process shall encompass all elements enumerated in Code Sections 33-20A-36 and 33-20A-40; provided, however, that a decision by the expert reviewer shall be rendered within 72 hours after the expert reviewer's receipt of all available requested documents.

33-20A-38.

Neither an independent review organization nor its employees, agents, or contractors shall be liable for damages arising from determinations made pursuant to this article, unless an act or omission thereof is made in bad faith or through gross negligence, constitutes fraud or willful misconduct, or demonstrates malice, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to the consequences.

33-20A-39.

(a) The ~~planning agency department~~ shall certify independent review organizations that meet the requirements of this Code section and any regulations promulgated by the ~~planning agency department~~ consistent with this article. The ~~planning agency department~~ shall deem certified any independent review organization meeting standards developed for this purpose by an independent national accrediting organization. To qualify for certification, an independent review organization must show the following:

(1) Expert reviewers assigned by the independent review organization must be physicians or other appropriate providers who meet the following minimum requirements:

(A) Are expert in the treatment of the medical condition at issue and are knowledgeable about the recommended treatment through actual clinical experience;

(B) Hold a nonrestricted license issued by a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of review; and

(C) Have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restriction, taken or pending by any hospital, government, or regulatory body;

(2) The independent review organization shall not be a subsidiary of, nor in any way owned or controlled by, a health plan, a trade association of health plans, a managed care entity, or a professional association of health care providers; and

(3) The independent review organization shall submit to the ~~planning agency department~~ the following information upon initial application for certification, and thereafter within 30 days of any change to any of the following information:

(A) The names of all owners of more than 5 percent of any stock or options, if a publicly held organization;

(B) The names of all holders of bonds or notes in excess of \$100,000.00, if any;

(C) The names of all corporations and organizations that the independent review

organization controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business; and  
(D) The names of all directors, officers, and executives of the independent review organization, as well as a statement regarding any relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care entity or organization, provider group, or board or committee.

(b) Neither the independent review organization nor any expert reviewer of the independent review organization may have any material professional, familial, or financial conflict of interest with any of the following:

- (1) A managed care plan or entity being reviewed;
- (2) Any officer, director, or management employee of a managed care plan which is being reviewed;
- (3) The physician, the physician's medical group, health care provider, or the independent practice association proposing a treatment under review;
- (4) The institution at which a proposed treatment would be provided;
- (5) The eligible enrollee or the eligible enrollee's representative; or
- (6) The development or manufacture of the treatment proposed for the eligible enrollee whose treatment is under review.

(c) As used in subsection (b) of this Code section, the term 'conflict of interest' shall not be interpreted to include a contract under which an academic medical center or other similar medical research center provides health care services to eligible enrollees of a managed care plan, except as subject to the requirement of paragraph (4) of subsection (b) of this Code section; affiliations which are limited to staff privileges at a health care facility; or an expert reviewer's participation as a contracting plan provider where the expert is affiliated with an academic medical center or other similar medical research center that is acting as an independent review organization under this article. An agreement to provide independent review for an eligible enrollee or managed care entity is not a conflict of interest under subsection (b) of this Code section.

(d) The independent review organization shall have a quality assurance mechanism in place that ensures the timeliness and quality of the reviews, the qualifications and independence of the experts, and the confidentiality of medical records and review materials.

(e) The planning agency department shall provide upon the request of any interested person a copy of all nonproprietary information filed with it pursuant to this article. The planning agency department shall provide at least quarterly a current list of certified independent review organizations to all managed care entities and to any interested persons.

33-20A-40.

- (a) For the purposes of this article, in making a determination as to whether a treatment is medically necessary and appropriate, the expert reviewer shall use the definition provided in paragraph (5)(7) of Code Section 33-20A-31.
- (b) For the purposes of this article, in making a determination as to whether a treatment

is experimental, the expert reviewer shall determine:

- (1) Whether such treatment has been approved by the federal Food and Drug Administration; or
- (2) Whether medical and scientific evidence demonstrates that the expected benefits of the proposed treatment would be greater than the benefits of any available standard treatment and that the adverse risks of the proposed treatment will not be substantially increased over those of standard treatments.

For either determination, the expert reviewer shall apply prudent professional practices and shall assure that at least two documents of medical and scientific evidence support the decision.

33-20A-41.

The planning agency department shall provide necessary rules and regulations for the implementation and operation of this article.

33-20A-42.

Medicaid care management members shall, after first exhausting the grievance procedure of the managed care plan providing health care benefits pursuant to Article 7 of Chapter 4 of Title 49 or Article 13 of Chapter 5 of Title 49, be afforded the fair hearing rights provided pursuant to Code Section 49-4-153 or the state plan provided for in Article 13 of Chapter 5 of Title 49."

### SECTION 3.

Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, is amended by striking Code Section 49-4-156, which is reserved, and inserting in lieu thereof a new Code Section 49-4-156 to read as follows:  
"49-4-156.

Reserved. The provisions of Code Section 33-21-16 shall not apply to health maintenance organizations with respect to contracts entered into with the department for the furnishing of health care services to persons pursuant to this article."

### SECTION 4.

Article 13 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to PeachCare for Kids, is amended by striking Code Section 49-5-272, relating to definitions, and inserting in lieu thereof the following:

"49-5-272.

As used in this article, the term:

- (1) 'Board' means the Board of Community Health.
- (2) 'Department' means the Department of Community Health.
- (2)(3) 'Federal law' means Title XXI of the federal Social Security Act.
- (3)(4) 'Medicaid' means medical assistance provided under Article 7 of Chapter 4 of this title, the 'Georgia Medical Assistance Act of 1977.'

~~(4)(5)~~ 'PeachCare' or 'program' means the PeachCare for Kids Program created by Code Section 49-5-273."

#### SECTION 5.

Said article is further amended by striking subsections (g) through (o) of Code Section 49-5-273, relating to the creation of PeachCare, availability, eligibility, payment of premiums, and enrollment, and inserting in lieu thereof the following:

- "(g) The department shall provide for outreach for the purpose of enrolling children in the program. Applications shall be accepted by mail or in person. All necessary and appropriate steps shall be taken to achieve administrative cost efficiency, reduce administrative barriers to application for and receipt of services under the program, verify eligibility for the program and enforce eligibility standards, and ensure that enrollment in the program does not substitute for coverage under a group health insurance plan.
- (h) Any health care provider who is enrolled in the Medicaid program shall be deemed to be enrolled in the program.
- (i) The department shall file a Title XXI plan to carry out the program with the United States Department of Health and Human Services Centers for Medicare and Medicaid Services ~~by June 1, 1998~~. The department shall have the authority and flexibility to make such decisions as are necessary to secure approval of that plan consistent with this article. The department shall provide a copy of the plan to the General Assembly. The department shall operate this program consistent with federal law.
- (j) The department shall publish an annual report, copies of which shall be provided to the Governor and the General Assembly, setting forth the number of participants in the program, the health services provided, the amount of money paid to providers, and other pertinent information with respect to the administration of the program.
- (k) All state agencies shall cooperate with the department and its designated agents by providing requested information to assist in the administration of the program.
- (l) The department, through the Department of Administrative Services or any other appropriate entity, may contract for any or all of the following: the collection of premiums, processing of applications, verification of eligibility, outreach, data services, and evaluation, if such contracting achieves administrative or service cost efficiency. The department, and other state agencies as appropriate, shall provide necessary information to any entity which has contracted with the department for services related to the administration of the program upon request. For purposes of compliance with Code Section 34-8-125, a request by any entity which has contracted with the department for services related to the administration of the program shall be deemed to be a request by a responsible official of the department and considered to be a request by the department.
- (m) Nothing in this article shall be interpreted in a manner so as to preclude the department from contracting with licensed health maintenance organizations (HMO) or provider sponsored health care corporations (PSHCC) for coverage of program services and eligible children ~~in a metropolitan statistical area~~; provided, however, that such

contracts shall require payment of premiums and copayments in a manner consistent with this article. The department may ~~not~~ require enrollment in a health maintenance organization (HMO) or provider sponsored health care corporation (PSHCC) as a condition of receiving coverage under the program.

(n) ~~There shall be created a separate budget unit 'C' and a separate appropriation in the department for the purpose of carrying out the provisions of this article.~~

(e) The Department of Education and local boards of education shall cooperate with and provide assistance to the department and its designated agents for the purposes of identifying and enrolling eligible children in the program."

#### SECTION 6.

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

#### SECTION 7.

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

Senator Williams of the 19th moved that the Senate adopt the Conference Committee Report on SB 140.

On the motion, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Balfour	E Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson	N Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 31, nays 18; the motion prevailed, and the Senate adopted the Conference Committee Report on SB 140.

The following bill was taken up to consider House action thereto:

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hamrick of the 30th moved that the Senate adhere to its substitute to HB 254 and that a Conference Committee be appointed.

On the motion, the yeas were 36, nays 2; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Hamrick of the 30th, Kemp of the 46th and Carter of the 13th.

The following bill was taken up to consider House action thereto:

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hamrick of the 30th moved that the Senate adhere to its substitute to HB 106 and that a Conference Committee be appointed.

On the motion, the yeas were 27, nays 2; the motion prevailed, and the President appointed as a Conference Committee the following Senators: Hamrick of the 30th, Mullis of the 53rd and Hill of the 4th.

Senator Stephens of the 27th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

Senator Stephens of the 27th asked unanimous consent that the reading of the Governor's Executive Appointments found in the Senate Journal of March 17, 2005, be dispensed with and that one roll call suffice for the confirmation of the Governor's Appointments.

The consent was granted and the reading of the Governor's Appointments was dispensed with.

On the motion to confirm the Governor's Executive Appointments, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	E Johnson	Y Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 1, the motion prevailed; and the Governor's Executive Appointments were confirmed.

The following communication was transmitted to the Governor:

THURSDAY, MARCH 31, 2005

3233

Honorable Sonny Perdue  
Governor  
State Capitol  
Atlanta, Georgia 30334

March 31, 2005

Dear Governor:

Under the rules of the Georgia State Senate governing confirmation of appointments submitted by you, I have the honor to report to you as follows:

Nominations sent to the Senate by you on March 16, 2005 were acted upon by the Georgia State Senate in session on March 31, 2005, with the following results:

The Honorable Kay C. Brown of Bulloch County, as a member of the Board of Commissioners of the Georgia Student Finance Commission, for the term of office beginning August 13, 2004, and ending January 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mary Lynn Huntley of Fulton County, as a member of the Board of Commissioners of the Georgia Student Finance Commission, for the term of office beginning June 4, 2004, and ending March 15, 2005, and for the subsequent term of office ending March 15, 2011. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Tom Martin of Gwinnett County, as a member of the Board of Commissioners of the Georgia Student Finance Commission, for the term of office beginning September 24, 2004, and ending March 15, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mid Ramsey of Clarke County, as a member of the Board of Commissioners of the Georgia Student Finance Commission, for the term of office beginning May 18, 2004, and ending March 15, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lindsey Tippins of Cobb County, as a member of the Board of Commissioners of the Georgia Student Finance Commission, for the term of office beginning May 18, 2004, and ending March 15, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Pearlie Toliver of Bibb County, as a member of the Board of Commissioners of the Georgia Student Finance Commission, for the term of office

beginning July 29, 2004, and ending March 15, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Roger D. Garrison of Cherokee County, as a member of the Board of Commissioners of the Peace Officers' Annuity and Benefit Fund, for the term of office beginning June 2, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable L. Cary Bittick, Jr. of Monroe County, as a member of the Board of Commissioners of the Sheriffs Retirement Fund, for the term of office beginning February 7, 2005, and ending June 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Scott Chitwood of Whitfield County, as a member of the Board of Commissioners of the Sheriffs Retirement Fund, for the term of office beginning October 22, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Alphonse St. Lawrence of Chatham County, as a member of the Board of Commissioners of the Sheriffs Retirement Fund of Georgia, for the term of office beginning March 14, 2005, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Willie Adams of Dougherty County, as a member of the Board of Community Affairs, for the term of office beginning September 17, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Connie Perry of Berrien County, as a member of the Board of Community Affairs, for the term of office beginning September 7, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Frank Turner of Newton County, as a member of the Board of Community Affairs, for the term of office beginning January 7, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mark Williams of Wayne County, as a member of the Board of Community Affairs, for the term of office beginning August 13, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jeffrey Jay Anderson of Forsyth County, as a member of the Board of Community Health, for the term of office beginning September 10, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mary Covington of Carroll County, as a member of the Board of Community Health, for the term of office beginning November 11, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Inman "Buddy" English of Houston County, as a member of the Board of Community Health, for the term of office beginning August 6, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kim Gay of Fulton County, as a member of the Board of Community Health, for the term of office beginning February 7, 2005, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Richard Holmes of Fulton County, as a member of the Board of Community Health, for the term of office beginning July 1, 2002, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable George Ross Mason of Morgan County, as a member of the Board of Community Health, for the term of office beginning February 7, 2005, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Anne Parker of Fulton County, as a member of the Board of Community Health, for the term of office beginning August 6, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Chris Stroud of Dougherty County, as a member of the Board of Community Health, for the term of office beginning September 10, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Michael Adams of Clarke County, as a member of the Board of Control for Southern Regional Education, for the term of office beginning April 15, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jack Hill of Tattnall County, as a member of the Board of Control for Southern Regional Education, for the term of office beginning April 15, 2004, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sandra Neal of Bibb County, as a member of the Board of Control for Southern Regional Education, for the term of office beginning July 1, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable J. Tyson Stephens of Emanuel County, as a member of the Board of Corrections, for the term of office beginning February 17, 2005, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Brandon Beach of Fulton County, as a member of the Board of Directors of the Georgia Regional Transportation Authority, for the term of office beginning October 8, 2004, and ending June 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sonny Deriso of Muscogee County, as a member of the Board of Directors of the Georgia Regional Transportation Authority, for the term of office beginning May 14, 2004, and ending June 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Alton Knight of Spalding County, as a member of the Board of Directors of the Georgia Regional Transportation Authority, for the term of office beginning June 1, 2004, and ending June 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kessel Stelling of Gwinnett County, as a member of the Board of Directors of the Georgia Regional Transportation Authority, for the term of office beginning August 3, 2004, and ending June 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jeanie Thomas of Fulton County, as a member of the Board of Directors of the Georgia Regional Transportation Authority, for the term of office beginning July 23, 2004, and ending June 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bob Voyles of DeKalb County, as a member of the Board of Directors of the Georgia Regional Transportation Authority, for the term of office beginning March 4, 2005, and ending June 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mike Garrett of Fulton County, as a member of the Board of Economic Development, for the term of office beginning January 31, 2005, and ending July 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Tom Griffith of Oconee County, as a member of the Board of Economic Development, for the term of office beginning July 15, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Robert Moultrie of Cobb County, as a member of the Board of Economic Development, for the term of office beginning July 1, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Charles K. Tarbutton of Washington County, as a member of the Board of Economic Development, for the term of office beginning February 10, 2005, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Elliott Caudell of Stephens County, as a member of the Board of Governors of the Geo. L. Smith Georgia World Congress Center Authority, for the term of office beginning July 23, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Henry Murriel Patton of Newton County, as a member of the Board of Human Resources, for the term of office beginning February 10, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable James E. Talbot of Gilmer County, as a member of the Board of Human Resources, for the term of office beginning February 17, 2005, and ending April 6, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Judy Mecum of Hall County, as a member of the Board of Juvenile Justice, for the term of office beginning July 15, 2004, and ending July 6, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Michael C. Baugh of Brooks County, as a member of the Board of Juvenile Justice, for the term of office beginning February 10, 2005, and ending June 6, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sandra Taylor of Troup County, as a member of the Board of Juvenile Justice, for the term of office beginning November 10, 2004, and ending July 6, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Van Herrin of Brantley County, as a member of the Board of Juvenile Justice, for the term of office beginning February 17, 2005, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Trummie L. Patrick of Fulton County, as a member of the Board of Motor Vehicle Safety, for the term of office beginning August 6, 2004, and ending June 30, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Earl D. Barrs of Bleckley County, as a member of the Board of Natural Resources, for the term of office beginning January 18, 2005, and ending January 1, 2012. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jenny Lynn Bradley of Chatham County, as a member of the Board of Natural Resources, for the term of office beginning July 1, 2004, and ending January 1, 2011. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Cader B. Cox III of Mitchell County, as a member of the Board of Natural Resources, for the term of office beginning November 10, 2004, and ending January 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mabel C. Jenkins of Jenkins County, as a member of the Board of Natural Resources, for the term of office beginning February 10, 2005, and ending January 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Glenn Taylor of Gwinnett County, as a member of the Board of Natural Resources, for the term of office beginning June 25, 2004, and ending March 16, 2011. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable William Dwayne Orrick of Crisp County, as a member of the Board of Public Safety, for the term of office beginning February 7, 2005, and ending January 20, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David H. Averitt of Bulloch County, as a membr of the Board of Public Safety, for the term of office beginning January 20, 2005, and ending January 20, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lou Dekmar of Troup County, as a member of the Board of Public Safety, for the term of office beginning January 20, 2005, and ending January 20, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable J.D. Rice of Lowndes County, as a member of the Board of Public Safety, for the term of office beginning January 20, 2005, and ending January 20, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Donald M. Leebern, Jr. of Muscogee County, as a member of the Board of Regents of the University System of Georgia, for the term of office beginning January 28, 2005, and ending January 1, 2012. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Wanda Yancey Rodwell of DeKalb County, as a member of the Board of Regents of the University System of Georgia, for the term of office beginning January 28, 2005, and ending January 1, 2012. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Richard L. Tucker of Gwinnett County, as a member of the Board of Regents of the University System of Georgia, for the term of office beginning January 28, 2005, and ending January 1, 2012. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Samuel Chipper Gardner of Spalding County, as a member of the Board of Trustees of the Georgia Firefighters Pension Fund, for the term of office beginning November 17, 2004, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Daniel J. Craig of Richmond County, as a member of the Board of Trustees of the Georgia Judicial Retirement System, for the term of office beginning October 22, 2004, and ending July 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kelly D. Turner of Lowndes County, as a member of the Board of Trustees of the Georgia Judicial Retirement System, for the term of office beginning November 10, 2004, and ending July 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Karlton Van Banke of Clayton County, as a member of the Board of Trustees of the Georgia Judicial Retirement System, for the term of office beginning November 10, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Panagiotis A. Argentinis of Chatham County, as a member of the Board of Trustees of the Herty Foundation, for the term of office beginning March 4, 2005, and ending February 19, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable James Crisp Gatewood, Jr. of Dougherty County, as a member of the Board of Trustees of the Herty Foundation, for the term of office beginning February 7, 2005, and ending February 19, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jacek Piotr Siry of Clarke County, as a member of the Board of Trustees of the Herty Foundation, for the term of office beginning February 7, 2005, and ending February 19, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable H. Brooks Warnell, Jr. of Bryan County, as a member of the Board of Trustees of the Herty Foundation, for the term of office beginning March 7, 2005, and ending February 19, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jimmy Braswell of Bibb County, as a member of the Board of Trustees of the Subsequent Injury Trust Fund, for the term of office beginning July 15, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jimmy C. Beck, Sr. of Carroll County, as a member of the Board of Trustees of the Subsequent Injury Trust Fund Commission, for the term of office beginning November 23, 2004, and ending July 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Paul Demersseman of Oconee County, as a member of the Board of Trustees of the Teachers Retirement System of Georgia, for the term of office beginning August 20, 2004, and ending June 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Joseph Redden of Cobb County, as a member of the Board of Trustees of the Teachers Retirement System of Georgia, for the term of office beginning January 18, 2005, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David Renz of Whitfield County, as a member of the Brain & Spinal Injury Trust Fund Commission, for the term of office beginning December 8, 2004, and

ending December 8, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mitch Warnock of Laurens County, as a member of the Brain & Spinal Injury Trust Fund Commission, for the term of office beginning December 8, 2004, and ending December 8, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Susan Johnson of Fulton County, as a member of the Brain and Spinal Injury Trust Fund Commission, for the term of office beginning October 8, 2004, and ending December 4, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable E. Culver Kidd III of Baldwin County, as a member of the Brain and Spinal Injury Trust Fund Commission, for the term of office beginning July 23, 2004, and ending December 8, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Shree Strickland of Carroll County, as a member of the Brain and Spinal Injury Trust Fund Commission, for the term of office beginning January 31, 2005, and ending January 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jan Loftis of Richmond County, as a member of the Civil War Commission, for the term of office beginning July 16, 2004, and ending June 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mel Steely of Carroll County, as a member of the Civil War Commission, for the term of office beginning June 1, 2004, and ending June 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Rogers Wade of Fulton County, as a member of the Civil War Commission, for the term of office beginning August 6, 2004, and ending June 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Carl Cansino of Baldwin County, as a member of the Consumer Advisory Board, for the term of office beginning July 1, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kimbley Puckett of Clayton County, as a member of the Consumer Advisory Board, for the term of office beginning July 1, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Barry Reid of DeKalb County, as a member of the Consumer Advisory Board, for the term of office beginning July 1, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Charles G. Newton IV of McDuffie County, as a member of the Georgia Agricultural Exposition Authority, for the term of office beginning October 22, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Foster Rhodes of Houston County, as a member of the Georgia Agricultural Exposition Authority, for the term of office beginning September 7, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable R. Micah Story of Clarke County, as a member of the Georgia Agricultural Exposition Authority, for the term of office beginning December 10, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Tommy E. Waldrop, Sr. of Coffee County, as a member of the Georgia Agricultural Exposition Authority, for the term of office beginning September 10, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Moses Ector of DeKalb County, as a member of the Georgia Athletic and Entertainment Commission, for the term of office beginning November 10, 2004, and ending November 6, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Cary Ichter of Fulton County, as a member of the Georgia Athletic and Entertainment Commission, for the term of office beginning August 13, 2004, and ending December 20, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Tom Moraetes of Richmond County, as a member of the Georgia Athletic and Entertainment Commission, for the term of office beginning November 10, 2004, and ending November 6, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Charles F. Gay of Floyd County, as a member of the Georgia Auctioneers Commission, for the term of office beginning August 14, 2004, and ending August 14, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mark Manley of Thomas County, as a member of the Georgia Auctioneers Commission, for the term of office beginning June 29, 2004, and ending August 14, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bobby Aycock of Habersham County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 8, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Oliver C. Bateman of Bibb County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning February 22, 2005, and ending July 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Buster Boshears of Richmond County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 8, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Terance Cawley of Lowndes County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 22, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Eugene A. Demonet of Harris County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning November 10, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable E. Ray Fletcher of DeKalb County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 22, 2004, and ending July 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Henry Lowe of Monroe County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 22, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Howard H. McWhorter, Jr. of Clarke County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning November 10, 2004, and

ending July 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jimmy Norton of Gwinnett County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 22, 2004, and ending July 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dick Roberts of DeKalb County, as a member of the Georgia Aviation Hall of Fame Board, for the term of office beginning October 22, 2004, and ending July 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Karen Mathiak of Spalding County, as a member of the Georgia Board of Chiropractic Examiners, for the term of office beginning August 27, 2004, and ending August 20, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Emma Rebecca Bays Carlon of Dougherty County, as a member of the Georgia Board of Dentistry, for the term of office beginning September 7, 2004, and ending March 15, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Marylynn Bellville of Walton County, as a member of the Georgia Board of Examiners of Licensed Practical Nurses, for the term of office beginning September 24, 2004, and ending April 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Judy Hilliard of Dodge County, as a member of the Georgia Board of Examiners of Licensed Practical Nurses, for the term of office beginning September 3, 2004, and ending April 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Le Ann Tuggle of Houston County, as a member of the Georgia Board of Examiners of Licensed Practical Nurses, for the term of office beginning September 3, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Don Meck of Houston County, as a member of the Georgia Board of Examiners of Psychologists, for the term of office beginning October 22, 2004, and ending March 27, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Marsha Sauls of Fulton County, as a member of the Georgia Board of Examiners of Psychologists, for the term of office beginning January 31, 2005, and ending January 7, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Susan P. Ayers of Troup County, as a member of the Georgia Board of Nursing, for the term of office beginning March 4, 2005, and ending September 23, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Toni Barnett of Gilmer County, as a member of the Georgia Board of Nursing, for the term of office beginning June 25, 2004, and ending September 23, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Linda Easterly of Houston County, as a member of the Georgia Board of Nursing, for the term of office beginning June 25, 2004, and ending September 23, 2004, and for the subsequent term of office ending September 23, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dee Keeton of DeKalb County, as a member of the Georgia Board of Nursing, for the term of office beginning June 4, 2004, and ending September 23, 2004, and for the subsequent term of office ending September 23, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kellie R. Lockwood of Atkinson County, as a member of the Georgia Board of Nursing, for the term of office beginning March 4, 2005, and ending September 23, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Scott Thigpen of Coffee County, as a member of the Georgia Board of Nursing, for the term of office beginning September 23, 2004, and ending September 23, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John Villines of Clarke County, as a member of the Georgia Board of Private Detective and Security Agencies, for the term of office beginning July 1, 2004, and ending July 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Robert Warner of Houston County, as a member of the Georgia Board of Private Detective and Security Agencies, for the term of office beginning July 1, 2004, and ending July 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bette Rose Bowers of Fulton County, as a member of the Georgia Commission on Women, for the term of office beginning July 15, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Liz Kleemann of Dougherty County, as a member of the Georgia Commission on Women, for the term of office beginning July 15, 2004, and ending July 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lynn Murphy of Bibb County, as a member of the Georgia Commission on Women, for the term of office beginning July 15, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Eric Groh of DeKalb County, as a member of the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists, for the term of office beginning August 13, 2004, and ending December 31, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bill Quarterman of Stephens County, as a member of the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists, for the term of office beginning October 1, 2004, and ending December 31, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Helen Coale of Fulton County, as a member of the Georgia Composite Board of Social Workers, Professional Counselors, and Marriage and Family Therapists, for the term of office beginning May 14, 2004, and ending December 31, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Laura Coble of Richmond County, as a member of the Georgia Golf Hall of Fame Board, for the term of office beginning October 22, 2004, and ending November 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Glenn Cornell of Gwinnett County, as a member of the Georgia Golf Hall of Fame Board, for the term of office beginning July 15, 2004, and ending November 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ann Dorsey of Fulton County, as a member of the Georgia Public Telecommunications Commission, for the term of office beginning June 30, 2004, and

ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mike McDougald of Floyd County, as a member of the Georgia Public Telecommunications Commission, for the term of office beginning August 13, 2004, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Arthur Joel Morris of Fulton County, as a member of the Georgia Public Telecommunications Commission, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Graylin Young of Fulton County, as a member of the Georgia Public Telecommunications Commission, for the term of office beginning August 6, 2004, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Charles Bramlett of Jasper County, as a member of the Georgia Real Estate Appraisers Board, for the term of office beginning January 24, 2005, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Patricia Love of Muscogee County, as a member of the Georgia Real Estate Appraisers Board, for the term of office beginning December 10, 2004, and ending July 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable William R. Coleman, Jr. of Columbia County, as a member of the Georgia Board of Real Estate Appraisers, for the term of office beginning July 15, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sandra Winter of Cobb County, as a member of the Georgia Board of Real Estate Appraisers, for the term of office beginning August 13, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable D. Scott Murphy of Gwinnett County, as a member of the Georgia Board of Real Estate Appraisers, for the term of office beginning August 20, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Gwendolyn Faye Fulcher of Richmond County, as a member of the Georgia Real Estate Commission, for the term of office beginning July 1, 2004, and ending January 26, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John Burton Wilkerson, Jr. of Bibb County, as a member of the Georgia Real Estate Commission, for the term of office beginning July 1, 2004, and ending October 26, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ben Copeland of Peach County, as a member of the Georgia Seed Development Commission, for the term of office beginning June 30, 2003, and ending June 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Henry James Mehserle, Jr. of Houston County, as a member of the Georgia State Board of Architects and Interior Designers, for the term of office beginning March 5, 2005, and ending March 5, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Anne K. Smith of Chatham County, as a member of the Georgia State Board of Architects and Interior Designers, for the term of office beginning March 5, 2005, and ending March 5, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lamar Deloach of Candler County, as a member of the Georgia Tobacco Community Development Board, for the term of office beginning September 10, 2004, and ending August 26, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Roy Herrington of Appling County, as a member of the Georgia Tobacco Community Development Board, for the term of office beginning September 7, 2004, and ending August 26, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bob Herriott of Carroll County, as a member of the Judicial Qualifications Commission, for the term of office beginning June 4, 2004, and ending December 31, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable P. Martin Ellard of Hall County, as a member of the Metro North Georgia Water Planning District Governing Board, for the term of office beginning March 4,

2005, and ending June 29, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kathryn Dunlap of Hall County, as a member of the Metropolitan North Georgia Water Planning District Governing Board, for the term of office beginning January 24, 2005, and ending June 29, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Birdel Jackson of Fulton County, as a member of the Metropolitan North Georgia Water Planning District Governing Board, for the term of office beginning July 23, 2004, and ending June 29, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dennis McEntire of Coweta County, as a member of the Metropolitan North Georgia Water Planning District Governing Board, for the term of office beginning May 4, 2004, and ending June 29, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jean Roberson Ebron of Muscogee County, as a member of the Professional Standards Commission, for the term of office beginning October 8, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mary Gomez of DeKalb County, as a member of the Professional Standards Commission, for the term of office beginning October 22, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Maria Jesus Miller of Gwinnett County, as a member of the Professional Standards Commission, for the term of office beginning October 1, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Louisa Moffitt of Fulton County, as a member of the Professional Standards Commission, for the term of office beginning October 8, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mary Outlaw of Floyd County, as a member of the Professional Standards Commission, for the term of office beginning October 1, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Holly Robinson of Fulton County, as a member of the Professional Standards Commission, for the term of office beginning October 8, 2004, and ending July 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sandra Thompson of Cobb County, as a member of the Professional Standards Commission, for the term of office beginning October 1, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Wanda West of Twiggs County, as a member of the Professional Standards Commission, for the term of office beginning October 8, 2004, and ending July 1, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Marsha Christy of Houston County, as a member of the State Board for the Certification of Librarians, for the term of office beginning September 7, 2004, and ending January 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable George Gaumond of Lowndes County, as a member of the State Board for the Certification of Librarians, for the term of office beginning December 10, 2004, and ending December 31, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Susan S. Whittle of Decatur County, as a member of the State Board for the Certification of Librarians, for the term of office beginning September 7, 2004, and ending January 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ben Hill of Dade County, as a member of the State Board of Accountancy, for the term of office beginning January 7, 2005, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Carter Bates of Bibb County, as a member of the State Board of Accountancy, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable J. Sam Johnson of Habersham County, as a member of the State Board of Accountancy, for the term of office beginning January 7, 2005, and ending June 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable E.J. Maddocks of Richmond County, as a member of the State Board of Accountancy, for the term of office beginning July 23, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable T. Farrell Nichols of Laurens County, as a member of the State Board of Accountancy, for the term of office beginning January 7, 2005, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Michael Skinner of Chatham County, as a member of the State Board of Accountancy, for the term of office beginning January 31, 2005, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Grace Williams of Gwinnett County, as a member of the State Board of Accountancy, for the term of office beginning July 23, 2004, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Niles Bolton of Fulton County, as a member of the State Board of Architects and Interior Designers, for the term of office beginning May 10, 2004, and ending August 9, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ivenue Love-Stanley of Fulton County, as a member of the State Board of Architects and Interior Designers, for the term of office beginning July 15, 2004, and ending March 5, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David Maschke of Dougherty County, as a member of the State Board of Architects and Interior Designers, for the term of office beginning June 8, 2004, and ending March 5, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Camille Puckett of Gwinnett County, as a member of the State Board of Architects and Interior Designers, for the term of office beginning June 4, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lutha Crump of Bibb County, as a member of the State Board of Barbers, for the term of office beginning January 31, 2005, and ending July 25, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David Jones of Houston County, as a member of the State Board of Barbers, for the term of office beginning May 14, 2004, and ending July 25, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Winston Strickland of Bartow County, as a member of the State Board of Barbers, for the term of office beginning November 10, 2004, and ending December 29, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Wanda Brooks of Gwinnett County, as a member of the State Board of Cosmetology, for the term of office beginning August 9, 2004, and ending August 9, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Betty Carlisle of Monroe County, as a member of the State Board of Cosmetology, for the term of office beginning July 23, 2004, and ending May 29, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kay Kendrick of McDuffie County, as a member of the State Board of Cosmetology, for the term of office beginning July 14, 2004, and ending May 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John Siggers of Fulton County, as a member of the State Board of Cosmetology, for the term of office beginning July 14, 2004, and ending August 9, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dave Meldrum of Fulton County, as a member of the State Board of Dispensing Opticians, for the term of office beginning September 7, 2004, and ending March 16, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Glenn McCoy Morris of Richmond County, as a member of the State Board of Dispensing Opticians, for the term of office beginning March 16, 2005, and ending March 16, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Thelon Hamby of Troup County, as a member of the State Board of Funeral Service, for the term of office beginning June 25, 2004, and ending February 13, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lauren McDonald, Jr. of Forsyth County, as a member of the State Board of Funeral Service, for the term of office beginning November 10, 2004, and ending

February 13, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David Roach of Cobb County, as a member of the State Board of Funeral Service, for the term of office beginning July 14, 2004, and ending February 13, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Draper Watson of Houston County, as a member of the State Board of Funeral Service, for the term of office beginning June 4, 2004, and ending February 13, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Chad Baker of Gwinnett County, as a member of the State Board of Landscape Architects, for the term of office beginning January 31, 2005, and ending April 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Michael Breedlove of Rockdale County, as a member of the State Board of Landscape Architects, for the term of office beginning September 10, 2004, and ending April 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Paul Brickey of Cobb County, as a member of the State Board of Landscape Architects, for the term of office beginning September 10, 2004, and ending April 1, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Rebecca Kirk of Fulton County, as a member of the State Board of Landscape Architects, for the term of office beginning September 10, 2004, and ending April 1, 2005, and for the subsequent term of office ending April 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Barbara J. Baxter of Cherokee County, as a member of the State Board of Nursing Home Administrators, for the term of office beginning June 7, 2004, and ending December 29, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Terrell Buford Cook of Telfair County, as a member of the State Board of Nursing Home Administrators, for the term of office beginning June 4, 2004, and ending June 4, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sheila Weddon of Burke County, as a member of the State Board of Nursing Home Administrators, for the term of office beginning June 4, 2004, and ending June 4, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dudley Christie of Houston County, as a member of the State Board of Optometry, for the term of office beginning August 27, 2004, and ending September 6, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Harley Kemp Jones of Emanuel County, as a member of the State Board of Optometry, for the term of office beginning October 22, 2004, and ending September 6, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Whit Lord of Bulloch County, as a member of the State Board of Optometry, for the term of office beginning August 20, 2004, and ending September 6, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable L. Gale Buckner of Douglas County, as a member of the State Board of Pardons and Paroles, for the term of office beginning December 31, 2004, and ending December 31, 2011. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Judy Gardner of Fulton County, as a member of the State Board of Pharmacy, for the term of office beginning May 19, 2004, and ending July 1, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Patrick McPherson of Cobb County, as a member of the State Board of Pharmacy, for the term of office beginning May 19, 2004, and ending November 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lola Rosenbaum of Houston County, as a member of the State Board of Physical Therapy, for the term of office beginning September 7, 2004, and ending August 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Patti Willis of Gwinnett County, as a member of the State Board of Physical Therapy, for the term of office beginning August 20, 2004, and ending August 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sarvepalli D. Jokhai of Bibb County, as a member of the State Board of Podiatry Examiners, for the term of office beginning July 9, 2004, and ending May 5, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Barry Turner of Franklin County, as a member of the State Board of Podiatry Examiners, for the term of office beginning September 24, 2004, and ending May 5, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Christoph Zenker of Glynn County, as a member of the State Board of Podiatry Examiners, for the term of office beginning July 9, 2004, and ending May 5, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Fred Allen of Jones County, as a member of the State Board of Registration for Foresters, for the term of office beginning October 1, 2004, and ending October 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John Britt of Harris County, as a member of the State Board of Registration for Foresters, for the term of office beginning October 1, 2004, and ending October 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dale Green of Clarke County, as a member of the State Board of Registration for Foresters, for the term of office beginning October 1, 2004, and ending October 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Fred Greer of Newton County, as a member of the State Board of Registration for Foresters, for the term of office beginning August 20, 2004, and ending June 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John Mixon of Pike County, as a member of the State Board of Registration for Foresters, for the term of office beginning October 1, 2004, and ending October 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sidney McLeod of Houston County, as a member of the State Board of Registration for Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers, for

the term of office beginning May 17, 2004, and ending June 30, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Steve Sumner of Forsyth County, as a member of the State Board of Registration for Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers, for the term of office beginning September 17, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable James Wilkinson of Baldwin County, as a member of the State Board of Registration for Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers, for the term of office beginning May 14, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ken Cronan of Hall County, as a member of the State Board of Registration of Used Car Dealers and Used Motor Vehicles Parts Dealers, for the term of office beginning January 24, 2005, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ann R. Purcell of Effingham County, as a member of the State Board of Technical and Adult Education, for the term of office beginning March 14, 2005, and ending June 30, 2005. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Needham Bateman of DeKalb County, as a member of the State Board of Veterinary Medicine, for the term of office beginning February 7, 2005, and ending September 16, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable James Brett of Tift County, as a member of the State Board of Veterinary Medicine, for the term of office beginning September 16, 2004, and ending September 16, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Beckey Malphus of Thomas County, as a member of the State Board of Veterinary Medicine, for the term of office beginning March 14, 2005, and ending June 24, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Charles Warren Massey of Barrow County, as a member of the State Board of Workers' Compensation, for the term of office beginning May 14, 2004, and ending January 12, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Amos T. Beason of Troup County, as a member of the State Children's Trust Fund Commission, for the term of office beginning February 17, 2005, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Laudis H. Lanford of Monroe County, as a member of the State Children's Trust Fund Commission, for the term of office beginning February 17, 2005, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Paul Addis of Fayette County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 25, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dowling Granberry of Tift County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 25, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Janette Lasley King of Houston County, as a member of the State Construction Industry Licensing Board, for the term of office beginning May 14, 2004, and ending June 30, 2004, and for the subsequent term of office ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable George Leneaus of Carroll County, as a member of the State Construction Industry Licensing Board, for the term of office beginning August 13, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John D. Pearson of Forsyth County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Albert Scales of Paulding County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 4, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mitzi Delee Smith of Cobb County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 4, 2004,

and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Sallie Stanfield Allen of Clarke County, as a member of the State Construction Industry Licensing Board, for the term of office beginning July 15, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Don Swords of Butts County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 25, 2004, and ending June 30, 2007. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Thomas C. Young of Wilkes County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable James David Belk of Cobb County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David Rawson of Fulton County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Maudine Wright of Coffee County, as a member of the State Construction Industry Licensing Board, for the term of office beginning June 30, 2004, and ending June 30, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David J. Worley of Fayette County, as a member of the State Elections Board, for the term of office beginning May 20, 2004, and ending May 20, 2006. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jim Gillis of Treutlen County, as a member of the State Forestry Commission, for the term of office beginning January 24, 2005, and ending January 1, 2012. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Robert W. Pollard, Jr. of Columbia County, as a member of the State Forestry Commission, for the term of office beginning February 10, 2005, and ending January 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dennis T. Brown of Banks County, as a member of the State Soil and Water Conservation Commission, for the term of office beginning January 1, 2004, and ending January 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David T. Hays of Dougherty County, as a member of the State Soil and Water Conservation Commission, for the term of office beginning January 1, 2005, and ending January 1, 2010. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kenneth W. Birdsong of Twiggs County, as a member of the Veterans Service Board, for the term of office beginning January 10, 2005, and ending April 1, 2009. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Simon Bloom of DeKalb County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Laurie Chandler of Floyd County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John Cooper of DeKalb County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable David Ensley of Jackson County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Carol Fey of Cobb County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January

1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Brett Harrell of Gwinnett County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Elizabeth Palmer of Fulton County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Michele Reiner of DeKalb County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Lillian Sullivan of Muscogee County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Myra Tolbert of DeKalb County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Angeleen Walker of Richmond County, as a member of the Commission on Service and Volunteerism, for the term of office beginning January 1, 2005, and ending January 1, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mike Akins of Morgan County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dallas Austin of Fulton County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Kay Beck of DeKalb County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dana Braun of Chatham County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ron Charles of Hall County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Dan Darling of Cobb County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Melissa Goodman of Cobb County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bart Graham of Fulton County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Michael Gravely of Cobb County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Shay Griffin of Polk County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Patrick Jones of Fulton County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and

ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Joel Katz of Fulton County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Chris Klaus of Fulton County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Diane Lewis of Bartow County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Butch Parrish of Emanuel County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mitch Seabaugh of Coweta County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Ed Spivia of Fulton County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Paula Wallace of Chatham County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Harriette Watkins of Fayette County, as a member of the Georgia Film, Video, and Music Advisory Commission, for the term of office beginning August 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Mark Byrd of Houston County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Alice Champagne of Cobb County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Doug Easter of Gwinnett County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Jim Hamilton of Gwinnett County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable JoAnn Macrina of Fulton County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable James Magnus of Fulton County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Bob Ringer of Fulton County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Karim Shahlaee of Gwinnett County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Gregory Teague of Cobb County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure

of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Benjie Thompson of Bulloch County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Aaron Varner of Newton County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Burns Wetherington of Douglas County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable Connie Wiggins of Gwinnett County, as a member of the Stakeholder Advisory Board, for the term of office beginning July 2, 2004, and ending at the pleasure of the Governor. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

The Honorable John W. Duren, of Chatham County, as a member of the Atlantic States Marine Fisheries Commission, for the term of office beginning January 4, 2005, and ending January 4, 2008. The vote on this confirmation was yeas 47, nays 1, and the nominee was confirmed.

Sincerely,

/s/ Frank Eldridge, Jr,  
Secretary of the Senate

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

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

THURSDAY, MARCH 31, 2005

3265

SB 13. By Senators Rogers of the 21st, Seabaugh of the 28th, Mullis of the 53rd, Hill of the 32nd and Moody of the 56th:

A BILL to be entitled an Act to amend Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or deceptive practices in consumer transactions, so as to provide a short title; to provide for definitions; to provide that the terms of gift certificates, store gift cards, and general use prepaid cards shall be disclosed at the time of purchase and through certain notifications; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Eric Johnson, President Pro Tempore, assumed the Chair.

The following bill was taken up to consider House action thereto:

SB 4. By Senators Seabaugh of the 28th, Williams of the 19th, Stephens of the 27th, Hamrick of the 30th, Hill of the 32nd and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated, relating to the allocation of funds for public roads, so as to change the provisions regarding the balancing of federal and state funds; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 32-5-30 of the Official Code of Georgia Annotated, relating to allocation of state and federal funds, so as to remove certain projects exempt from the allocation provisions of said Code section; to provide for budgeting periods; to change the portion to be divided equally; to remove a provision for expenditures incidental to economic development purposes; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 32-5-30 of the Official Code of Georgia Annotated, relating to allocation of state and federal funds, is amended by striking in its entirety subsection (a) and inserting in lieu thereof the following:

"(a)(1) The total of expenditures from the State Public Transportation Fund under

paragraphs (4), (5), and (6) of Code Section 32-5-21 plus expenditures of federal funds appropriated to the department, not including any state or federal funds specifically designated for maintenance and operations, any project undertaken for purposes of the Developmental Highway System provided by Code Section 32-4-22, or any project of the Georgia Regional Transportation Authority, Georgia Ports Authority, or Metropolitan Atlanta Rapid Transit Authority, projects that have been earmarked by a member of Congress in excess of appropriated funds shall be budgeted by the department over each five year period commencing July 1, 1999, and quinquennially thereafter two successive budgeting periods every decade.

(2) The first budgeting period shall commence immediately following redistricting of congressional districts and shall be for a duration of five years. The second budgeting period shall continue until the beginning of the budgeting period following the next redistricting of congressional districts after each decennial census; provided, however, if the congressional districts have been redrawn prior to a new decennial census, but after the approval of an existing map based on the last decennial census, the budgeting period shall include two successive budgeting periods. The first budgeting period shall end upon approval of the new redistricting and the second budgeting period shall commence from the date such redrawn congressional districts have been approved and shall continue until the next budgeting period following the next redistricting of congressional districts. The department shall budget such expenditures such that at the end of such budgeting period funding obligations equivalent to at least 85 80 percent of such total for such budgeting period shall have been divided equally among the congressional districts in this state, as those districts existed at the commencement of such budgeting period, for public road and other public transportation purposes in such districts; with the remainder of such total divided among such congressional districts such that 5 percent of such total for such period shall have been obligated for public road projects incidental to economic development purposes anywhere in this state, and no such congressional district shall have received funding obligations pursuant to this subsection for such period which are more than 20 percent greater than that received by any other such congressional district pursuant to this subsection for such period."

## SECTION 2.

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

Senator Seabaugh of the 28th moved that the Senate agree to the House substitute to SB 4.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman  
Y Balfour  
N Brown

Hill,Jack  
Y Hill,Judson  
N Hooks

Y Smith  
E Starr  
Y Staton

N Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	N Powell	Walker
N Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Harbison	Y Schaefer	Y Wiles
Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 38, nays 10; the motion prevailed, and the Senate agreed to the House substitute to SB 4.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 188. By Representatives Burmeister of the 119th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, so as to require that the photograph of a person who is convicted of certain crimes for which such person is required to register as a sexual offender shall be published in the legal organ of the county in which such person was convicted; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 188 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 188 be adopted.

Respectfully submitted,

FOR THE SENATE:

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Senator Smith of the 52nd  
/s/ Senator Rogers of the 21st

/s/ Representative Burmeister of the 119th  
/s/ Representative Ralston of the 7th  
/s/ Representative Knox of the 24th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 188

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, so as to require that the photograph of a person who is convicted of certain crimes for which such person is required to register as a sexual offender shall be published in the legal organ of the county in which such person resides after release from confinement; 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 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, is amended by adding a new Article 9 to read as follows:

"ARTICLE 9

16-5-110.

(a) When a person who has been convicted of a crime for which that person is required to register under Code Section 42-1-12 makes his or her first report to a sheriff after such person's release from confinement, the sheriff shall cause to be published a notice of conviction and release from confinement of such person. Such notice shall be published in the manner of legal notices in the legal organ of the county in which person resides. Such notice shall be one column wide by two inches long and shall contain the photograph taken by the arresting law enforcement agency at the time of arrest or a subsequent photograph, the name and address of the convicted person, and the date, time, place of arrest, and disposition of the case and shall be published once in the legal organ of the appropriate county in the second week following such person's release from confinement or as soon thereafter as publication may be made. The notice shall include the address of the Georgia Bureau of Investigation website for additional information regarding the sexual offender registry.

(b) The convicted person for which a notice of conviction and release from confinement is published pursuant to subsection (a) of this Code section shall be

assessed \$25.00 for the cost of publication of such notice, and such assessment shall be imposed at the time of reporting to the sheriff's office.

(c) The sheriff, the publisher of any legal organ which publishes a notice of conviction and release from confinement, and any other person involved in the publication of an erroneous notice of conviction and release from confinement shall be immune from civil or criminal liability for such erroneous publication, provided that such publication was made in good faith."

## SECTION 2.

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

Senator Rogers of the 21st moved that the Senate adopt the Conference Committee Report on HB 188.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Hill,Jack	Y Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 49, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 188.

Senator Chapman of the 3rd asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

The following bill was taken up to consider House action thereto:

SB 274. By Senator Seabaugh of the 28th:

A BILL to be entitled an Act to amend Chapter 9 of Title 25 of the Official Code of Georgia Annotated, the "Georgia Utility Facility Protection Act," so as to add provisions relating to sewer laterals, to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 9 of Title 25 of the Official Code of Georgia Annotated, the "Georgia Utility Facility Protection Act," so as to revise comprehensively provisions relating to utility facility protection; to add provisions regarding sewer laterals; to revise definitions; to revise provisions relating to design locate requests; to revise provisions relating to the utilities protection center; to provide for commencing excavation or blasting before the end of the waiting period in some circumstances; to revise provisions relating to costs of re-marking; to revise provisions relating to the responsibilities of excavators and facility owners or operators; to provide for responsibilities of sewer system owners or operators with regard to sewer laterals; to provide for immunity from liability in certain circumstances; to provide for attempted location of utility facilities and sewer laterals by excavators in certain circumstances; to provide for installation of sewer laterals in a manner to make them locatable; to provide for use of a locator; to provide for large projects; to provide for the standard of care for trenchless excavation; to revise provisions relating to emergency excavations; to authorize ordinances requiring bonds for excavators; to provide for calculation of damages in certain civil actions; to revise provisions relating to the advisory committee; to revise provisions relating to commission enforcement of the chapter; to restrict imposition of civil penalties on local governing authorities; to provide for recommendations regarding training in lieu of penalties; to provide for findings and offers of settlement; to provide for civil penalties; 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 9 of Title 25 of the Official Code of Georgia Annotated, the "Georgia Utility Facility Protection Act," is amended by striking Code Section 25-9-2, relating to the purpose of the chapter, and inserting in lieu thereof the following:

"25-9-2.

The purpose of this chapter is to protect the public from physical harm, prevent injury to persons and property, and prevent interruptions of utility service resulting from

damage to utility facilities and sewer laterals caused by blasting or excavating operations by providing a method whereby the location of utility facilities and sewer laterals will be made known to persons planning to engage in blasting or excavating operations so that such persons may observe proper precautions with respect to such utility facilities and sewer laterals."

## SECTION 2.

Said chapter is further amended by striking Code Section 25-9-3, relating to definitions relative to utility facility protection, and inserting in lieu thereof the following:

"25-9-3.

As used in this chapter, the term:

- (1) 'Abandoned utility facility' means a utility facility taken out of service by a facility owner or operator on or after January 1, 2001.
- (2) 'Blasting' means any operation by which the level or grade of land is changed or by which earth, rock, buildings, structures, or other masses or materials are rended, torn, demolished, moved, or removed by the detonation of dynamite or any other explosive agent.
- (3) 'Business days' means Monday through Friday, excluding the following holidays: New Year's Day, Birthday of Dr. Martin Luther King, Jr., Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the following Friday, Christmas Eve, and Christmas Day. Any such holiday that falls on a Saturday shall be observed on the preceding Friday. Any such holiday that falls on a Sunday shall be observed on the following Monday.
- (4) 'Business hours' means the time from 7:00 A.M. to 4:30 P.M. local time on business days.
- (5) 'Commission' means the Public Service Commission.
- (6) 'Corporation' means any corporation; municipal corporation; county; authority; joint-stock company; partnership; association; business trust; cooperative; organized group of persons, whether incorporated or not; or receiver or receivers or trustee or trustees of any of the foregoing.
- (7) 'Damage' means any impact or exposure that results in the need to repair a utility facility or sewer lateral due to the weakening or the partial or complete destruction of the facility or sewer lateral including, but not limited to, the protective coating, lateral support, cathodic protection, or the housing for the line, device, sewer lateral, or facility.
- (8) 'Design locate request' means a communication to the utilities protection center in which a request for locating existing utility facilities for bidding, predesign, or advance planning purposes is made. A design locate request may not be used for excavation purposes.
- (9) 'Designate' means to stake or mark on the surface of the tract or parcel of land the location of a utility facility or sewer lateral.
- (10) 'Emergency' means a sudden or unforeseen occurrence involving a clear and imminent danger to life, health, or property; the interruption of utility services; or

repairs to transportation facilities that require immediate action.

(10)(11) 'Emergency notice' means a communication to the utilities protection center to alert the involved facility owners or operators of the need to excavate due to an emergency that requires immediate excavation.

(11)(12) 'Excavating' means any operation by which the level or grade of land is changed or earth, rock, or other material below existing grade is moved and includes, without limitation, grading, trenching, digging, ditching, augering, scraping, directional boring, and pile driving. Such term, however, does not include routine road surface scraping maintenance. 'Excavating' shall not ~~mean include pavement milling or pavement repair that does not exceed the depth of the existing pavement or 12 inches, whichever is less. The term shall not include other~~ routine roadway maintenance activities carried out by ~~employees of the Georgia Department of Transportation acting within the scope of their employment~~ road maintenance or railroad employees or contractors, provided ~~that~~ such activities occur entirely within the right of way of a public road, street, railroad, or highway of the state; are carried out with reasonable care so as to protect any utility facilities and sewer laterals placed in the right of way by permit; are carried out within the limits of any original excavation on the traveled way, shoulders, or drainage ~~features~~ ditches of a public road, street, railroad, or highway, and do not exceed 18 inches in depth below the grade existing prior to such activities; and, if involving the replacement of existing structures, replace such structures in their previous locations and at their previous depth. 'Excavating' shall not include normal farming activities.

(12)(13) 'Excavator' means any person engaged in excavating or blasting as defined in this Code section.

(13)(14) 'Extraordinary circumstances' means circumstances other than normal operating conditions which exist and make it impractical or impossible for a facility owner or operator to comply with the provisions of this chapter. Such extraordinary circumstances may include, but shall not be limited to, hurricanes, tornadoes, floods, ice and snow, and acts of God.

(14)(15) 'Facility owner or operator' means any person or entity ~~with the sole exception of a homeowner who owns, operates, or controls the operation of a utility facility, as defined in this Code section, for the purpose of commercial enterprise.~~

(16) 'Horizontal directional drilling' or 'HDD' means ~~a type of trenchless excavation that uses guidable boring equipment to excavate in an essentially horizontal plane without disturbing or with minimal disturbance to the ground surface.~~

(17) 'Large project' means ~~an excavation that involves more work to locate utility facilities than can reasonably be completed within the requirements of subsection (a) of Code Section 25-9-7.~~

(18) 'Local governing authority' means ~~a county, municipality, or local authority created by or pursuant to general, local, or special Act of the General Assembly, or by the Constitution of the State of Georgia. The term also includes any local authority that is created or activated by an appropriate ordinance or resolution of the governing body of a county or municipality individually or jointly with other political~~

subdivisions of this state.

(15)(19) 'Locate request' means a communication between an excavator and the utilities protection center in which a request for locating utility facilities, sewer laterals, or both is processed.

(20) 'Locator' means a person who is acting on behalf of facility owners and operators in designating the location of the utility facilities and sewer laterals of such owners and operators.

(16)(21) 'Mechanized excavating equipment' means all equipment which is powered by any motor, engine, or hydraulic or pneumatic device and which is used for excavating.

(22) 'Minimally intrusive excavation methods' means methods of excavation that minimize the potential for damage to utility facilities and sewer laterals. Examples include, but are not limited to, air entrainment/vacuum extraction systems and water jet/vacuum excavation systems operated by qualified personnel and careful hand tool usage and other methods as determined by the Public Service Commission. The term does not include the use of trenchless excavation.

(23) 'Permanent marker' means a visible indication of the approximate location of a utility facility or sewer lateral that can reasonably be expected to remain in position for the life of the facility. The term includes, but is not limited to, sewer cleanouts; water meter boxes; and etching, cutting, or attaching medallions or other industry accepted surface markers to curbing, pavement, or other similar visible fixed surfaces. All permanent markers other than sewer cleanouts, water meter boxes, or any other visible component of a utility facility that establish the exact location of the facility must be placed accurately in accordance with Code Section 25-9-9 and be located within the public right of way. Sewer cleanouts, water meter boxes, or any other visible component of a utility facility that establishes the exact location of the facility must be located within ten feet of the public right of way to be considered a permanent marker.

(17)(24) 'Person' means an individual, firm, joint venture, partnership, association, municipality local governing authority, state, or other governmental unit, authority, department, agency, or a corporation and shall include any trustee, receiver, assignee, employee, agent, or personal representative thereof.

(25) 'Positive response information system' or 'PRIS' means the automated information system operated and maintained by the utilities protection center at its location that allows excavators, locators, facility owners or operators, and other affected parties to determine the status of a locate request or design locate request.

(18)(26) 'Service area' means a contiguous area or territory which encompasses the distribution system or network of utility facilities by means of which a facility owner or operator provides utility service.

(19) 'Ticket Information Exchange System' means the automated information system to be installed and operated by the utilities protection center that will allow the excavator to determine locate ticket status from information provided by the facility owner or operator.

- (27) 'Sewer lateral' means an individual customer service line which transports waste water from one or more building units to a utility owned sewer facility.
- (28) 'Sewer system owner or operator' means the owner or operator of a sewer system. Sewer systems shall be considered to extend to the connection to the customer's facilities.
- (29) 'Traffic control devices' means all roadway or railroad signs, sign structures, or signals and all associated infrastructure on which the public relies for informational, regulatory, or warning messages concerning the public or railroad rights of way.
- (30) 'Traffic management system' means a network of traffic control devices, monitoring sensors, and personnel, with all associated communications and power services, including all system control and management centers.
- (20)(31) 'Tolerance zone' means the width of the utility facility or sewer lateral plus 24 inches on either side of the outside edge of the utility facility or sewer lateral on a horizontal plane.
- (32) 'Trenchless excavation' means a method of excavation that uses boring equipment to excavate with minimal or no disturbance to the ground surface and includes horizontal directional drilling.
- (33) 'Unlocatable facility' means an underground facility that cannot be marked with reasonable accuracy using generally accepted techniques or equipment commonly used to designate utility facilities and sewer laterals. This term includes, but is not limited to, nonconductive utility facilities and sewer laterals and nonmetallic underground facilities that have no trace wires or records that indicate a specific location.
- (21)(33) 'Utilities protection center' or 'center' 'UPC' means the corporation or other organization formed by facility owners or operators to provide a joint ~~telephone number~~ notification service for the purpose of receiving advance notification from persons planning to blast or excavate and distributing such notifications to its affected facility owner or operator members.
- (22)(34) 'Utility facility' means an underground or submerged conductor, pipe, or structure used or installed for use in providing electric or communications service; or ~~an underground or submerged pipe used~~ in carrying, providing, or gathering gas, oil or oil products, sewage, waste water, storm drainage, or water or other liquids, ~~and appurtenances thereto. This does not include utility facilities owned by a homeowner for service at the homeowner's residence. All utility facilities shall be considered to extend up to the connection to the customer's facilities. The term does not include traffic control devices, traffic management systems, or sewer laterals."~~

### SECTION 3.

Said chapter is further amended by striking Code Section 25-9-4, relating to design locate requests and responses, and inserting in lieu thereof the following:

"25-9-4.

- (a) Any person may submit a design locate request to the ~~utilities protection center~~ UPC. Such design locate request shall:

- (1) Describe the tract or parcel of land for which the design locate request has been submitted with sufficient particularity, as defined by policies developed and promulgated by the ~~utilities protection center~~ UPC, to enable the facility owner or operator to ascertain the precise tract or parcel of land involved; and
  - (2) State the name, address, and telephone number of the person who has submitted the design locate request, as well as the name, address, and telephone number of any other person authorized to review any records subject to inspection as provided in paragraph (3) of subsection (b) of this Code section.
- (b) Within ten working days after a design locate request has been submitted to the ~~utilities protection center~~ UPC for a proposed project, the facility owner or operator shall respond by one of the following methods:
- (1) Designate or cause to be designated by a locator in accordance with Code Section 25-9-9 the location of all utility facilities and sewer laterals within the area of the proposed excavation;
  - (2) Provide to the person submitting the design locate request the best available description of all utility facilities and sewer laterals in the area of proposed excavation, which might include drawings of utility facilities and sewer laterals already built in the area, or other facility records that are maintained by the facility owner or operator; or
  - (3) Allow the person submitting the design locate request or any other authorized person to inspect or copy the drawings or other records for all utility facilities and sewer laterals within the proposed area of excavation.
- (c) Upon responding using any of the methods provided in subsection (b) of this Code section, the facility owner or operator shall provide the response to the UPC in accordance with UPC procedures."

#### SECTION 4.

Said chapter is further amended by striking Code Section 25-9-5, relating to cooperation with the utilities protection center and the point of contact list, and inserting in lieu thereof the following:

"25-9-5.

- (a) All Except as otherwise provided by subsection (b) of this Code section, all facility owners or operators operating or maintaining utility facilities within the state shall participate as members in and cooperate with the ~~utilities protection center~~ UPC. No duplicative center shall be established. The activities of the ~~center~~ UPC shall be funded by all ~~utilities~~ facility owners or operators.
- (b) Persons who install water and sewer facilities or who own such facilities until those facilities are accepted by a local governing authority or other entity are not required to participate as members of the UPC and shall not be considered facility owners or operators. All such persons shall install and maintain permanent markers, as defined in Code Section 25-9-3, identifying all water and sewer facilities at the time of the facility installation. Notwithstanding the above, all owners or operators of water and sewer facilities that provide service from such facilities are considered facility owners or

operators and shall be members of the UPC.

(c) The ~~utilities protection center~~ UPC shall maintain a list of the name, address, and telephone number of the office, department, or other source from or through which information respecting the location of utility facilities of its participating facility owners or operators may be obtained during business hours on business days."

#### SECTION 5.

Said chapter is further amended by striking Code Section 25-9-6, relating to prerequisites to blasting or excavating and marking sites, and inserting in lieu thereof the following:

"25-9-6.

(a) No person shall commence, perform, or engage in blasting or in excavating with mechanized excavating equipment on any tract or parcel of land in any county in this state unless and until the person planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the ~~utilities protection center~~ UPC, beginning the next business day after such notice is provided, excluding hours during days other than business days. Any person performing excavation is responsible for being aware of all information timely entered into the PRIS prior to the commencement of excavation. If, prior to the expiration of the 48 hour waiting period, all identified facility owners or operators have responded to the locate request, and if all have indicated that their facilities are either not in conflict or have been marked, then the person planning to perform excavation or blasting shall be authorized to commence work, subject to the other requirements of this Code section, without waiting the full 48 hours. The 48 hours' notice shall not be required for excavating where minimally intrusive excavation methods are used exclusively. Any locate request received by the ~~utilities protection center~~ UPC after business hours shall be deemed to have been received by the ~~utilities protection center~~ UPC the next business day. Such locate request shall:

(1) Describe the tract or parcel of land upon which the blasting or excavation is to take place with sufficient particularity, as defined by policies developed and promulgated by the ~~utilities protection center~~ UPC, to enable the facility owner or operator to ascertain the precise tract or parcel of land involved;

(2) State the name, address, and telephone number of the person who will engage in the blasting or excavating;

(3) Describe the type of blasting or excavating to be engaged in by the person; and

(4) Designate the date upon which the blasting or excavating will commence.

(b) In the event the location upon which the blasting or excavating is to take place cannot be described with sufficient particularity to enable the facility owner or operator to ascertain the precise tract or parcel involved, the person proposing the blasting or excavating shall mark the route or boundary of the site of the proposed blasting or excavating by means of white paint, white stakes, or white flags if practical, or schedule an on-site meeting with the locator or facility owner or operator and inform the ~~utility protection center~~ UPC, within a reasonable time, of the results of such meeting.

(c) Except as otherwise provided in this subsection, notice given pursuant to subsection (a) of this Code section shall expire 21 calendar days following the date of such notice,

and no blasting or excavating undertaken pursuant to this notice shall continue after such time has expired. In the event that the blasting or excavating which is the subject of the notice given pursuant to subsection (a) of this Code section will not be completed within 21 calendar days following the date of such notice, an additional notice must be given in accordance with subsection (a) of this Code section for the locate request to remain valid.

(d) For emergencies, notice shall expire at 7:00 A.M. three business days after the notification is made to the UPC.

(e) Except for those persons submitting design locate requests, no person, including facility owners or operators, shall request marking of a site through the ~~utilities protection center~~ UPC unless excavating is scheduled to commence. In addition, no person shall make repeated requests for re-marking, unless the repeated request is required for excavating to continue or due to circumstances not reasonably within the control of such person. Any person who willfully fails to comply with this subsection shall be ~~strictly~~ liable to the facility owner or operator for ~~three times the cost of marking the utility facility, not to exceed \$1,000.00 \$100.00 or for actual costs, whichever is greater, for each repeated request for re-marking.~~

(f) If, subsequent to giving the notice to the ~~utilities protection center~~ UPC required by subsection (a) of this Code section, a person planning excavating determines that such work will require blasting, then such person shall promptly so notify the ~~utilities protection center~~ UPC and shall refrain from any blasting until the facility owner or operator responds within 24 hours, excluding hours during days other than business days, following receipt by the ~~utilities protection center~~ UPC of such notice.

(g) When a locate request is made in accordance with subsection (a) of this Code section, excavators other than the person planning the blasting or excavating may conduct such activity, provided that the person planning the blasting or excavating shall remain responsible for ensuring that any stakes or other markings placed in accordance with this chapter remain in place and reasonably visible until such blasting or excavating is completed; and provided, further, that such blasting or excavating is:

- (1) Performed on the tract or parcel of land identified in the locate request;
- (2) Performed by a person authorized by and having a contractual relationship with the person planning the blasting or excavating;
- (3) The type of blasting or excavating described in the locate request; and
- (4) Carried out in accordance with all other requirements of this chapter.

(h) Facility owners or operators may bill an excavator their costs for any requests for re-marking other than for re-marks with no more than five individual addresses on a single locate request. Such costs shall be documented actual costs and shall not exceed \$100.00 per re-mark request."

## SECTION 6.

Said chapter is further amended by striking Code Section 25-9-7, relating to determining whether utility facilities are present, information to be provided to the utilities protection center, noncompliance, future utility facilities, and abandoned utility facilities, and

inserting in lieu thereof the following:

"25-9-7.

(a)(1) Within 48 hours beginning the next business day after the business day following receipt by the ~~utilities protection center~~ UPC of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days, each facility owner or operator shall determine whether or not utility facilities are located on the tract or parcel of land upon which the excavating or blasting is to occur. If utility facilities are determined to be present, the facility owner or operator shall designate, through stakes, ~~flags, permanent markers,~~ or other marks on the surface of the tract or parcel of land, the location of utility facilities. ~~In the event of extraordinary circumstances, the facility owner or operator shall notify the utilities protection center as provided in subsection (c) of this Code section. This subsection shall not apply to large projects.~~

(2) Designation Such designation of the location of utility facilities through staking ~~or, flagging, permanent markers, or other~~ marking shall be in accordance with the American Public Works Association (APWA) color code in place at the time the location of the utility facility is designated. Additional marking requirements beyond color code, if any, shall be prescribed by rules and regulations promulgated by the Public Service Commission.

(3) A facility owner or operator is not required to mark its own facilities within 48 hours if the facility owner or operator or its agents are the only parties performing the excavation; however, such facilities shall be designated prior to the actual start of excavation.

(b)(1) Within 48 hours beginning the next business day after the business day following receipt by the UPC of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days, each sewer system owner or operator shall determine whether or not sewer laterals are located or likely to be located on the tract or parcel of land upon which the excavating or blasting is to occur. If sewer laterals are determined to be present or likely to be present, then the sewer system owner or operator shall assist in designating sewer laterals up to the edge of the public right of way. Such assistance shall not constitute ownership or operation of the sewer lateral by the sewer system owner or operator. Good faith compliance with provisions of this subsection in response to a locate request shall constitute full compliance with this chapter, and no person shall be found liable to any party for damages or injuries as a result of performing in compliance with the requirements of this subsection.

(2) To assist in designating sewer laterals, the sewer system owner or operator shall provide its best available information regarding the location of the sewer laterals to the excavator. This information shall be conveyed to the excavator in a manner that may include, but shall not be limited to, any one of the following methods:

(A) Marking the location of sewer laterals in accordance with subsection (a) of this section, provided that:

(i) Any sewer lateral designated using the best available information shall

constitute a good faith attempt and shall be deemed to be in compliance with this subsection, provided that such mark represents only the best available information of the sewer system owner or operator and may not be accurate; and

(ii) If a sewer lateral is unlocatable, a triangular green mark shall be placed at the sewer main pointing at the address in question to indicate the presence of an unlocatable sewer lateral;

(B) Providing electronic copies of or delivering the records through facsimile or by other means to an agreed upon location within 48 hours beginning the next business day after the business day following receipt by the UPC of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days; provided, however, that for local governing authorities that receive fewer than 50 locate requests annually, the local governing authority may designate the agreed upon location and communicate such designation to the excavator;

(C) Arranging to meet the excavator on site to provide the best available information about the location of the sewer laterals;

(D) Providing the records through other processes and to other locations approved by documented agreement between the excavator and the facility owner or operator; or

(E) Any other reasonable means of conveyance approved by the commission after receiving recommendations from the advisory committee, provided that such means are equivalent to or exceed the provisions of subparagraph (A), (B), or (C) of this paragraph.

~~(b)~~(c) Each facility owner or operator, either upon determining that no utility facility or sewer lateral is present on the tract or parcel of land or upon completion of the designation of the location of any utility facilities or sewer laterals on the tract or parcel of land as required by subsection (a) or (b) of this Code section, shall provide this information to the utilities protection center UPC in accordance with procedures developed by the utilities protection center UPC, and which may include the use of the Ticket Information Exchange System PRIS. In no event shall such notice be provided later than midnight of the second business day following receipt by the utilities protection center UPC of actual notice filed in accordance with Code Section 25-9-6.

~~(e)~~(d) In the event the facility owner or operator is unable to designate the location of the utility facilities or sewer laterals due to extraordinary circumstances, the facility owner or operator shall notify the utilities protection center UPC and provide an estimated completion date in accordance with procedures developed by the utilities protection center UPC, which may include the use of the Ticket Information Exchange System PRIS.

~~(d)~~(e) If, at the end of the time period specified in subsection (a) subsections (a) and (b) of this Code section, any facility owner or operator has not complied with the requirements of subsections (a), and (b), and (c) of this Code section, as applicable, the utilities protection center UPC shall issue a second request to each such facility owner or operator. If the facility owner or operator does not respond to this additional request by 12:00 Noon of that business day, either by notifying the utilities protection center

UPC in accordance with procedures developed by the ~~utilities protection center~~ UPC that no utility facilities or sewer laterals are present on the tract or parcel of land, or by designating the location of such utility facilities or sewer laterals in accordance with the provisions of subsections (a) and (b) of this Code section, as applicable, then the person providing notice pursuant to Code Section 25-9-6 may proceed with the excavating or blasting, provided that there is no visible and obvious evidence of the presence of an unmarked utility facility or sewer lateral on the tract or parcel of land. Such person shall not be subject to any liability resulting from damage to the utility facility or sewer lateral as a result of the blasting or excavating, provided that such person complies with the requirements of Code Section 25-9-8.

(f) If visible and obvious evidence of the presence of an unmarked utility facility or sewer lateral does exist and the facility owner or operator either refuses to comply with subsections (a) through (d) of this Code section, as applicable, or is not a member of the UPC, then the excavator shall attempt to designate such facility or sewer lateral prior to excavating. The facility owner or operator shall be liable for the actual costs associated with the excavator designating such utility facilities and sewer laterals. Such costs shall not exceed \$100.00 or documented actual costs, whichever is greater, for each locate request.

(e)(g) All utility facilities installed by facility owners or operators on or after January 1, 2001, shall be installed in a manner which will make them locatable using a generally accepted electronic locating method by facility owners or operators. All sewer laterals installed on or after January 1, 2006, shall be installed in a manner which will make them locatable by facility owners or operators using a generally accepted electronic locating method. In the event that an unlocatable utility facility or unlocatable sewer lateral becomes exposed when the facility owner or operator is present or in the case of sewer laterals when the sewer utility owner or operator is present on or after January 1, 2006, such utility facility or sewer lateral shall be made locatable through the use of a permanent marker or an updating of permanent records.

(f)(h) Facility owners or operators shall either maintain in a data base recorded information concerning the location and other characteristics of abandoned utility facilities, maintain such abandoned utility facilities in a locatable manner, or remove such abandoned utility facilities. Facility owners or operators shall provide information on abandoned utility facilities, when possible, in response to a locate request or design locate request. When the presence of an abandoned facility within an excavation site is known, the facility owner or operator should attempt to locate and mark the abandoned facility or provide information to the excavator regarding such facilities. When located or exposed, all abandoned utility facilities and sewer laterals shall be treated as live utility facilities and sewer laterals.

(i) Notwithstanding any other provision of law to the contrary, a facility owner or operator may use a locator to designate any or all utility facilities and sewer laterals. The use of a locator shall not relieve the facility owner or operator of any responsibility under this chapter. However, by contract a facility owner or operator may be indemnified by a locator for any failure on the part of the locator to comply with the

provisions of this chapter.

(j) By January 1, 2006, the advisory committee shall propose to the Public Service Commission rules and processes specific to the locating of large projects. These rules shall include, but shall not be limited to, the establishment of detailed processes. Such rules may also include changes in the time period allowed for a facility owner or operator to comply with the provisions of this chapter and to the time period for which designations are valid. The commission shall promulgate rules addressing this subsection no later than June 1, 2006.

(k)(1) Within 48 hours beginning the next business day after the business day following receipt by the UPC of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days, each facility owner or operator shall determine whether or not unlocatable facilities other than sewer laterals are present. In the event that such facilities are determined to be present, the facility owner or operator shall exercise reasonable care in locating such facilities. The exercise of reasonable care shall require, at a minimum, the use of the best available information to designate the facilities and notification to the UPC of such attempted location. Placing markers or otherwise leaving evidence of locations of facilities is deemed to be an acceptable form of notification to the excavator or locator.

(2) This subsection shall not apply to sewer laterals."

## SECTION 7.

Said chapter is further amended by striking Code Section 25-9-8, relating to the obligations of blasters and excavators with regard to utility facilities, and inserting in lieu thereof the following:

"25-9-8.

(a) Persons engaged in blasting or in excavating with mechanized excavating equipment shall not strike, damage, injure, or loosen any utility facility or sewer lateral which has been staked, flagged, or marked in accordance with this chapter.

(b) When excavating or blasting is to take place within the tolerance zone, the excavator shall exercise such reasonable care as may be necessary for the protection of the utility facility or sewer lateral, including permanent markers and paint placed to designate utility facilities. This protection shall include, but may not be limited to, hand digging, pot holing, soft digging, vacuum excavation methods, pneumatic hand tools, other mechanical methods with the approval of the facility owner or operator, or other generally accepted methods. For parallel type excavations, the existing facility shall be exposed at intervals as often as necessary to avoid damages.

(c) When conducting trenchless excavation the excavator must exercise reasonable care, as described in subsection (b) of this Code section, and shall take additional care to attempt to prevent damage to utility facilities and sewer laterals. The recommendations of the HDD consortium applicable to the performance of trenchless excavation set out in the document 'Horizontal Directional Drilling Good Practice Guidelines,' dated May, 2001, are adopted by reference as a part of this subsection to

describe such additional care. The advisory committee may recommend to the commission more stringent criteria as it deems necessary to define additional care and the commission is authorized to adopt additional criteria to define additional care.

(d) Any person engaged in blasting or in excavating with mechanized excavating equipment who strikes, damages, injures, or loosens any utility facility or sewer lateral, regardless of whether the utility facility or sewer lateral is marked, shall immediately cease such blasting or excavating and notify the utilities protection center UPC and the appropriate facility owner or operator, if known. Upon receiving notice from the excavator or the utilities protection center UPC, the facility owner or operator shall send personnel to the location as soon as possible to effect temporary or permanent repair of the damages damage. Until such time as the damage has been repaired, no person shall engage in excavating or blasting activities that may cause further damage to the utility facility or sewer lateral except as provided in Code Section 25-9-12."

#### SECTION 8.

Said chapter is further amended by striking subsection (a) of Code Section 25-9-9, relating to the degree of accuracy required in location information for utility facilities, and the effect on liability of inaccurate information, and inserting in lieu thereof the following:

"(a) For the purposes of this chapter, information concerning the location of utility facilities which is provided by a facility owner or operator in accordance with subsection (a) of Code Section 25-9-7 to any person must be accurate to within 24 inches measured horizontally from the outer edge of either side of such utility facilities. If any utility facility becomes damaged by an excavator due to the furnishing of inaccurate information as to its location by the facility owner or operator, such excavator shall not be subject to any liability resulting from damage to the utility facility as a result of the blasting or excavating, provided that such person complies with the requirements of Code Section 25-9-8 and there is no visible and obvious evidence to the excavator of the presence of a mismarked utility facility."

#### SECTION 9.

Said chapter is further amended by striking Code Section 25-9-12, relating to notice requirements for emergency evacuations, and inserting in lieu thereof the following:

"25-9-12.

The notice requirements provided by Code Section 25-9-6 shall not be required of persons performing emergency excavations or excavation in extraordinary circumstances; provided, however, that any person who engages in an emergency excavation or excavation in extraordinary circumstances shall take all reasonable precautions to avoid or minimize damage to any existing utility facilities and sewer laterals; provided, further, that any person who engages in an emergency excavation or excavation in extraordinary circumstances shall give notice of the emergency excavation as soon as practical to the utilities protection center UPC. In giving such

notice, such person must specifically identify the dangerous condition involved. If it is later determined by the commission that the excavation did not qualify as an emergency excavation, all liabilities and penalties will accrue as if no notice had been given."

#### SECTION 10.

Said chapter is further amended by striking Code Section 25-9-13, relating to penalties for violations of the chapter, and inserting in lieu thereof the following:

"25-9-13.

(a) Any person who violates the requirements of Code Section 25-9-6 and whose subsequent excavating or blasting damages utility facilities or sewer laterals shall be strictly liable for:

(1) Any cost All costs incurred by the facility owner or operator in repairing or replacing its damaged facilities; and

(2) Any injury or damage to persons or property resulting from damaging the utility facilities and sewer laterals.

(b) Each local governing authority is authorized to require by ordinance any bonds on utility contractors or on persons performing excavation or blasting within the public right of way or any dedicated utility easement as it may determine to assure compliance with subsection (a) of this Code section.

(b)(c) Any such person who violates the requirements of Code Section 25-9-6 and whose subsequent excavating or blasting damages utility facilities or sewer laterals shall also indemnify the affected facility owner or operator against all claims or costs incurred, if any, for personal injury, property damage, or service interruptions resulting from damaging the utility facilities and sewer laterals. Such obligation to indemnify shall not apply to any county, city, town, or state agency to the extent permitted by law. In any civil action by a facility owner or operator to recover the costs of repairing or replacing facilities damaged through violation of Code Section 25-9-6 or 25-9-8, those costs shall be calculated utilizing generally accepted accounting principles.

(e)(d) In addition to the other provisions of this Code section, a professional licensing board shall be authorized to suspend or revoke any professional or occupational license, certificate, or registration issued to a person pursuant to Title 43 whenever such person violates the requirements of Code Section 25-9-6 or 25-9-8.

(e)(e) Subsections (a), (b)(c), and (e)(d) of this Code section shall not apply to any person who shall commence, perform, or engage in blasting or in excavating with mechanized equipment on any tract or parcel of land in any county in this state if the facility owner or operator to which notice was given respecting such blasting or excavating with mechanized equipment as prescribed in subsection (a) of Code Section 25-9-6 has failed to comply with Code Section 25-9-7 or has failed to become a member of the utilities protection center UPC as required by Code Section 25-9-5.

(e)(f) The commission shall enforce the provisions of this chapter. The commission may promulgate any rules and regulations necessary to implement the commission's authority to enforce this chapter.

(f)(g)(1) The commission shall create an advisory committee The Governor shall

appoint an advisory committee consisting of persons who are employees or officials of or who represent the interests of: representatives of the following groups and agencies: facility owners or operators; utilities protection center; excavators; municipalities; counties; Georgia Department of Transportation; Governor's Office of Consumer Affairs; and underground line locators. The advisory committee shall consist of one representative from each of the above groups and agencies, with the exception of facility owners or operators and excavators, which groups shall each have two representatives on the advisory committee. The commission chairperson or such chairperson's representative shall also serve on the advisory committee.

- (A) One member to represent the Georgia Department of Transportation;
- (B) One member to represent water systems or water and sewer systems owned or operated by local governing authorities;
- (C) One member to represent the utilities protection center;
- (D) One member to represent water systems or water and sewer systems owned or operated by counties;
- (E) One member to represent water systems or water and sewer systems owned or operated by municipalities;
- (F) One member to represent the nonmunicipal electric industry;
- (G) Three members to represent excavators;
- (H) One member to represent locators;
- (I) One member to represent the nonmunicipal telecommunications industry;
- (J) One member to represent the nonmunicipal natural gas industry;
- (K) One member to represent municipal gas, electric, or telecommunications providers; and
- (L) The commission chairperson or such chairperson's designee.

The commission chairperson or his or her designee shall serve as chairperson of the advisory committee and shall cast a vote only in the case of a tie. Persons appointed to the advisory committee shall have expert knowledge of this chapter and specific operations expertise with the subject matter encompassed by the provisions of this chapter. The new advisory committee shall be established within 60 days of the effective date of this subsection.

- (2) The advisory committee shall assist the commission in the enforcement of this chapter, make recommendations to the commission regarding rules and regulations, and shall perform duties to be assigned by the commission including, but not limited to, the review of reported violations of this chapter, and the preparation of recommendations to the commission as to the appropriate penalties to impose on persons violating the provisions of this chapter.
- (3) The members of the advisory committee shall be immune, individually and jointly, from civil liability for any act or omission done or made in the performance of their duties while serving as members of such advisory committee, but only in the absence of willful misconduct.
- (g)(h)(1) The commission may, by judgment entered after a hearing on notice duly served on any person not less than 30 days before the date of the hearing, impose a

~~civil penalty not exceeding \$10,000.00 for each violation, if it is proved that the person violated any of the provisions of this chapter, as a result of a failure to exercise reasonable care. Any proceeding or civil penalty undertaken pursuant to this Code section shall not prevent nor preempt the right of any party to obtain civil damages for personal injury or property damage in private causes of action. Except as otherwise provided by law, this subsection shall not authorize the commission to impose civil penalties on any county, city, town, or state agency. The commission shall inform the counties, cities, towns, or state agencies of reports of alleged violations involving the county, city, town, or state agency and, at the request of the county, city, town, or state agency, suggest corrective action. The fine provided for in this subsection shall not be imposed on a person engaged in farming activities on land such person owns or leases. Commission enforcement of this chapter shall follow the procedures described in this subsection. Nothing in this subsection shall limit the authority of the commission delegated from the federal government and authorized in other state law.~~

(2)(A) The commission is not authorized to impose civil penalties on any local governing authority except as provided in this paragraph. The commission may recommend training for local governing authorities in response to any probable or proven violation. On or after January 1, 2007, civil penalties may be recommended for or imposed on any local governing authority for refusal to comply with the requirements of Code Section 25-9-7 or for other violations of Code Section 25-9-7 that result in injury to people, damage to property, or the interruption of utility service in the event that investigators find that a local governing authority has demonstrated a pattern of willful noncompliance. Civil penalties may be recommended or imposed on or after January 1, 2006, for violations of provisions of this chapter other than Code Section 25-9-7 in the event that investigators find that the severity of an excavation violation warrants civil penalties or that a local governing authority has demonstrated a pattern of willful noncompliance. Any such civil penalty shall be recommended or imposed in accordance with a tiered penalty structure designed for local governing authorities. In the event that the investigators determine that a local governing authority has made a good faith effort to comply with this chapter, the investigators shall not recommend a civil penalty. For purposes of this subsection 'refusal to comply' means that a utility facility owner or operator does not respond in PRIS to a locate request, does not respond to a direct telephone call to locate their facilities, or other such direct refusal. Refusal to comply does not mean a case where the volume of requests or some other mitigating circumstance prevents the utility owner or operator from locating in accordance with Code Section 25-9-7.

(B) No later than January 1, 2006, the advisory committee shall recommend to the commission for adoption a tiered penalty structure for local governing authorities. Such structure shall take into account the size, annual budget, gross receipts, number of utility connections and types of utilities within the territory of the local governing authority. Such penalty structure shall also take into account the number of locate tickets received annually by the local governing authority, the number of

locate codes made annually to the local governing authority from the UPC, the number of utility customers whose service may have been interrupted by violations of this chapter, and the duration of such interruptions. Such penalty structure shall also consider the cost of compliance. The penalty structure shall establish for each tier the maximum penalty per violation and per 12 month period at a level to induce compliance with this chapter. Such maximum penalty shall not exceed \$5,000.00 per violation or \$50,000.00 per 12 month period for the highest tier.

(3) If commission investigators find that a probable violation has occurred, they may recommend training in lieu of penalties to any person for any violation. The commission shall provide suggestions for corrective action to any person requesting such assistance. Commission investigators shall make recommended findings or offers of settlement to the respondent.

(4) Any respondent may accept or disagree with the settlement recommended by the investigators. If the respondent disagrees with the recommended settlement, the respondent may dispute the settlement recommendation to the advisory committee. The advisory committee shall then render a recommendation either supporting the investigators' recommendation, rejecting the investigators' recommendation, or substituting its own recommendation. With respect to an investigation of any probable violation committed by a local governing authority, any recommendation by the advisory committee shall be in accordance with the provisions of paragraph (2) of this subsection. In its deliberations the advisory committee shall consider the gravity of the violation or violations; the degree of the respondent's culpability; the respondent's history of prior offenses; and such other mitigating factors as may be appropriate. If the advisory committee determines that a respondent has made a good faith effort to comply with this chapter, the committee shall not recommend civil penalties against the respondent.

(5) If any respondent disagrees with the recommendation of the advisory committee, after notice and hearing by a hearing officer or administrative law judge, such officer or judge shall make recommendations to the commission regarding enforcement, including civil penalties. Any such recommendations relating to a local governing authority shall comply with the provisions of paragraph (2) of this subsection. The acceptance of the recommendations by the respondent at any point will stop further action by the investigators in that case.

(6) When the respondent agrees with the advisory committee recommendation, the investigators shall present such agreement to the commission. The commission is then authorized to adopt the recommendation of the advisory committee regarding a civil penalty, or to reject such a recommendation. The commission is not authorized to impose a civil penalty greater than the civil penalty recommended by the advisory committee or to impose any civil penalty if the advisory committee does not recommend a civil penalty.

(7) The commission may, by judgment entered after a hearing on notice duly served on any person not less than 30 days before the date of the hearing, impose a civil penalty not exceeding \$10,000.00 for each violation, if it is proved that the person

violated any of the provisions of this chapter as a result of a failure to exercise additional care in accordance with subsection (c) of Code Section 25-9-8 or reasonable care in accordance with other provisions of this chapter. Any such recommendations relating to a local governing authority shall comply with the provisions of paragraph (2) of this subsection. Any proceeding or civil penalty undertaken pursuant to this Code section shall neither prevent nor preempt the right of any party to obtain civil damages for personal injury or property damage in private causes of action except as otherwise provided in this chapter.

(b)(i) All civil penalties ordered by the commission and collected pursuant to this Code section shall be deposited in the general fund of the state treasury."

## SECTION 11.

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

Senator Seabaugh of the 28th moved that the Senate agree to the House substitute to SB 274.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Jones	N Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 43, nays 3; the motion prevailed, and the Senate agreed to the House substitute to SB 274.

The following bill was taken up to consider House action thereto:

SB 284. By Senators Seabaugh of the 28th and Balfour of the 9th:

A BILL to be entitled an Act to amend Chapter 18 of Title 45, relating to employees' insurance and benefits plans, so as to create a trust fund to provide for retiree post-employment health care benefits; to provide for definitions; to provide for the powers and duties of the board and commissioner of community health; to provide for actuarial services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend provisions of the Official Code of Georgia Annotated relating to health care; to amend Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to health insurance plans, so as to provide that the commissioner of community health may combine the health insurance funds for public school teachers and public school employees with other health insurance funds for public employees; to provide for the payment of health insurance premiums by certain retired employees; to provide for the method of determining the employer contribution to the fund; to provide for suspension of benefits if the employer contribution is not paid in full; to amend Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the health insurance fund for public employees, so as to provide that the commissioner of community health may combine the health insurance fund for public employees with other health insurance funds for public employees; to provide for the payment of health insurance premiums by certain retired employees; to provide for the method of determining the employer contribution to the fund; to provide for suspension of benefits if the employer contribution is not paid in full; to amend Chapter 18 of Title 45, relating to employees' insurance and benefits plans, so as to create a trust fund to provide for retiree post-employment health care benefits; to provide for definitions; to provide for the powers and duties of the board and commissioner of community health; to provide for actuarial services; 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 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to health insurance plans, is amended by adding a new subsection (c) to Code Section 20-2-891, relating to health insurance fund for public school teachers, to read as

follows:

"(c) Notwithstanding any provision of law to the contrary, the commissioner may combine the fund provided for in this Code section with the funds provided for in Code Section 20-2-918 and Code Section 45-18-12."

## SECTION 2.

Said part is further amended by striking subsection (b) of Code Section 20-2-892, relating to contributions by employees, state, and local employers, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) As the local employer's share, the local employer shall contribute to the health insurance fund such portion of the cost of such benefits as may be established by the Governor and the board ~~based on a percentage of the total outlay for the salaries of teachers employed by the local employer~~ and, in addition thereto, an amount to be established by the board to defray the cost of administration. The board shall determine whether such portion shall be determined based upon a percentage of the total outlay for the salaries of teachers employed by the local employer or determined on an amount per employee electing coverage under the plan based on the coverage elected, in accordance with the appropriation of funds. If a local employer fails to remit the employer's share as calculated by the commissioner, as provided in this Code section, it shall be the duty of the commissioner to notify the State Board of Education of such failure and it shall be the duty of the State Board of Education to withhold from the employer which has failed to comply all appropriations allotted to such employer until such employer has fully complied with the provisions of this Code section by making remittance of the sums required."

## SECTION 3.

Said part is further amended by striking subsection (a) of Code Section 20-2-915, relating to coverage for retiring and retired public school and certain community college employees and dependents, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The contract or contracts shall provide for health insurance for retiring public school employees and their spouses and dependent children, as defined by the regulations of the board, under such terms as the board may deem appropriate. The board shall adopt regulations prescribing the conditions under which an employee or retiring employee may elect to participate in or withdraw from the health insurance plan; provided, however, that any such persons who are eligible to receive a benefit under Chapter 3 or 4 of Title 47 shall be entitled to continue health benefit coverage from active service by authorizing deductions from the retiree's retirement benefit or by paying a ~~quarterly~~ premium directly to the board as provided by the rules and regulations of the board. For retirees who pay directly, the participation rate shall be the same as the rate charged to other retired direct payees. Surviving spouses of direct paying retirees shall be eligible to continue coverage at the death of the retiree under

the same conditions as the retiree but shall not be eligible to include additional persons in the contract after the retiree's death. The board may limit the choices of direct paying retirees to the level of coverage supported by the employer contribution authorized under this Code section."

#### SECTION 4.

Said part is further amended by striking Code Section 20-2-918, relating to health insurance fund for public school employees, and inserting in lieu thereof a new Code Section 20-2-918 to read as follows:

"20-2-918.

(a) There is created a health insurance fund for public school employees. The fund shall be available without fiscal year limitations for premiums, subscription charges, benefits, and administration costs. The amounts contributed by the state or from federal funds pursuant to this subpart shall be credited to such health insurance fund. All other income, including the income derived from dividends, premium rate adjustments, or other refunds under any such contract or contracts, shall be credited to and constitute a part of such fund. Any amounts remaining in such fund after all premiums or subscription charges and other expenses have been paid shall be retained in such fund as a special reserve for adverse fluctuation. The commissioner shall be the custodian of such health insurance fund and shall be responsible under a properly approved bond for all moneys coming into the fund and paid out of the fund as may be required to be paid to any contracting qualified entity under any contract entered into pursuant to this subpart and to cover administrative costs.

(b) Notwithstanding any provision of law to the contrary, the commissioner may combine the fund provided for in this Code section with the funds provided for in Code Section 20-2-891 and Code Section 45-18-12.

#### SECTION 5.

Said part is further amended by striking subsection (b) of Code Section 20-2-920, relating to withholding or deducting employees' contributions, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The Department of Education and local school systems shall contribute to the health insurance fund such portion of the costs of such benefits as may be established by the board to maintain the employee contributions consistent with other health insurance plans administered by the board. In the event that the commissioner shall determine that a local employer has failed to contribute the full amount of such portion, as calculated by the commissioner, it shall be the duty of the commissioner to notify the State Board of Education of such failure and it shall be the duty of the State Board of Education to withhold from the employer which has failed to comply all appropriations allotted to such employer until such employer has fully complied with the provisions of this Code section by making remittance of the sums required."

**SECTION 6.**

Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the health insurance fund for public employees, is amended by striking Code Section 45-18-12, relating to creation of health insurance fund, and inserting in lieu thereof a new Code Section 45-18-12 to read as follows:

"45-18-12.

(a) There is created a health insurance fund which shall be available without fiscal year limitations for premium, subscription charge, benefits, and administration costs. The amounts withheld from employees and retired employees under this article, all amounts contributed by the state or from federal funds to such health insurance fund, and all amounts contributed by any state authority pursuant to this article shall be credited to such health insurance fund. All other income, as well as the income derived from any dividends, premium rate adjustments, or other refunds under any contract or contracts, shall be credited to and constitute a part of such fund. Any amounts remaining in such fund after all premiums or subscription charges and other expenses have been paid shall be retained in such fund as a special reserve for adverse fluctuation. The commissioner of community health shall be executive officer of the Board of Community Health for the administration of this article and custodian of such health insurance fund and shall be responsible under a properly approved bond for all moneys coming into said fund and paid out of said fund as may be required to be paid to any contracting corporation under any contract entered into pursuant to this article and to cover administrative costs.  
(b) Notwithstanding any provision of law to the contrary, the commissioner may combine the fund provided for in this Code section with the funds provided for in Code Section 20-2-891 and Code Section 20-2-918."

**SECTION 7.**

Said article is further amended by striking Code Section 45-18-14, relating to deductions from compensation and benefit payments of share of cost of coverage under plan of employees, and inserting in lieu thereof a new Code Section 45-18-14 to read as follows:

"45-18-14.

(a) During any period in which an employee is covered under this article prior to the date of his retirement, there shall be withheld from each salary payment or other compensation of such employee, as his share of the cost of coverage under this plan, such portion of the premium or subscription charges under the terms of any contract or contracts issued in accordance with this article as may be established by the board. During any month in which benefits are being paid by the Employees' Retirement System of Georgia to an individual so covered under this program, contributions in the amounts prescribed by the board shall be deducted from such payments with the consent of the recipient. The various departments, boards, and agencies of the state government shall contribute to the health insurance fund such portions of the cost of such benefits as may be established by the board and the Governor as funds become available in each department, board, and agency, ~~based on a percentage of the total outlay for personal services~~ in addition to an amount to be established by the board to

defray the cost of administration and the state's portion of the cost of benefits payable for annuitants. The legislative fiscal officer shall contribute to the health insurance fund as an employer payment for and on behalf of all members of the General Assembly and its administrative and clerical personnel. The Department of Administrative Services shall contribute to the fund as an employer payment for and on behalf of district attorneys, assistant district attorneys appointed pursuant to Code Section 15-18-14, and secretaries and law clerks of the superior courts of the state and secretaries employed by district attorneys. The amount of such contributions shall be such portions of the costs of such benefits as may be established by the board ~~as-a percent of the total outlay of services rendered by members of the General Assembly, its administrative and clerical personnel, and the district attorneys of the superior courts of the state;~~ and, in addition thereto, an amount to be established by the board shall be contributed to defray the costs of administration. ~~The board shall determine whether such employer portion shall be determined based upon a percentage of the total outlay for personal services or determined on an amount per employee electing coverage under the plan based on the coverage elected, in accordance with the appropriation of funds.~~

(b) If an employee has been eligible for coverage under the state health insurance plan for a period of ten years and is discharged from employment and the discharge is under appeal to the State Personnel Board, such employee shall be entitled to continue coverage by paying the employee contribution under the health insurance plan until the State Personnel Board has rendered a decision or for a period of six months, whichever is less."

## SECTION 8.

Chapter 18 of Title 45, relating to employees' insurance and benefits plans, is amended by adding a new Article 6 to read as follows:

### "ARTICLE 6

#### 45-18-100.

As used in this article, the term:

- (1) 'Actuarial accrued liability' means that portion, as determined by a particular actuarial cost method, of the actuarial present value of fund obligations and administrative expenses which is not provided for by future normal costs.
- (2) 'Actuarial assumptions' means assumptions regarding the occurrence of future events affecting costs of the fund such as mortality, withdrawal, disability, and retirement; changes in compensation and offered post-employment benefits; rates of investment earnings and asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other such relevant items.
- (3) 'Actuarial cost method' means a method for determining the actuarial present value of the obligations and administrative expenses of the fund and for developing an actuarially equivalent allocation of such value to time periods, usually in the form of a normal cost and an actuarial accrued liability. Acceptable actuarial methods are the

aggregate, attained age, entry age, frozen attained age, frozen entry age, and projected unit credit methods.

(4) 'Actuarial present value of total projected benefits' means the present value, at the valuation date, of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value of money and the probability of payment.

(5) 'Actuarial valuation' means the determination, as of a valuation date, of the normal cost, actuarial accrued liability, actuarial value of assets, and related actuarial present values for the fund.

(6) 'Actuarially sound' means that calculated contributions to the fund are sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded actuarial accrued liability over a period of no more than 30 years.

(7) 'Administrative expenses' means all expenses incurred in the operation of the fund, including all investment expenses.

(8) 'Annual required contribution' means the amount determined in accordance with requirements of Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(9) 'Board' means the Board of Community Health.

(10) 'Covered health care expenses' means all actual health care expenses paid by the health plan on behalf of fund beneficiaries. Actual health care expenses include claims payments to providers and premiums paid to intermediary entities and health care providers by the health plan.

(11) 'Department' means the Department of Community Health.

(12) 'Eligible to participate' means employees of employers who are participating in the health plan and those employees of employers who qualify to participate in the health plan but choose not to do so.

(13) 'Employer' means the State of Georgia; the departments, agencies, or institutions of the state; and any political subdivision of the state that employs persons who are eligible to participate in the health plan.

(14) 'Fund' means the Georgia Retiree Health Benefit Fund established under this article.

(15) 'Fund beneficiaries' means all persons receiving post-employment health care benefits through the health plan.

(16) 'Fund participants' means employees of an employer who are eligible to participate in the health plan.

(17) 'Health plan' means the state employees' health insurance plan established under Article 1 of this chapter, the health insurance plan for public school teachers established under Subpart 1 of Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, and the health insurance plan for public school employees established under Subpart 2 of Part 6 of Article 17 of Chapter 2 of Title 20

of the Official Code of Georgia Annotated.

(18) 'Normal cost' means that portion of the actuarial present value of the fund obligations and expenses which is allocated to a valuation year by the actuarial cost method used for the fund.

(19) 'Obligations' means the administrative expenses of the fund and the cost of covered health care expenses incurred on behalf of fund beneficiaries less any amounts received by or on behalf of fund beneficiaries.

(20) 'Retirement plan' means any retirement or pension plan or any other plan or program which exists on July 1, 2006, or which is created or established on or after that date, and which is maintained by an employer or maintained pursuant to law or other authority of an employer for the purpose of paying retirement benefits to fund beneficiaries. The term shall also include any plan or program that creates a retired position, including, but not limited to, emeritus positions, which provides a salary for such position in lieu of a retirement benefit. The term shall also include a plan that provides for an individual account for each participant and for benefits determined solely upon the amounts contributed by the employer and the participant to the participant's account and any income, expenses, gains, and losses.

(21) 'State plan for other post-employment benefits' means the State of Georgia fiscal funding plan for retiree post-employment health care benefits as it relates to Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(22) 'Unfunded actuarial accrued liability' means for any actuarial valuation the excess of the actuarial accrued liability over the actuarial value of the assets of the fund under an actuarial cost method utilized by the fund for funding purposes.

45-18-101.

- (a) There is created the Georgia Retiree Health Benefit Fund to provide for the employer costs of retiree post-employment health insurance benefits.
- (b) The fund shall be available without fiscal year limitations for covered health care expenses and administration costs. All employer contributions, appropriations, earnings, and reserves for the payment of obligations under this article shall be credited to such fund. The amounts remaining in such fund, if any, after such health care expenses and administration costs have been paid shall be retained in such fund as a special reserve for adverse fluctuation. All assets of the fund shall be used solely for the payment of fund obligations and for no other purpose.

45-18-102.

- (a) Responsibility for the proper operation of the fund is vested in the department.
- (b) The board shall adopt actuarial assumptions as it deems necessary and prudent.
- (c) The board shall determine the minimum annual required contribution rates sufficient to maintain the fund in accordance with the state plan for other post-employment benefits.

- (d) The board may adopt any rules and regulations that it finds necessary to properly administer the fund.
- (e) The department shall furnish reports to the board at each of the board's regularly scheduled meetings for the board's review. The reports shall contain the most recent information reasonably available to the department reflecting the obligations of the fund, earnings on investments, and such other information as the board deems necessary and appropriate.
- (f) The commissioner of community health, as executive officer of the board, shall employ such personnel as may be needed to carry out the provisions of this article and such personnel shall be employees of the Department of Community Health. The pro rata share of the costs of operating the Department of Community Health in the manner prescribed by law shall be a part of the administrative costs of the fund.
- (g) The department may employ or contract for the services of actuaries and other professionals as required to carry out the duties established by this article.
- (h) The department shall contract with the Division of Investment Services of the Teachers Retirement System of Georgia and the Employees' Retirement System of Georgia for any necessary services with respect to fund investments.
- (i) The department shall maintain all necessary records regarding the fund in accordance with generally accepted accounting principles, as applicable to the fund.
- (j) The department shall collect all moneys due to the fund and shall pay any administrative expenses necessary and appropriate for the operation of the fund from the fund.
- (k) The department shall prepare an annual report of fund activities. Such reports shall include, but not be limited to, audited financial statements.
- (l) Notwithstanding any other provision of law to the contrary, the department shall be entitled to any information that it deems necessary and appropriate from a retirement system in order that the provisions of Code Section 45-18-103 may be carried out.

45-18-103.

- (a) The actuary employed or retained by the department shall provide technical advice to the department and to the board regarding the operation of the fund.
- (b) Utilizing the actuarial assumptions most recently adopted by the board, the actuary shall set annual actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the state plan for other post-employment benefits.

45-18-104.

- (a) The department shall have control over the fund established by this chapter. The obligations provided for in this chapter and all administrative expenses shall be paid from the fund. The department may expend moneys from the fund for any purpose authorized by this chapter.
- (b) The department shall have full power to invest and reinvest its assets, subject to all of the terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20

of Title 47, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms, conditions, limitations, and restrictions, the department shall have full power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the moneys are invested, including the proceeds of any investments and other moneys belonging to the fund.

(c) Except as otherwise provided in this chapter, no member of the board or employee of the department shall have any personal interest in the gains or profits from any investment made by the board or use the assets of the fund in any manner, directly or indirectly, except to make such payments as may be authorized by the board or by the commissioner of community health as the executive officer of the board in accordance with this article.

#### 45-18-105.

(a) The board shall annually determine the minimum annual required contributions sufficient to maintain the fund in an actuarially sound manner in accordance with Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(b) The board may annually establish employer contribution rates in accordance with the state plan for other post-employment benefits.

(c) It shall be the responsibility of employers to make contributions to the fund in accordance with the employer contribution rates established by the board."

#### SECTION 9.

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

Senator Seabaugh of the 28th moved that the Senate agree to the House substitute to SB 284.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Stoner
Y Cagle	Y Jones	Y Tate
Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman

Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 46, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 284.

The following resolution was taken up to consider House action thereto:

SR 161. By Senators Hamrick of the 30th, Tate of the 38th, Kemp of the 46th, Unterman of the 45th and Harbison of the 15th:

A RESOLUTION creating the Juvenile Code Rewrite Joint Study Committee; and for other purposes.

The House substitute was as follows:

**A RESOLUTION**

Creating the Juvenile Law Commission; and for other purposes.

WHEREAS, the safety and welfare of Georgia's persons and property would best be served by a juvenile justice system that fairly balances the needs of children with the needs of the community and those who have been victims of delinquent acts committed by children; and

WHEREAS, the safety and welfare of Georgia's children would be best served by a juvenile justice system that fairly balances the goals of family reunification and public safety with the physical and emotional well-being of the children; and

WHEREAS, the current Juvenile Code, Chapter 11 of Title 15 of the Official Code of Georgia Annotated, was enacted in 1971 based on the work and recommendations of the Delinquent Offender and Juvenile Court Study Commission created by House Resolution 621-1248 and approved on March 24, 1970 (Ga. L. 1970, p. 847); and

WHEREAS, the Juvenile Code has been amended numerous times since its enactment resulting in some provisions of the Code being confused and inconsistent; and

WHEREAS, juvenile court judges, child advocate attorneys, juvenile public defenders

and attorneys who represent children, prosecuting attorneys, child welfare practitioners, law enforcement officials, and state policymakers have recognized that the existing Juvenile Code is in need of reorganization and reformation; and

WHEREAS, the Juvenile Law Committee of the Young Lawyers Division of the State Bar of Georgia has undertaken the project of rewriting the Juvenile Code; and

WHEREAS, the safety and welfare of the public and Georgia's children would be best served by a comprehensive, research based, best practices legal model that would simplify and govern juvenile practice and procedure.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Juvenile Law Commission to be composed of 25 members as follows:

- (1) Three members of the Senate to be appointed by the Senate Committee on Assignments, one of whom shall be designated as the cochairperson;
- (2) Three members of the House of Representatives to be appointed by the Speaker of the House, one of whom shall be designated as the cochairperson;
- (3) The commissioner of the Department of Juvenile Justice or his or her designee;
- (4) The commissioner of the Department of Human Resources or his or her designee;
- (5) The director of the Children and Youth Coordinating Council or his or her designee;
- (6) A local school superintendent appointed by the State School Superintendent;
- (7) A juvenile court judge appointed by the Council of Juvenile Court Judges;
- (8) The Executive Director of the Council of Juvenile Court Judges or his or her designee;
- (9) A superior court judge who has served as a juvenile court judge appointed by the Council of Superior Court Judges of Georgia;
- (10) A criminal defense attorney who routinely defends juvenile offenders appointed by the Georgia Public Defender Standards Council;
- (11) The Child Advocate for the Protection of Children or his or her designee;
- (12) The chairperson of the Prosecuting Attorneys' Council of Georgia or his or her designee;
- (13) A prosecuting attorney who routinely prosecutes juvenile offenders appointed by the Prosecuting Attorneys' Council of the State of Georgia;
- (14) A special assistant attorney general appointed by the Attorney General;
- (15) Two members of the Juvenile Law Committee of the Young Lawyers Division of the State Bar of Georgia appointed by the Juvenile Law Committee of the Young Lawyers Division of the State Bar of Georgia; one member who has experience relating to child welfare and deprivation law; and one member who has experience relating to juvenile justice;
- (16) A sheriff appointed by the Governor;
- (17) A chief of police appointed by the Governor;

- (18) Two members appointed by the Governor; and
- (19) The legislative chairperson of the Georgia Association of Criminal Defense Lawyers or his or her designee.

The Governor shall also appoint two other persons who shall serve in an advisory capacity to the commission. Any vacancy on the commission shall be filled by appointment by the original appointing authority.

BE IT FURTHER RESOLVED that the commission shall study the conditions, needs, issues, and problems of the juvenile justice and child welfare system in Georgia. In conducting such study, the commission shall study juvenile law and procedures in Georgia and other states and shall elicit views from experts in the field of juvenile justice and child welfare. The commission shall examine recent court decisions affecting children and shall determine what revisions to the Code, if any, are necessary and desirable. The commission shall review the range of services or sanctions that are needed by the juvenile justice and child welfare system to best serve the needs of the community, families, and children.

The commission may appoint study committees composed of members of this commission as well as public officials and citizens who have expertise or particular interest in the various areas of the juvenile justice and child welfare system. The commission shall periodically review the progress of the study committees and establish a time frame for the completion of the study committee's work. After a study committee has completed its work, it shall submit its report and recommendations to the commission.

The commission shall meet for the purpose of organizing and electing such officers as it deems advisable, determining a quorum, adopting procedures for operations, and attending to such other matters as it deems appropriate within 45 days of this resolution becoming law. The date, time, and place of the first meeting shall be determined by the Governor.

The Office of Legislative Counsel shall provide staff to the commission. The commission may enter into agreements with other state agencies and public or private organizations, including the Juvenile Law Committee of the Young Lawyers Division of the State Bar of Georgia, for such additional staff or support as the commission may determine to be necessary.

The commission shall recommend to the Governor, the General Assembly, and the judiciary any action or legislation which the commission deems necessary or appropriate and shall oversee the implementation of such recommendations.

The legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. Citizen members shall

receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia Annotated as well as the mileage or transportation allowance authorized for state employees. Members of the commission who are state officials, other than legislative members, and state employees shall receive no compensation for their services on the commission. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective departments. All other funds necessary to carry out the provisions of this resolution shall come from funds appropriated to the Senate and the House of Representatives. The expenses and allowances authorized by this resolution shall not be received by any member of the commission for more than five days unless additional days are authorized as provided by the rules of the Senate or the House of Representatives.

In the event the commission makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2005.

This resolution shall be repealed on December 31, 2005, and the commission and all study committees shall stand abolished on December 31, 2005.

Senator Hamrick of the 30th moved that the Senate agree to the House substitute to SR 161.

On the motion, a roll call was taken and the vote was as follows:

Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber

Y Hamrick	Y Rogers	Y Whitehead
Harbison	Schaefer	Y Wiles
Y Harp	Seabaugh	Y Williams
Y Heath	Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 43, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SR 161.

The following bill was taken up to consider House action thereto:

HB 170. By Representatives Golick of the 34th, Roberts of the 154th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th and others:

A BILL to be entitled an Act to enact the "Criminal Justice Act of 2005" so as to substantially revise the laws of this state relating to the conduct of criminal trials and appeals in criminal cases; to provide for a short title; to amend Chapter 7 of Title 5 of the Official Code of Georgia Annotated, relating to appeal or certiorari by the state in criminal cases, so as to provide that the state may appeal from an order, decision, or judgment of a superior court granting a motion for new trial or denying a motion by the state to recuse or disqualify a judge; to amend Article 5 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to trial juries, so as to provide the state and the accused with the same number of peremptory challenges in misdemeanor, felony, and death penalty cases and in challenging alternate jurors; to provide the manner in which peremptory challenges are made; to change the size of the jury panel in felony and death penalty cases; to provide the manner in which the number of alternative jurors is determined; to amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to provide the state with an equal number of additional peremptory challenges in trials for jointly indicted defendants; to provide that the prosecuting attorney shall always conclude the argument to the jury; to change the provision relating to notice and argument in presentence hearings; to provide that provisions relating to discovery apply to sentencing proceedings; to amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to change the provisions relating to the impeachment of witnesses; to provide for the admission of evidence of character of a witness; to provide for the impeachment of witnesses through evidence of conviction of a crime; to provide for the admission of specific instances of conduct by a witness; to provide for other matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House amendment to the Senate substitute was as follows:

Amend the Senate Judiciary Committee substitute to HB 170 as amended by the Senate by inserting after the semicolon on line 19 of page 1 the following:

"to change certain provisions relating to complainant's past sexual behavior not admissible in rape prosecution, exceptions, and court orders;".

By striking line 9 of page 4 and inserting in lieu thereof the following:

"When any person stands indicted for a felony, the court shall have impaneled 30 jurors".

By striking line 31 of page 4 and inserting in lieu thereof the following:

"challenge ~~42~~ nine of the jurors impaneled to try him or her. The state shall be allowed".

Senator Hamrick of the 30th moved that the Senate agree to the House amendment to the Senate substitute to HB 170.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 42, nays 4; the motion prevailed, and the Senate agreed to the House amendment to the Senate substitute to HB 170.

Senator Hudgens of the 47th asked unanimous consent that Senator Unterman of the 45th

be excused. The consent was granted, and Senator Unterman was excused. The following bill was taken up to consider House action thereto:

SB 291. By Senator Heath of the 31st:

A BILL to be entitled an Act to amend Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions relative to ad valorem taxation of property, so as to change certain provisions relating to returns of real property and tangible personal property located on airports; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to change certain provisions relating to returns of real property and tangible personal property located on airports; to change certain provisions relating to the use of the county tax digest following certain orders of the state revenue commissioner; to provide effective dates; to provide for applicability; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, is amended by striking Code Section 48-5-15.1, relating to returns of real property and tangible personal property located on airports, and inserting in lieu thereof the following:

"48-5-15.1.

(a)(1) All real property and tangible personal property shall be returned for taxation and subject to taxation as provided in this ~~Code section subsection~~ where such property is located on the premises of an airport and:

(1)(A) Such airport is divided by one or more county lines such that the airport is located in two or more counties; and

(2)(B) Such airport is owned or operated by a local airport authority which authority functions on behalf of one of the counties within which the airport is located.

(b)(2) For the purposes of this ~~Code section subsection~~, an authority shall be considered as functioning on behalf of a county where a majority of the members of the authority are members who meet any of the following descriptions:

- (1) An authority member who is also a member of the county governing authority or an official or employee of the county;
- (2) An authority member appointed by the county governing authority or appointed by an officer of the county;
- (3) An authority member who is also a member of the governing authority of a city within the county or an official or employee of a city within the county; or
- (4) An authority member appointed by the governing authority of a city within the county or appointed by an officer of a city within the county.
- (e)(3) All such real property and tangible personal property located on the premises of an airport as described in ~~subsections (a) and (b) of this Code section~~ ~~paragraphs (1) and (2) of this subsection~~ shall be returned for taxation to the tax commissioner or tax receiver of the county on behalf of which the airport authority functions. All such real and tangible personal property shall be subject to taxation by only the county on behalf of which the airport authority functions and not by any other county.
- ~~(b)(1) All real property and tangible personal property shall be returned for taxation and subject to taxation as provided in this subsection where such property is located on the premises of an airport which lies entirely within one county but such airport is owned or operated by a local airport authority which authority functions on behalf of more than one county.~~
- ~~(2) For the purposes of this subsection, an authority shall be considered as functioning on behalf of a county where any member of the authority is a member who meets any of the following descriptions:~~
- (A) An authority member who is also a member of the county governing authority or an official or employee of the county;
- (B) An authority member appointed by the county governing authority or appointed by an officer of the county;
- (C) An authority member who is also a member of the governing authority of a city within the county or an official or employee of a city within the county; or
- (D) An authority member appointed by the governing authority of a city within the county or appointed by an officer of a city within the county.
- ~~(3) All such real property and tangible personal property located on the premises of an airport as described in paragraphs (1) and (2) of this subsection shall be returned for taxation to the tax commissioner or tax receiver of the county in which the airport is located; provided, however, that all such real and tangible personal property shall be subject to taxation by each county on behalf of which the airport authority functions in the same proportion as that proportion of the total number of authority board members who are from such county, and the revenue collected by the county to which the property is returned shall be apportioned among and paid over to each county accordingly.~~
- ~~(d)(c) Nothing in this Code section shall apply with respect to any airport certificated under Title 14, Part 139, of the Code of Federal Regulations or shall apply with respect to the taxation of commercial airliners which shall be subject to Article 12 of this chapter and other applicable provisions of law. With respect to aircraft which would~~

otherwise be subject to the provisions of Code Section 48-5-16, the provisions of this Code section shall control over the provisions of Code Section 48-5-16. Except as specifically provided otherwise in the first sentence of this subsection, this Code section shall control over any other conflicting provisions of this chapter; but nothing in this Code section shall be construed as taking away the tax-exempt status of any property which is otherwise exempted by law from ad valorem taxation."

## **SECTION 2.**

Said chapter is further amended in Code Section 48-5-345, relating to the use of the county tax digest following certain orders of the state revenue commissioner, by striking paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"(a)(1) Upon the determination by the commissioner that a county tax digest is in proper form, that the property therein that is under appeal is within the limits of Code Section 48-5-304, and that the digest is accompanied by all documents, statistics, and certifications required by the commissioner, the commissioner shall issue a receipt for the digest and enter an order authorizing the use of said digest for the collection of taxes. Except as otherwise provided by Code Sections 48-5-299, 48-5-311, and 48-5-305, all assessed valuations of real property on the digest shall be final at the time the commissioner issues an order for the billing and collection of taxes."

## **SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; except that Section 1 of this Act shall become effective on January 1, 2006, and shall apply to all taxable years beginning on or after such date.

## **SECTION 4.**

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

Senator Heath of the 31st moved that the Senate agree to the House substitute to SB 291.

Senator Seabaugh of the 28th moved that the Senate agree to the House substitute to SB 291 as amended by the following amendment:

Senators Seabaugh of the 28th and Hamrick of the 30th offered the following amendment:

Amend (LC 25 41035) SB 291 by striking lines 34 through 36 and insert the following:

"the same proportion as that proportion of the previous year's annual cost of airport operation as substantiated by the audited financial statements, and the revenue collected by the county to which the property is returned shall be apportioned among and paid over to each county accordingly.

On the motion to agree to the House substitute as amended by the Senate, which takes precedence, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
Butler	Johnson (PRS)	Y Stoner
N Cagle	Jones	Y Tate
N Carter	N Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
N Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
N Goggans	N Pearson	E Unterman
Y Golden	N Powell	Walker
Y Grant	Y Reed	N Weber
Y Hamrick	N Rogers	Y Whitehead
Y Harbison	N Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
N Heath	Y Seay	Y Zamarripa
Henson	N Shafer,D	

On the motion, the yeas were 27, nays 14; the motion lost, and the Senate did not agree to the House substitute to SB 291 as amended by the Senate.

Senator Seabaugh of the 28th moved that the Senate reconsider its action in failing to agree to the House substitute to SB 291 as amended.

On the motion to reconsider, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson (PRS)	Y Stoner
N Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
N Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Fort	Y Mullis	Y Tolleson

Y Goggans	N Pearson	E Unterman
Y Golden	N Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	N Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
N Heath Henson	Y Seay N Shafer,D	Y Zamarripa

On the motion, the yeas were 31, nays 11, the motion prevailed; and the Senate reconsidered its action in not agreeing to the House substitute to SB 291 as amended.

On the motion to agree to the House substitute as amended by the Senate, a roll call was taken and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
Butler	Johnson (PRS)	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
N Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	N Pearson	E Unterman
Y Golden	N Powell	Walker
Y Grant	Y Reed	N Weber
Y Hamrick	N Rogers	Y Whitehead
Harbison	N Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
N Heath Henson	Y Seay N Shafer,D	Y Zamarripa

On the motion, the yeas were 29, nays 13; the motion prevailed, and the Senate agreed to the House substitute to SB 291 as amended by the Senate.

Senator Reed of the 35th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

Senator Hill of the 32nd asked unanimous consent that Senator Heath of the 31st be excused. The consent was granted, and Senator Heath was excused.

The Calendar was resumed.

HB 378. By Representatives Fleming of the 117th, May of the 111th, Loudermilk of the 14th, Hatfield of the 177th and Willard of the 49th:

A BILL to be entitled an Act to amend Article 3 of Chapter 15 of the Official Code of Georgia Annotated, relating to probate court costs and compensation, and Chapter 3 of Title 19 of the Official Code of Georgia Annotated, relating to marriage generally, so as to provide for premarital education; to provide for financial incentive to invest in premarital education; to provide for matters relative to the additional fee for certain marriage license applications; to provide for the requirements and elements of premarital education programs; to change provisions relating to the contents of the application for a marriage license; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Seabaugh of the 28th.

Senator Butler of the 55th offered the following amendment to HB 378 (LC 29 1794S):

By deleting ‘35.00’ on line 19 of page 1 and replacing it with ‘10.00’ in lieu thereof.

Senator Butler of the 55th called for the yeas and nays. The call was sustained and the vote was as follows:

Y Adelman	E Hill,Jack	N Smith
Y Balfour	N Hill,Judson	E Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	Johnson (PRS)	Y Stoner
N Cagle	Y Jones	Y Tate
N Carter	N Kemp	N Thomas,D
N Chance	Y Me V Bremen	Thomas,R
N Chapman	Y Miles	Y Thompson,C
N Douglas	E Moody	Thompson,S
Y Fort	N Mullis	N Tolleson
N Goggans	N Pearson	N Unterman
Y Golden	Y Powell	Walker
N Grant	Y Reed	N Weber

Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 19, nays 28, and the Butler amendment was lost.

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	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
N Bulloch	Y Hudgens	Y Stephens
N Butler	Johnson (PRS)	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
E Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 43, nays 4.

HB 378, 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.

Senator Whitehead of the 24th asked unanimous consent that Senator Grant of the 25th be excused. The consent was granted, and Senator Grant was excused.

HB 665. By Representatives Golick of the 34th, Roberts of the 154th and Smith of the 129th:

A BILL to be entitled an Act to amend Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to general provisions relating to public officers and employees, so as to change certain provisions relating to complaints or information regarding fraud, waste, and abuse in state programs and operations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Unterman of the 45th.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
E Grant	E Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Schaefer	Y Wiles
Harp	Y Seabaugh	Y Williams
E Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 42, nays 0.

HB 665, having received the requisite constitutional majority, was passed.

The President resumed the Chair.

THURSDAY, MARCH 31, 2005

3311

HB 538. By Representatives O`Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Cagle of the 49th.

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

DEPARTMENT OF AUDITS AND ACCOUNTS  
254 Washington Street, S.W., Suite 214  
Atlanta, Georgia 30334-8400

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

February 23, 2005

Honorable Larry O`Neal, Chairman  
House Ways and Means Committee  
State Capitol, Room 133  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 538 (LC 18 4202)

Dear Chairman O`Neal:

This bill would allow members of the National Guard and reservists on active duty for 90 or more consecutive days to exclude all income (earned and unearned) from Georgia income tax. This bill would amend current law, which provides for an exemption of military income from taxation under similar circumstances regarding active duty. The revenue impact therefore is due to the additional exclusion of non-military income for those qualifying for the exemption. The bill also provides for a no-cost extension of state licensure and registration requirements for guard and reserve members other than attorneys who meet the 90-day duty criteria

The Georgia State University Fiscal Research Center estimates the upper bound revenue impact of this change to be a revenue loss of approximately \$9.7 million. The Center provided the following narrative regarding this estimate:

The revenue loss associated with this bill comes from four sources: unearned income (interest, dividends, etc.), wages from non-military employment in the same calendar year in which deployment took place, wages from non-military employers that are given by the previous employer to hold harmless those deployed, and the reduced revenue from license and registration renewals.

In 2003, it was reported that 7,700 reservists and National Guard troops from Georgia were on active duty (compared to a nationwide total of 204,000). For 2005, it is assumed that the number of active duty reservists and National Guard troops remains approximately the same and that these individuals meet the 90-day rule of this legislation. The Department of Defense publishes data on the number of reservists and Guard troops on active duty but does not publish the date of deployment. An upper bound revenue cost estimate is made assuming that 9 months of regular salary is covered under the income exclusion of this bill.

The 2000 U.S. Census Bureau's 5% sample of individuals is used to determine the average unearned income of individuals on active duty (data are not available specifically for reservists and national guard troops on active duty) and for those who report that they are training for reserves or National Guard duty. The income data reported in the 2000 Census is based on 1999 actual income. For those reporting active duty, average wages for Georgians are \$24,377 per year and other income above wages is \$1,000 on average. This suggests that for career military, total income is only slightly larger than their military pay. In the same data sample the average total income of individuals who report that they are training for reserves or National Guard is \$33,108 and wage income is \$28,029. The average payment to a National Guard or reservist in Georgia in 1999 was \$6,200 (based on deflating 2003 data). This income should be reported as "other income" and therefore included in total income but not in wage income as reported to the Census. These data demonstrate that, on average, a member of the reserves or National Guard reports wages and very little "other income" aside from reserve pay.

Based on data from the Department of Defense, the average pay for Georgians on active duty is \$40,800 per year (fiscal year 2003) and \$43,500 at 2005 levels. Under current Georgia law (Code Section 48-7-27), this income is exempt from state income tax and data suggest that no hold harmless supplement would be given by non-military employers to these individuals. Therefore, the only anticipated revenue loss for these individuals is the non-military pay they received in a calendar year once they meet the 90-day rule. As noted above, assuming that

this pertains to 9 months of salary, this results in a revenue loss of \$4.2 million for this group of guard and reservists (66 percent of the total number of troops).

For individuals with above average wages and total income (about 33 percent of the reservist and guard troops), the average difference between wages and total income is also approximately equal to the average reservists pay in 1999, suggesting that there is little other non-military income. However, for these individuals at 2005 levels, active duty military pay is \$20,480 less than their average wage. Conservatively assuming that 10 percent of that difference would be made up as supplements from employers and that all active duty reservist and guard troops report \$1,000 in non-military income, the revenue cost associated with hold harmless payment from their employers is estimated to be \$460,000 for 2005 at an average tax rate of 5.0 percent (developed using the Georgia Income Tax Microsimulation model) and the additional 9 months salary exemption is estimated to cost \$4.9 million in revenue loss (assuming an annual average wage of \$63,980 for this group of 33 percent of the total troops). A lower bound estimate assuming 3 months of non-military pay exemption yields a revenue loss of \$3.5 million.

The Secretary of State lists 43 occupations for which Georgia has various registration and licensing requirements. The value of the renewals and costs for late renewal vary widely, with an unweighted average of \$150. Using the Census data used above, it is estimated that approximately 10 percent of the reservists are in occupations for which licensing and registration fees would apply. Using these data, the revenue cost associated with this component of the bill is \$120,000.

Sincerely,

/s/ Russell W. Hinton  
State Auditor

/s/ Timothy A. Connell, Director  
Office of Planning and Budget

Senators Johnson of the 1st, Cagle of the 49th and Powell of the 23rd offered the following amendment:

Amend HB 538 by inserting between "nonapplicability" and "to" on line 5 of page 1 the following:

"to change certain provisions regarding the income tax exclusion applicable to military income;"

By striking "an effective date;" and inserting in its place "for effective dates;" on line 8 of

page 1.

By adding immediately following line 33 of page 2 the following:

**"SECTION 2A.**

Said chapter is further amended in Code Section 48-7-27, relating to computation of Georgia taxable net income, by striking paragraph (12) of subsection (a) and inserting in its place a new paragraph (12) to read as follows:

'(12) Military The first \$10,000.00 of earned military income and other earned income received by a member of the national guard or any reserve component of the armed services of the United States stationed in a combat zone pursuant to military orders who serves on active duty for at least 90 consecutive days. The exclusion provided under this paragraph:

(A) Shall be claimed and allowed in the year in which the ninetieth day occurs;

(A)(B) Shall apply with respect to each taxable year, or portion thereof, covered by such military orders in which such member serves for such qualifying period of time; and

(B)(C) Shall apply only with respect to such member of the national guard or any reserve component of the armed forces and only with respect to the first \$10,000.00 of earned military income and all other earned income received during the period covered by such military orders taxable year by such member; and

(D) Shall be applied following any other deductions claimed and allowed by such member of the national guard; and"

By striking lines 2 through 4 of page 3 and inserting in their place the following:

"(a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2005.

(b) Section 2A of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2002."

On the adoption of the amendment, the yeas were 38, nays 0, and the Johnson et al. amendment was adopted.

Senator Johnson of the 1st asked unanimous consent to suspend Senate Rule 7-1.6(b) in order to allow immediate consideration of HB 538.

The consent was granted and Senate Rule 7-1.6(b) was suspended.

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 Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick Harbison	Y Rogers Y Schaefer	Y Whitehead
Y Harp	Y Seabaugh	Y Wiles
E Heath Henson	Y Seay Y Shafer,D	Y Williams Y Zamarripa

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

HB 538, having received the requisite constitutional majority, was passed as amended.

Senator Shafer of the 48th asked unanimous consent that Senate Rule 3-1.2(b) be suspended in order to allow the first reading and reference of SR 632.

The consent was granted and Senate Rule 3-1.2(b) was suspended.

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

SR 632. By Senators Shafer of the 48th, Rogers of the 21st and Cagle of the 49th:

A RESOLUTION proposing an amendment to the Constitution so as to limit authority of the General Assembly to impose taxes on income; to provide for a phasing out of taxes on income; to provide for the ability of the General

Assembly to impose an income tax under certain circumstances; to provide for related matters; to provide for submission of this amendment for ratification or rejection; and for other purposes.

Referred to the Rules Committee.

Senator Shafer of the 48th asked unanimous consent that Senator Weber of the 40th be excused. The consent was granted, and Senator Weber was excused.

Senator Shafer of the 48th asked unanimous consent that Senator Thomas of the 54th be excused. The consent was granted, and Senator Thomas was excused.

The following bill was taken up to consider House action thereto:

SB 339. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act creating the State Court of Clayton County, approved January 28, 1964 (Ga. L. 1964, p. 2032), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4327), so as to provide for an increase in the compensation of the clerk of the state court; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act creating the State Court of Clayton County, approved January 28, 1964 (Ga. L. 1964, p. 2032), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4327), so as to provide for an increase in the compensation of the clerk of the state court; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

An Act creating the State Court of Clayton County, approved January 28, 1964 (Ga. L. 1964, p. 2032), as amended, is amended by striking Section 3 and inserting in lieu thereof the following:

**"SECTION 3.  
Judges' salaries.**

Each judge of the State Court of Clayton County shall receive a salary equal to 90 percent of the state salary provided by general law for judges of the superior courts, plus 1 1/2 percent of such base salary and any supplement received pursuant to state law or county ordinance multiplied by the number of complete years of service as judge served by such person since January 1, 2005. Such longevity increase shall be calculated and payable in equal monthly installments by the board of commissioners out of the general funds of Clayton County. The governing authority of Clayton County shall be authorized to supplement such salary."

**SECTION 2.**

Said Act is further amended by striking in its entirety Section 6 and inserting in lieu thereof the following:

"**SECTION 6.**

Salary of the solicitor-general.

The solicitor-general of the State Court of Clayton County shall receive a salary equal to 70 percent of the salary provided by this Act for the judges of the State Court of Clayton County, not including any county supplements, plus 1 1/2 percent of such base salary and any supplement received pursuant to state law or county ordinance multiplied by the number of complete years of service as solicitor-general served by such person since January 1, 2005. Such longevity increase shall be calculated and payable in equal monthly installments by the board of commissioners out of the general funds of Clayton County. In addition, the solicitor-general shall receive a county supplement to such salary in the amount of \$13,500.00 per annum paid on an equal monthly basis. Such amount shall be inclusive of any county supplement the solicitor-general was receiving on April 1, 2005, and may be increased by the county governing authority."

**SECTION 3.**

Said Act is further amended by striking subsection (b) of Section 8 and inserting in its place the following:

"(b)(1) The clerk of the state court shall be compensated in the amount of \$65,783.00 or in an amount not less than 95 percent of the base amount of the minimum salary of a clerk of the superior court of a county with the population of Clayton County as provided in subsection (a) of Code Section 15-6-88 of the O.C.G.A. without regard to cost-of-living or longevity increases, whichever is greater. The base salary of the clerk shall be increased at the same time and by the same percentage as the minimum salary provided by general law for the sheriff of Clayton County is increased by operation of paragraph (2) of subsection (a) of Code Section 15-16-20 of the O.C.G.A. The board of commissioners is authorized to supplement such

compensation in such amount as shall be fixed by the board of commissioners.

(2) The clerk of the state court shall be entitled to Clayton County retirement, insurance, annual leave, sick leave, and all other benefits afforded to Clayton County employees under the Clayton County Civil Service System Act, approved April 2, 1963 (Ga. L. 1963, p. 2747), as now or hereafter amended, except as to compensation, employment, and discharge."

#### **SECTION 4.**

This Act shall become effective on July 1, 2005.

#### **SECTION 5.**

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

Senator Seay of the 34th moved that the Senate agree to the House substitute to SB 339.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
E Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 45, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 339.

The following bill was taken up to consider House action thereto:

SB 343. By Senators Seay of the 34th and Starr of the 44th:

A BILL to be entitled an Act to amend an Act placing the judge of the Probate Court of Clayton County on an annual salary, approved February 7, 1950 (Ga. L. 1950, p. 2068), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4331), so as to change the compensation of the judge of the probate court; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act placing the judge of the Probate Court of Clayton County on an annual salary, approved February 7, 1950 (Ga. L. 1950, p. 2068), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4331), so as to change the compensation of the judge of the probate court; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

An Act placing the judge of the Probate Court of Clayton County on an annual salary, approved February 7, 1950 (Ga. L. 1950, p. 2068), as amended, particularly by an Act approved April 13, 2001 (Ga. L. 2001, p. 4331), is amended by striking Section 1 thereof and inserting in its place a new section to read as follows:

**"SECTION 1.**

The salary provided in this section for the judge of the probate court shall be his or her full and complete compensation; and all fees or other emoluments now allowed, or hereafter allowed by any authority of law, for which said judge is entitled heretofore and which he or she earns or receives by reason of being the probate judge whether under color of the office of probate judge or not shall henceforth be county funds and accountable as such in the same manner as other county funds received by said judge of the probate court. The judge of the probate court shall receive an annual salary of \$104,120.83 payable in equal monthly installments from county funds. Such amount may be increased by cost-of-living adjustments, to be paid in equal monthly installments from the funds of Clayton County. In addition, said judge shall also receive those fees authorized to be retained under Code Section 15-9-68 of the O.C.G.A., regarding vital records fees, as limited by any resolution of the governing authority of Clayton County pursuant to Code Section 15-9-68 of the O.C.G.A."

**SECTION 2.**

This Act shall become effective on July 1, 2005.

**SECTION 3.**

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

Senator Seay of the 34th moved that the Senate agree to the House substitute to SB 343.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Y Stoner
Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	E Weber
Y Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
E Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 42, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 343.

The following resolution was taken up to consider House action thereto:

SR 21. By Senators Kemp of the 46th, Grant of the 25th, Tate of the 38th and Hamrick of the 30th:

A RESOLUTION creating the Joint Early Learning Initiative Commission; and for other purposes.

The House substitute was as follows:

**A RESOLUTION**

Creating the Joint Early Learning Initiative Commission; and for other purposes.

WHEREAS, quality early care and learning opportunities for all children, especially for at-risk children from birth to five years of age, are essential to improving school performance for Georgia students; and

WHEREAS, the state has invested lottery proceeds, state funds, and federal funds in the Office of School Readiness and Georgia's Pre-K Program, for a total of \$360,959,969.00 in the 2004 budget adopted in the 2004 session; and

WHEREAS, there are proposals for delegation of authority and funding over certain federal early learning programs to the states; and

WHEREAS, a comprehensive review of early learning opportunities currently available that support health, social and emotional, cognitive and physical well being of children from birth to five years of age and recommendations for improvement of quality early care and learning opportunities would be helpful to the General Assembly in adopting education policies and appropriating funds for the most effective uses.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Joint Early Learning Initiative Commission to be composed of 21 members, including four members of the House of Representatives to be appointed by the Speaker of the House of Representatives and four members of the Senate to be appointed by the Senate Committee on Assignments. The Governor shall appoint seven members, including one member with expertise relating to early care and learning programs, one parent with a child enrolled in a pre-kindergarten program, one parent with a child currently enrolled in Head Start or Early Head Start, one representative from the child care/early learning center community, one private provider pre-kindergarten instructor, one public school pre-kindergarten instructor, and one Head Start instructor. The Chancellor of the Board of Regents, the Commissioner of the Department of Technical Adult Education, the director of the Georgia Lottery Corporation, the director of the Georgia Student Finance Commission, the Georgia State School Superintendent or her designee, and the commissioner of Bright From the Start: Georgia Department of Early Care and Learning shall be ex-officio members of the commission. The Speaker of the House of Representatives shall designate a member of the House and the Senate Committee on Assignments shall designate a member of the Senate who shall serve as cochairs of the commission. The commission shall meet at the call of the cochairs.

BE IT FURTHER RESOLVED that the commission shall undertake a study of the

following: issues relating to the anticipated action of the federal government in delegating authority relating to Head Start to the state; an examination of federal and state early learning programs to define efficiencies in each; options for combining federal and state programs if authority over federal funds and programs are delegated to the state; an investigation of early learning efforts statewide, including federal, state, and private programs to assess innovative approaches and to recommend effective practices; an investigation to develop and align early learning standards from birth to five years of age and from kindergarten through 12th grade, thus providing Georgia students with a seamless system of learning standards; investigate research that demonstrates that training and credentialing of early care and education teachers is critical to obtaining positive child outcomes and investigate and improve the professional development opportunities/system for early care and learning teachers by the creation of a statewide articulation agreement between community-based, tech school and colleges and universities that support the professional development of Georgia's early care and education teachers; possible expansion of early learning programs for at-risk three-year-olds; the creation of a statewide data base system that ensures a measure of accountability across state programs; an economic impact study that measures and demonstrates the value of federal, state, and local investments made in quality early care and education programs in Georgia; and the impact of an early education income tax credit for families with incomes under 200 percent of the federally designated poverty level that would allow low-income families to afford early education options that wealthier families can afford at institutions of their choice. The commission may recommend any actions or legislation which the commission deems necessary or appropriate. The commission may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The members of the commission shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than three days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the House of Representatives and Senate. The Carl Vinson Institute at the University of Georgia is authorized and directed to provide staff services to the commission. In the event the commission makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2006. The commission shall stand abolished on December 31, 2006.

Senator Kemp of the 46th moved that the Senate agree to the House substitute to SR 21.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton

Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	E Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Williams
E Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SR 21.

The following bill was taken up to consider House action thereto:

SB 204. By Senators Kemp of the 46th, Thomas of the 54th, Zamarripa of the 36th, Goggans of the 7th, Unterman of the 45th and others:

A BILL to be entitled an Act to amend Chapter 33 of Title 31 of the Official Code of Georgia Annotated, relating to health records, so as to provide that any health care provider, health care facility, or health care professional may create, maintain, transmit, receive, and store medical records in an electronic format; to provide conditions; to provide for legal rights and responsibilities; to provide for tangible copies of records; to provide for costs; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 33 of Title 31 of the Official Code of Georgia Annotated, relating to health records, so as to provide that any provider may create, maintain, transmit, receive, and store records in an electronic format; to provide conditions; to provide for legal rights and responsibilities; to provide for tangible copies of records; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:****SECTION 1.**

Chapter 33 of Title 31 of the Official Code of Georgia Annotated, relating to health records, is amended by inserting at the end thereof the following:

"31-33-8.

- (a) Notwithstanding any other provision of the law to the contrary, any provider may, in its sole discretion, create, maintain, transmit, receive, and store records in an electronic format within the meaning of Code Section 10-12-3 and may, in its sole discretion, temporarily or permanently convert records into an electronic format.
- (b) A provider shall not be required to maintain separate tangible copies of electronically stored records.
- (c) The other provisions of this chapter shall apply to electronic records to the same extent as those provisions apply to tangible records. This Code section is subject to all applicable federal laws governing the security and confidentiality of a patient's personal health information.
- (d) A tangible copy of a record reproduced from an electronically stored record shall be considered an original for purposes of providing copies to patients or other authorized parties and for introduction of the records into evidence in administrative or court proceedings.
- (e) Except as provided otherwise under federal law, upon receiving a request for a copy of a record from a patient or an authorized person under Code Section 31-33-3, a provider shall provide copies of the record in either tangible or electronically stored form."

**SECTION 2.**

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

Senator Kemp of the 46th moved that the Senate agree to the House substitute to SB 204.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Douglas	E Moody	E Thompson,S

Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
E Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 1; the motion prevailed, and the Senate agreed to the House substitute to SB 204.

The following messages were received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed, by substitute, by the requisite constitutional majority the following Bill of the Senate:

SB 110. By Senators Unterman of the 45th, Thomas of the 54th and Smith of the 52nd:

A BILL to be entitled an Act to amend Title 43 of the O.C.G.A., relating to regulation of professions and businesses, so as to add a new Chapter 24A regulating the practice of massage therapy; to provide a short title; to provide legislative findings and intent; to provide for certain definitions; to create the Georgia Board of Massage Therapy; to provide for membership on the board; to provide for meetings of the board; to provide for powers of the board; to provide for licensure of massage therapists; to provide for provisional permits; to provide for applications under oath; to provide for licensing examinations; to provide for requirements relating to a license; to provide for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Mr. President:

The House has disagreed to the Senate amendment to the following Bill of the House:

HB 538. By Representatives O'Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Staton of the 18th asked unanimous consent that Senator Douglas of the 17th be excused. The consent was granted, and Senator Douglas was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Balfour of the 9th be excused. The consent was granted, and Senator Balfour was excused.

The following bill was taken up to consider House action thereto:

SB 351. By Senator Kemp of the 46th:

A BILL to be entitled an Act to amend an Act establishing a City Court in the County of Clarke, formerly known as the State Court of Clarke County, Georgia, approved September 9, 1879 (Ga. L. 1878-79, p. 291), as amended, now known as the State Court of Athens-Clarke County, as redesignated by an Act approved March 2, 1990 (Ga. L. 1990, p. 3560), so as to authorize the court to charge a technology fee for each civil case filed and each criminal fine imposed; to specify the uses to which said technology fees may be utilized; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act establishing a City Court in the County of Clarke, formerly known as the State Court of Clarke County, Georgia, approved September 9, 1879 (Ga. L. 1878-79, p. 291), as amended, now known as the State Court of Athens-Clarke County, as redesignated by an Act approved March 2, 1990 (Ga. L. 1990, p. 3560), so as to authorize the court to charge a technology fee for each civil case filed and each criminal fine imposed; to specify the uses to which said technology fees may be utilized; to provide for the automatic repeal of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:****SECTION 1.**

An Act establishing a City Court in the County of Clarke, formerly known as the State Court of Clarke County, Georgia, approved September 9, 1879 (Ga. L. 1878-79, p. 291), as amended, now known as the State Court of Athens-Clarke County, as redesignated by an Act approved March 2, 1990 (Ga. L. 1990, p. 3560), is amended by striking Section XLVI and inserting in lieu thereof a new Section XLVI to read as follows:

**"SECTION XLVI**

- (a) The clerk of the state court shall be entitled to charge and collect the same fees as the clerk of the superior court is entitled to charge and collect for the same or similar services. All such fees shall be paid into the county treasury, except those sums which are directed by law to be paid otherwise.
- (b) The clerk of the state court shall be entitled to charge and collect a technology fee to be set by the court in an amount not to exceed \$5.00 for the filing of each civil action and not to exceed \$5.00 as a surcharge to each fine paid. Technology fees shall be used exclusively to provide for the technological needs of the court. Such uses shall include only the following:
  - (1) Computer hardware and software purchases;
  - (2) Lease, maintenance, and installation of computer hardware and software; and
  - (3) Purchase, lease, maintenance, and installation of imaging, scanning, facsimile, communications, projection, and printing equipment and software.
- The funds collected pursuant to this subsection shall be maintained in a segregated fund by the clerk of the court and shall be used only for the purposes authorized in this subsection at the direction of the chief judge of the court.
- (c) This section shall stand repealed in its entirety on July 1, 2007."

**SECTION 2.**

Said Act is further amended by inserting a new Section XLVII to read as follows:

**"SECTION XLVII**

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

**SECTION 3.**

This Act shall become effective on July 1, 2005.

**SECTION 4.**

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

Senator Kemp of the 46th moved that the Senate agree to the House substitute to SB 351.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
E Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
E Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Shafer,D	

On the motion, the yeas were 46, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 351.

Senator Golden of the 8th asked unanimous consent that Senator Stoner of the 6th be excused. The consent was granted, and Senator Stoner was excused.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 291. By Representatives Rogers of the 26th, Knox of the 24th, Meadows of the 5th and Dodson of the 75th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to remove the requirement that managed care plans obtain certain acknowledgments; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and

sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 291 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 291 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Hudgens of the 47th  
/s/ Senator Balfour of the 9th  
/s/ Senator Rogers of the 21st

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Rogers of the 26th  
/s/ Representative Knox of the 24th  
/s/ Representative Meadows of the 5th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 291

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 an exception to the requirement that major medical insurance policies or plans provide for carry-over deductibles; to remove the requirement that managed care plans obtain certain acknowledgments; to enact the "Georgia Telemedicine Act"; to provide for a short title; to provide for definitions; to provide for legislative intent; to provide that health insurance policies shall include payment for certain telemedicine services; to provide for conditions, exceptions, and limitations; to provide for the maximum duration of certain credit life policies; to provide for a mortgagee group policy; to increase the maximum amount of coverage on an agricultural loan group policy; to provide that certain required provisions in group life insurance policies shall not apply to policies issued to a creditor to insure mortgagors; to require that certain individual and blanket accident and sickness policies insure certain dependent children of the insured up to and including age 25; to provide an exception for certain matters concerning renewability of policies; to clarify certain definitions; to clarify the applicable groups for blanket accident and sickness insurance; to provide an exception for intentional misrepresentation of material fact in applying for or procuring insurance as to treatment of certain statements

made by a policyholder or insured person; to clarify the application of certain provisions to group and blanket accident and sickness insurance; to clarify certain provisions regarding insurance portability and renewability; 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 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by striking paragraph (14) of Code Section 33-6-5, relating to other unfair methods of competition and unfair and deceptive acts or practices, and inserting in lieu thereof a new paragraph (14) to read as follows:

"(14) On and after July 1, 1992, no insurer, as defined in paragraph (4) of Code Section 33-1-2, shall issue, cause to be issued, renew, or provide coverage under any major medical insurance policy or plan containing a calendar year deductible or similar plan benefit period deductible which does not provide for a carry-over of the application of such deductible as provided in this paragraph. If all or any portion of an insured's or member's cash deductible for a calendar year or similar plan benefit period is applied against covered expenses incurred by the insured or member during the last three months of the deductible accumulation period, the insured's or member's cash deductible for the next ensuing calendar year or similar benefit plan period shall be reduced by the amount so applied. The provisions of this paragraph shall apply to major medical insurance policies or plans which have a benefit plan period of less than 24 months, except policies or plans designed and issued to be compatible with a health savings account as set out in 26 U.S.C. Section 223 or a spending account as defined in Chapter 30B of this title."

**SECTION 2.**

Said title is further amended by striking paragraph (1) of Code Section 33-20A-5, relating to standards for certification, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(1) Disclosure to enrollees and prospective enrollees.

(A) A managed care entity shall disclose to enrollees and prospective enrollees who inquire as individuals into a plan or plans offered by the managed care entity the information required by this paragraph. In the case of an employer negotiating for a health care plan or plans on behalf of his or her employees, sufficient copies of disclosure information shall be made available to employees upon request. Disclosure of information under this paragraph shall be readable, understandable, and on a standardized form containing information regarding all of the following for each plan it offers:

(i) The health care services or other benefits under the plan offered as well as limitations on services, kinds of services, benefits, or kinds of benefits to be provided, which disclosure may also be published on an Internet service site made

- available by the managed care entity at no cost to such enrollees;
- (ii) Rules regarding copayments, prior authorization, or review requirements including, but not limited to, preauthorization review, concurrent review, postservice review, or postpayment review that could result in the patient's being denied coverage or provision of a particular service;
- (iii) Potential liability for cost sharing for ~~out-of-network~~ out-of-network services, including, but not limited to, providers, drugs, and devices or surgical procedures that are not on a list or a formulary;
- (iv) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket expenses for items and services (both in and out of network);
- (v) The number, mix, and distribution of participating providers. An enrollee or a prospective enrollee shall be entitled to a list of individual participating providers upon request, and the list of individual participating providers shall also be updated at least every 30 days and may be published on an Internet service site made available by the managed care entity at no cost to such enrollees;
- (vi) Enrollee rights and responsibilities, including an explanation of the grievance process provided under this article;
- (vii) An explanation of what constitutes an emergency situation and what constitutes emergency services;
- (viii) The existence of any limited utilization incentive plans;
- (ix) The existence of restrictive formularies or prior approval requirements for prescription drugs. An enrollee or a prospective enrollee shall be entitled, upon request, to a description of specific drug and therapeutic class restrictions;
- (x) The existence of limitations on choices of health care providers;
- (xi) A statement as to where and in what manner additional information is available;
- (xii) A statement that a summary of the number, nature, and outcome results of grievances filed in the previous three years shall be available for inspection. Copies of such summary shall be made available at reasonable costs; and
- (xiii) A summary of any agreements or contracts between the managed care plan and any health care provider or hospital as they pertain to the provisions of Code Sections 33-20A-6 and 33-20A-7. Such summary shall not be required to include financial agreements as to actual rates, reimbursements, charges, or fees negotiated by the managed care plan and any health care provider or hospital; provided, however, that such summary may include a disclosure of the category or type of compensation, whether capitation, fee for service, per diem, discounted charge, global reimbursement payment, or otherwise, paid by the managed care plan to each class of health care provider or hospital under contract with the managed care plan.
- (B) Such information shall be disclosed to each enrollee under this article at the time of enrollment and at least annually thereafter.
- (C) Any managed care plan licensed under Chapter 21 of this title is deemed to

have met the certification requirements of this paragraph.

(C.1) Any managed care plan licensed in this state shall obtain a signed acknowledgment from each enrollee at the time of enrollment and upon any subsequent product change elected by an enrollee acknowledging that the enrollee has been informed of the following:

- (i) The number, mix, and distribution of participating providers. An enrollee shall be entitled to a list of individual participating providers and the list shall be updated at least every 30 days and may be published on an Internet service site made available by the managed care entity at no cost to such enrollee;
- (ii) The existence of limitations and disclosure of such limitations on choices of health care providers; and
- (iii) A summary of any agreements or contracts between the managed care plan and any health care provider or hospital as they pertain to the provisions of Code Sections 33-20A-6 and 33-20A-7. Such summary shall not be required to include financial agreements as to actual rates, reimbursements, charges, or fees negotiated by the managed care plan and any health care provider or hospital; provided, however, such summary may include a disclosure of the category or type of compensation, whether capitation, fee for service, per diem, discounted charge, global reimbursement payment, or otherwise, paid by the managed care plan to each class of health care provider or hospital under contract with the managed care plan.

(D) A managed care entity which negotiates with a primary care physician to become a health care provider under a managed care plan shall furnish that physician, beginning on and after January 1, 2001, with a schedule showing fees payable for common office based services provided by such physicians under the plan;".

### SECTION 3.

Said title is further amended by adding a new Code Section 33-24-56.4 to read as follows:

"33-24-56.4.

- (a) This Code section shall be known and may be cited as the 'Georgia Telemedicine Act.'
- (b) As used in this Code section, the term:
  - (1) 'Health benefit policy' means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the State of Georgia on behalf of state employees under Article 1 of Chapter 18 of Title 45, by an insurer.
  - (2) 'Insurer' means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

- (3) 'Telemedicine' means the practice, by a duly licensed physician or other health care provider acting within the scope of such provider's practice, of health care delivery, diagnosis, consultation, treatment, or transfer of medical data by means of audio, video, or data communications which are used during a medical visit with a patient or which are used to transfer medical data obtained during a medical visit with a patient. Standard telephone, facsimile transmissions, unsecured electronic mail, or a combination thereof do not constitute telemedicine services.
- (c) It is the intent of the General Assembly to mitigate geographic discrimination in the delivery of health care by recognizing the application of and payment for covered medical care provided by means of telemedicine, provided that such services are provided by a physician or by another health care practitioner or professional acting within the scope of practice of such health care practitioner or professional and in accordance with the provisions of Code Section 43-34-31.1.
- (d) On and after July 1, 2005, every health benefit policy that is issued, amended, or renewed shall include payment for services that are covered under such health benefit policy and are appropriately provided through telemedicine in accordance with Code Section 43-34-31.1 and generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this Code section may be subject to all terms and conditions of the applicable health benefit plan."

#### **SECTION 4.**

Said title is further amended by striking Code Section 33-27-1, relating to group requirements generally, and inserting in lieu thereof a new Code Section 33-27-1 to read as follows:

"33-27-1.

No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

- (1) **EMPLOYEE GROUPS.** A policy issued to an employer or to the trustees of a fund established by an employer, which employer or trustee shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:
- (A) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term 'employees' shall include the employees of one or more subsidiary corporations and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors, or partnerships, if the business of the employer and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership or contract or otherwise. The policy may provide that the term 'employees' shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term 'employees' shall include retired employees. No individual proprietor or partner

shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term 'employees' shall include elected or appointed officials;

(B) The premium for the policy shall be paid by the policyholder either from the employer's own funds or from charges collected from the insured employee specifically for such insurance or from funds contributed by both the employer and the employee. A policy in which no part of the premium is to be derived from funds contributed by the insured employee must insure each eligible employee, except for any employee as to whom evidence of individual insurability is not satisfactory to the insurer;

(C) The policy must cover at least two employees at date of issue; and

(D) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustee.

(2) DEBTOR GROUPS. A policy issued to a creditor or to a trustee or agent appointed by two or more creditors, which creditor, trustee, or agent shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(A) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable either in installments, including any extraordinary payment of an installment or lease-purchase obligation, or in one sum at the end of a period not in excess of 24 months from the initial date of debt or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term 'debtors' shall include the debtors of one or more subsidiary corporations and the debtors of one or more affiliated corporations, proprietors, or partnerships, if the business of the policyholder and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership, contract, or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him during his lifetime at the time the insurance becomes effective upon his life;

(B) The premium for the policy shall be paid by the policyholder either from the creditor's funds, from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75 percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors or all except any as to whom evidence of individual insurability is not satisfactory to the insurer;

(C) The policy may be issued only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75 percent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age;

(D) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments, the amount of the unpaid indebtedness, or \$75,000.00, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of ~~18~~ 24 months, except that such insurance may be continued for an additional period not exceeding six months in the case of default, extension, or recasting of the loan; and

(E) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) MORTGAGEE GROUP. A policy issued to a creditor, or to a trustee or agent appointed by two or more creditors, which creditor, trustee, or agent shall be deemed the policyholder, to insure mortgagors of the creditor. The insurance must be written in connection with a credit transaction that is secured by a first mortgage or deed of trust; made to finance the purchase of real property or the construction of a dwelling thereon, or to refinance a prior credit transaction made for the purpose; and shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid mortgage of the mortgagor to the extent of such payment.

(4) AGRICULTURAL LOANS. Notwithstanding the provisions of this Code section, group life insurance in connection with agricultural loans may be written up to the amount of the loan or loan commitment on the nondecreasing or level term plan; however, the amount of insurance on the life of any such debtor shall not on any anniversary date of the insurance exceed the amount then owed by him which is repayable in installments, the amount of the then unpaid indebtedness, or ~~\$40,000.00~~ \$75,000.00, whichever is less.

(4)(5) LABOR UNION GROUPS. A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives, or agents, subject to the following requirements:

(A) The members eligible for insurance under the policy shall be all of the members of the union or all of any class or classes thereof determined by conditions pertaining to their employment or to membership in the union, or both;

(B) The premium for the policy shall be paid by the policyholder either wholly from the union's funds or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members or all except any as to whom evidence of individual insurability is not satisfactory to the insurer;

- (C) The policy must cover at least 25 members at date of issue; and
- (D) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

~~(5)~~(6) TRUSTEE GROUPS. A policy issued to the trustees of a fund established by two or more employers or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(A) The persons eligible for insurance shall be all of the employees of the employers, all of the members of the unions, or all of any class or classes of employees or union members determined by conditions pertaining to their employment, to membership in the unions, or to both. The policy may provide that the term 'employees' shall include retired employees and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term 'employees' shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(B) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, by the union or unions, or by both or partly from such funds and partly from funds contributed by the insured persons. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons or all except any as to whom evidence of individual insurability is not satisfactory to the insurer;

(C) The policy must cover at date of issue at least 100 persons; and, if the fund is established by the members of an association of employers, the policy may be issued only if either the participating employers constitute at date of issue at least 60 percent of those employer members whose employees are not already covered for group life insurance or the total number of persons covered at date of issue exceeds 600; and the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of the discontinuance; and

(D) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

~~(6)~~(7) ASSOCIATION GROUPS. The lives of a group of individuals may be

insured under a policy issued to an association, which shall be deemed the policyholder, to insure members of such association for the benefit of persons other than the association. As used in this paragraph, the term 'association' means an association of governmental or public employees, an association of employees of a common employer, or an organization formed and operated in good faith for purposes other than that of procuring insurance and composed of members engaged in a common trade, business, or profession. The policy shall be subject to the following requirements:

- (A) The members eligible for insurance under the policy shall be all of the members of the association or all of any class or classes of the association determined by conditions pertaining to their employment, to their trade, business, or profession, to their membership in the association, or to any two or more of such conditions. The policy may provide that officers and employees of the association who are bona fide members may be insured under the policy;
- (B) The policy must cover at least 25 members at date of issue;
- (C) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the association or by the members; and
- (D) The premium for the policy shall be paid by the policyholder either from the association's own funds, or from charges collected from the insured members specifically for the insurance, or from both.

~~(7)~~(8) **BANK AND CREDIT UNION GROUPS.** A bank authorized to do business in this state may carry insurance upon its depositors for amounts not to exceed the savings deposit balances of each depositor or \$5,000.00, whichever is less, and a credit union organized pursuant to the laws of this state or the Federal Credit Union Act may carry insurance upon its members for amounts not to exceed the share and deposit balances of each member or \$5,000.00, whichever is less. Such insurance shall be subject to the requirements of subparagraphs (A) through (D) of paragraph ~~(7)~~(8) of this Code section.

~~(8)~~(9) **MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.**

(A) The lives of a group of individuals may be insured under a policy issued to a legal entity providing a multiple employer welfare arrangement. As used in this paragraph, the term 'multiple employer welfare arrangement' means any employee benefit plan which is established or maintained for the purpose of offering or providing life insurance benefits to the employees of two or more employers, including self-employed individuals and their dependents. The term does not apply to any plan or arrangement which is established or maintained by a tax-exempt rural electric cooperative or a collective bargaining agreement.

(B) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees, employers, or trustee.

~~(9)~~(10) **SPECIAL EMPLOYEE GROUPS.** A corporation or a trustee of a trust established by a corporation which has an insurable interest in employees pursuant to subsection (c) of Code Section 33-24-3 and authority to effectuate insurance on employees pursuant to paragraph (4) or (5) of subsection (a) of Code Section 33-24-6

may establish an employee group to effectuate group life insurance policies on employees when such corporation or trustee of a trust is providing life, health, disability, retirement, or similar benefits to employees, provided that the premium for such group policies is wholly paid by the corporation or trustee of the trust and the proceeds of such policies are used to provide supplemental funding for such employee benefit plans."

#### **SECTION 5.**

Said title is further amended by striking paragraph (1) of subsection (b) of Code Section 33-27-3, relating to required policy provisions, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(1) The provisions of paragraphs (6), (8), (9), and (10) of subsection (a) of this Code section shall not apply to policies issued to a creditor to insure debtors or mortgagors of such creditor."

#### **SECTION 6.**

Said title is further amended by striking paragraph (3) of subsection (a) of Code Section 33-29-2, relating to requirements as to policies generally, and inserting in lieu thereof a new paragraph (3) to read as follows:

"(3) It purports to insure only one person, provided that a policy may insure, originally or by subsequent amendment upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children, or any children, under a specified age which shall not exceed 19 years, and any other person dependent upon the policyholder; provided, further, that, if a policy purports to insure a dependent child of the policyholder, the child shall continue to be insured up to and including age 25 so long as the policy continues in effect, the child remains a dependent of the policyholder, and the child, in each calendar year since reaching the age specified in the policy for termination of benefits as a dependent of the policyholder, has been enrolled for five calendar months or more as a full-time student in a postsecondary institution of higher learning or, if not so enrolled, would have been eligible to be so enrolled and was prevented from being so enrolled due to illness or injury;".

#### **SECTION 7.**

Said title is further amended by striking subsection (a) of Code Section 33-29-7, relating to provision in policies for refusal of renewal generally, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Each Subject to Code Section 33-29-21, each policy, covered by this chapter, except accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide, in substance, in a provision of the policy entitled 'renewability,' that, subject to the right to terminate the policy upon nonpayment of premiums when due, the right to refuse renewal shall not be exercised

before the renewal date occurring on, or after and nearest, each anniversary or, in the case of lapse and reinstatement, at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement, and that any refusal or renewal shall be without prejudice to any claim originating while the policy is in force."

#### SECTION 8.

Said title is further amended by striking subsection (c) of Code Section 33-29-8, relating to provision in policies renewable or cancelable at option of insurer for refund of premiums, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) For the purpose of this ~~Code section chapter~~, a major medical policy is any policy which provides benefits of at least 75 percent of necessary, reasonable, and customary charges for medical care, including hospitalization in semiprivate accommodations, with maximum lifetime benefit of at least \$100,000.00, subject only to such exceptions, restrictions, limitations, and deductible as the Commissioner may deem reasonable."

#### SECTION 9.

Said title is further amended by striking paragraphs (5) and (6) of subsection (a) of Code Section 33-30-1, relating to "group accident and sickness insurance" defined, and inserting in lieu thereof new paragraphs (5), (6), and (7) to read as follows:

"(5) A policy issued to a creditor, or to a trustee or agent appointed by two or more creditors, which creditor, trustee, or agent shall be deemed to be the policyholder, to insure mortgagors of the creditor. The insurance must be written in connection with a credit transaction that is secured by a first mortgage or deed of trust; made to finance the purchase of real property or the construction of a dwelling thereon, or to refinance a prior credit transaction made for such a purpose; and shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid mortgage of the mortgagor to the extent of such payment.

(6) Under a policy issued to cover any other substantially similar group which in the discretion of the Commissioner may be subject to the issuance of a group accident and sickness policy or contract; or

(6)(7)(A) Under a policy issued to a legal entity providing a multiple employer welfare arrangement, which means any employee benefit plan which is established or maintained for the purpose of offering or providing accident and sickness benefits to the employees of two or more employers, including self-employed individuals, and their dependents.

(B) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees, employers, or trustee."

#### SECTION 10.

Said title is further amended by striking Code Section 33-30-3, relating to "blanket accident and sickness insurance" defined, and inserting in lieu thereof a new Code

Section 33-30-3 to read as follows:

"33-30-3.

'Blanket accident and sickness insurance' is that form of group accident and sickness insurance covering the groups of persons listed in paragraphs (1) through (6) and issued upon the following basis:

- (1) Under a group policy or contract issued to any common carrier or to any operator, owner, or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group defined as all persons or all persons of a class who may become passengers on such common carrier or such means of transportation;
- (2) Under a group policy or contract issued to an employer, who shall be deemed the policyholder, covering all employees, dependents, or guests defined by reference to specified hazards incident to the activities or operations of the employer or any class of employees, dependents, or guests similarly defined;
- (3) Under a group policy or contract issued to a school or other institution of learning, a camp, the sponsor of the institution of learning or camp, or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or campers; and supervisors and employees may be included;
- (4) Under a group policy or contract issued in the name of any religious, charitable, recreational, educational, or civic organization, which shall be deemed the policyholder, covering participants in activities sponsored by the organization;
- (5) Under a group policy or contract issued to a sports team or sponsors thereof, which shall be deemed the policyholder, covering members, officials, and supervisors; or
- (6) Under a group policy or contract issued to cover any other risk or class of risks which in the discretion of the Commissioner may be properly eligible for blanket accident and sickness insurance. The discretion of the Commissioner may be exercised on an individual risk basis or class of risks, or both."

## SECTION 11.

Said title is further amended by striking paragraphs (1) and (4) of Code Section 33-30-4, relating to required provisions generally, and inserting in lieu thereof new paragraphs (1) and (4) to read as follows:

"(1) A provision that, in the absence of fraud or intentional misrepresentation of material fact in applying for or procuring coverage under the terms of the group policy or contract, all statements made by the policyholder or by any insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall avoid the insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to the policyholder or to the person or his beneficiary;"

"(4) A provision that, with respect to termination of benefits for, or coverage of, any person who is a dependent child of an insured, the child shall continue to be insured

up to and including age 25 so long as the coverage of the member continues in effect, the child remains a dependent of the insured parent or guardian, and the child, in each calendar year since reaching any age specified for termination of benefits as a dependent, has been enrolled for five calendar months or more as a full-time student at a postsecondary institution of higher learning or, if not so enrolled, would have been eligible to be so enrolled and was prevented from being so enrolled due to illness or injury. This paragraph shall not apply to group policies under which an employer provides coverage for dependents of its employees and pays the entire cost of the coverage without any charge to the employee or dependents; and".

## SECTION 12.

Said title is further amended by striking subsection (b) of Code Section 33-30-6, relating to authority to issue blanket accident and sickness policies, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) Every blanket and group policy, certificate of insurance, or by whatever name called shall contain provisions which in the opinion of the Commissioner are at least as favorable to the policyholder and the individual insured as the following:

- (1) A provision that the policy and the application shall constitute the entire contract between the parties, and that all statements made by the policyholder shall, in absence of fraud or intentional misrepresentation of material fact in applying for or procuring coverage under the terms of the group policy or contract, be deemed representations and not warranties, and that no such statements shall be used in defense to a claim under the policy, unless contained in a written application;
- (2) A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when such sickness or injury occurred. Failure to give notice within that time shall neither invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give the notice and that notice was given as soon as was reasonably possible;
- (3) A provision that the insurer will furnish to the policyholder such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of ten working days after the giving of notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which claim is made;
- (4) A provision that in the case of claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 30 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of the loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish the proof within such time shall neither invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish the proof and that the proof was furnished as soon as was reasonably possible;

- (5) A provision incorporating and restating the substance of the provisions of subsections (b) and (c) of Code Section 33-24-59.5, relating to time limits for payment of claims for benefits under health benefit policies and sanctions for failure to pay timely. If a policy provides benefits for loss of time, such policy shall also provide that, subject to proof of such loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each period of 30 days during the continuance of the period for which the insurer is liable and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof;
- (6) A provision that the insurer, at its own expense, shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of a claim under the policy and shall also have the right and opportunity to make an autopsy in case of death, if an autopsy is not prohibited by law;
- (7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy, and that no action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished; and
- (8) A provision that, with respect to termination of benefits for, or coverage of, any person who is a dependent child of an insured, the child shall continue to be insured up to and including age 25 so long as the coverage of the insured parent or guardian continues in effect, the child remains a dependent of the parent or guardian, and the child, in each calendar year since reaching any age specified for termination of benefits as a dependent, has been enrolled for five months or more as a full-time student at a postsecondary institution of higher learning or, if not so enrolled, would have been eligible to be so enrolled and was prevented from being so enrolled due to illness or injury."

### **SECTION 13.**

Said title is further amended by striking subsection (a) of Code Section 33-30-9, relating to payment of benefits under blanket accident and sickness policies, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) All benefits under any group or blanket accident and sickness policy shall be payable to the person insured, to his designated beneficiary or beneficiaries, or to his estate, provided that if the person insured is a minor or mental incompetent, the benefits may be made payable to his parent, guardian, or other person actually supporting him or, if the entire cost of the insurance has been borne by the employer, the benefits may be made payable to the employer."

### **SECTION 14.**

Said title is further amended by striking Code Section 33-30-15, relating to continuation of similar coverage, and inserting in lieu thereof a new Code Section 33-30-15 to read as follows:

"33-30-15.

- (a) As used in this Code section, the term:
  - (1) 'Affiliation period' means a period, used by health maintenance organizations in lieu of a preexisting condition exclusion clause, beginning on the enrollment date, which must expire before health insurance coverage provided by a health maintenance organization becomes effective. The health maintenance organization is not required to provide health care benefits during such period, nor is it authorized to charge premiums over such a period.
  - (2) 'Creditable coverage' under another health benefit plan means medical expense coverage with no greater than a 90 day gap in coverage under any of the following:
    - (A) Medicare or Medicaid;
    - (B) An employer based accident and sickness insurance or health benefit arrangement;
    - (C) An individual accident and sickness insurance policy, including coverage issued by a health maintenance organization, nonprofit hospital or nonprofit medical service corporation, health care corporation, or fraternal benefit society;
    - (D) A spouse's benefits or coverage under medicare or Medicaid or an employer based health insurance or health benefit arrangement;
    - (E) A conversion policy;
    - (F) A franchise policy issued on an individual basis to a member of a true association as defined in subsection (b) of Code Section 33-30-1;
    - (G) A health plan formed pursuant to 10 U.S.C. Chapter 55;
    - (H) A health plan provided through the Indian Health Service or a tribal organization program or both;
    - (I) A state health benefits risk pool;
    - (J) A health plan formed pursuant to 5 U.S.C. Chapter 89;
    - (K) A public health plan; or
    - (L) A Peace Corps Act health benefit plan.
  - (3) 'Insurer' means an accident and sickness insurer, fraternal benefit society, nonprofit hospital service corporation, nonprofit medical service corporation, health care corporation, health maintenance organization, or any similar entity and any self-insured health care plan not subject to the exclusive jurisdiction of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq.
  - (4) 'Newly eligible employee group member' means a Georgia domiciled employee group member or the dependent of a currently enrolled Georgia domiciled employee group member who has creditable coverage and who first becomes eligible to elect coverage under an employer a group sponsored comprehensive major medical or hospitalization plan. A newly eligible employee group member also includes:
    - (A) During a special enrollment period, existing employees group members and existing dependents of existing employees group members who declined coverage when first offered because of the existence of other creditable coverage, if all the following conditions are met:
      - (i) The employee group member or employee's group member's dependent had

- creditable coverage at such time when the group coverage was first offered;
- (ii) The employee group member stated in writing that such creditable coverage was the reason for declining enrollment in group coverage, if such statement is required by the employer policyholder;
- (iii) The coverage of the employee group member or employee's group member's dependent was under COBRA and has been exhausted or the creditable coverage was terminated as a result of loss of eligibility for the creditable coverage or employer policyholder contributions toward such creditable coverage were terminated; and
- (iv) The employee group member requests such enrollment not later than 31 days after the date of exhaustion or termination of the creditable coverage; or
- (B) In the case of marriage, if the employee group member requests such enrollment not later than 31 days following the date of marriage or the date dependent coverage is first made available, whichever is later, coverage of the spouse shall commence not later than the first day of the first month beginning after the date the completed request for enrollment is received.
- (b) Notwithstanding any other provision of this title which might be construed to the contrary, on and after July 1, 1998, all group basic hospital or medical expense, major medical, or comprehensive medical expense coverages which are issued, delivered, issued for delivery, or renewed in this state shall provide the following:
- (1) Subject to compliance with the provisions of subsections (c) and (d) of this Code section, any newly eligible employee, group member, subscriber, enrollee, or dependent who has had creditable coverage under another health benefit plan within the previous 90 days shall be eligible for coverage immediately upon completion of any employer policyholder imposed waiting period; and
- (2) Once such creditable coverage terminates, including termination of such creditable coverage after any period of continuation of coverage required under Code Section 33-24-21.1 or the provisions of Title X of the Omnibus Budget Reconciliation Act of 1986, the insurer must offer a conversion policy to the eligible employee, group member, subscriber, enrollee, or dependent.
- (c) Notwithstanding any provisions of this Code section which might be construed to the contrary, such coverages may include a limitation for preexisting conditions not to exceed 12 months for enrollees group members who enroll when newly eligible and 18 months for group members who enroll late enrollees following the effective date of coverage; provided, however, that:
- (1) Such coverages shall waive any time period applicable to the preexisting condition exclusion or limitation for the period of time an individual was previously covered by creditable coverage; or
- (2) Such coverages shall waive any time period applicable to the preexisting condition exclusion or limitation in accordance with an insurer's election of an alternative method pursuant to Section 701(c)(3)(B) of the Employee Retirement Income Security Act of 1974.
- (d) The preexisting condition limitation described in subsection (c) of this Code section

shall not apply to pregnancies.

(e) The preexisting condition limitation described in subsection (c) of this Code section shall not apply to newborn children or newly adopted children where such children are added to the plan by the insured no later than 31 days following the date of birth or the date placed for adoption under order of the court of jurisdiction.

(f) In case of a group health plan offered by a health maintenance organization, an affiliation period may be offered in place of the preexisting condition limitation described in subsection (c) of this Code section, provided that the affiliation period:

(1) Is applied uniformly without regard to any health status related factors;

(2) Does not exceed:

(A) Two months for newly eligible employees group members and dependents; or

(B) Three months for group members who enroll late enrollees; and

(3) Runs concurrently with any employer policyholder imposed waiting period under the plan.

(g) The Commissioner shall promulgate appropriate procedures and guidelines by rules and regulations to implement the provisions of this Code section after notification and review of such regulations by the appropriate standing committees of the House of Representatives and Senate in accordance with the requirements of applicable law. The Commissioner may allow in such regulations methods other than that described in subsection (f) of this Code section for health maintenance organizations to address adverse selection, as authorized by the Employee Retirement Income Security Act of 1974, Section 701(g)(3)."

## SECTION 15.

Said title is further amended by striking paragraph (1) of Code Section 33-30-22, relating to definitions regarding preferred provider arrangements, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(1) 'Emergency services' or 'emergency care' means covered services included in a preferred provider arrangement provided to a person after the sudden onset of a medical condition manifested by symptoms of such severity those health care services that are provided for a condition of recent onset and sufficient severity, including, but not limited to, severe pain, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that his or her condition, sickness, or injury is of such a nature that the failure to provide immediately such services obtain immediate medical care could reasonably be expected to result in:

(A) Placing the patient's health in serious jeopardy;

(B) Impairment Serious impairment to bodily functions; or

(C) Dysfunction Serious dysfunction of any bodily organ or part."

## SECTION 16.

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

Senator Hudgens of the 47th moved that the Senate adopt the Conference Committee Report on HB 291.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
E Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Johnson	E Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
E Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Reed	Y Weber
Y Hamrick Harbison	Y Rogers Y Schaefer	Y Whitehead
Y Harp	Y Seabaugh	Y Wiles
Y Heath	Y Seay	Y Williams
Y Henson	Y Shafer,D	Y Zamarripa

On the motion, the yeas were 42, nays 1; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 291.

Senator Whitehead of the 24th asked unanimous consent that Senator Grant of the 25th be excused. The consent was granted, and Senator Grant was excused.

The following bill was taken up to consider House action thereto:

HB 200. By Representatives Coan of the 101st, Ehrhart of the 36th, Knox of the 24th, Keen of the 179th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Article 9 of Chapter 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, so as to provide that the Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for an injury occurring after April 15, 2005, for which a claim is made after April 15, 2005; to provide that

the fund shall continue to reimburse self-insured employers and insurers for claims made prior to April 15, 2005; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House amendment to the Senate substitute was as follows:

Amend the Senate substitute to HB 200 (LC 28 2458S) by striking "December 31, 2006" and inserting in its place "June 30, 2006" twice on line 4 of page 1 and once on line 6 of page 1.

By striking "December 31, 2006" and inserting in its place "June 30, 2006" on lines 16, 18, 21, and 26 of page 1 and line 2 of page 2.

Senator Hudgens of the 47th moved that the Senate agree to the House amendment to the Senate substitute to HB 200.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
E Grant	Y Reed	Y Weber
Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Y Zamarripa
Y Henson	Shafer,D	

On the motion, the yeas were 44, nays 2; the motion prevailed, and the Senate agreed to the House amendment to the Senate substitute to HB 200.

The following bill was taken up to consider House action thereto:

SB 46. By Senators Shafer of the 48th, Staton of the 18th, Cagle of the 49th, Heath of the 31st and Chance of the 16th:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service in general, so as to provide that suppliers of wireless telephone service providing directory information shall not include wireless service dialing numbers without the express written consent of a subscriber; to provide for terms and conditions; to provide exceptions and authorize waivers; to provide for civil enforcement and immunity from certain liability; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service in general, so as to provide that suppliers of wireless telephone service providing directory information shall not include wireless service dialing numbers without the express consent of a subscriber; to provide for terms and conditions; to provide exceptions and authorize waivers; to prohibit provision of certain information to telemarketers under certain circumstances; to provide for civil enforcement and immunity from certain liability; 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 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone service in general, is amended by adding at its end a new Code Section 46-5-28 to read as follows:

"46-5-28.

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

- (1) 'Service supplier' means a person or entity who provides wireless service to a telephone subscriber.
- (2) 'Traditional telephone directory' means a telephone directory, in any format, containing a majority of the landline telephone numbers for the given geographic coverage area for that directory.
- (3) 'Wireless service' means 'commercial mobile service' as defined under Section 332(D) of the Federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.), regulations of the Federal Communications Commission, and the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way

interconnected voice service which is provided over networks which utilize intelligent switching capability and offer seamless handoff to customers. The term does not include one-way signaling service, data transmission service, nonlocal radio access line service, or a private telecommunications service.

- (4) 'Wireless telephone database' means any collection of telephone numbers that identifies the names and telephone numbers of multiple subscribers of one or more service suppliers.
- (b) A service supplier or any direct or indirect affiliate or agent of a service supplier providing the name and dialing number of a subscriber for inclusion in any wireless telephone database which is or will be made publicly available shall not include the dialing number of any wireless service subscriber without first obtaining the express consent of that subscriber. The subscriber's consent shall meet all of the following requirements:
- (1) It shall be recorded in oral, electronic, or written form;
  - (2) It shall be:
    - (A) A separate document that is not attached to any other document or if it is within another document shall be in a separate section of the document that includes the disclosure;
    - (B) A separate screen or if it is within another screen shall be in a separate section of the screen that includes the disclosure; or
    - (C) A sound recording of a discrete verbal confirmation;
  - (3) It shall be unambiguous and conspicuously disclose that the subscriber is consenting to have the subscriber's dialing number sold or licensed as part of a publicly accessible wireless telephone database; and
  - (4) The service supplier must disclose in an unambiguous and conspicuous manner to the wireless customer that upon consent: (A) the customer is agreeing to have his or her wireless number accessed by anyone who utilizes the wireless telephone database; and (B) if the customer has a rate plan that charges the customer for usage, that calls received as a result, unsolicited or otherwise, will be applied against the subscriber's planned minutes.
  - (c) A subscriber who provides express consent pursuant to subsection (b) of this Code section may revoke that consent at any time. A service supplier shall comply with the subscriber's request to opt out within a reasonable period of time, not to exceed 60 days.
  - (d) A subscriber shall not be charged for making the choice to not be listed in a publicly accessible wireless telephone database.
  - (e) This Code section does not apply to the provision of telephone numbers to the following parties for the purposes indicated; provided, however, that such parties shall use such telephone numbers solely for the purposes indicated and shall not transfer such telephone numbers to any third party:
    - (1) Any law enforcement agency, fire protection agency, public health agency, public environmental health agency, city or county emergency services planning agency, or private for-profit agency operating under contract with, and at the direction of, one or

more of these agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. This information or these records shall not be open to examination for any purpose not directly connected with the administration of the services specified in this paragraph;

- (2) A lawful process issued under state or federal law;
  - (3) A service supplier providing service between service areas for the provision to the subscriber of telephone service between service areas, or third parties for the limited purpose of providing collection and billing services for the service supplier;
  - (4) A service supplier to effectuate a subscriber's request to transfer the subscriber's assigned telephone number from the subscriber's existing service supplier to a new service supplier;
  - (5) The commission; or
  - (6) A traditional telephone directory publisher, for the purposes of publishing a directory in any format, so long as the information was published before the effective date of this Code section.
- (f) Subsequent to the effective date of this Code section, a traditional telephone directory publisher must obtain the wireless subscriber's recorded oral, electronic, or written consent for the wireless subscriber's name and wireless dialing number to be published in a traditional telephone directory.
- (g) No service supplier shall sell or otherwise provide a list of wireless numbers to any telemarketer except that such numbers may be provided to a telemarketer affiliated with the service supplier for the sole purpose of facilitating communication by or on behalf of the service supplier as permitted under subparagraph (b)(3)(B) of Code Section 46-5-27.
- (h) Every deliberate violation of this Code section is grounds for a civil suit by the aggrieved subscriber against the service supplier responsible for the violation.
- (i) No service supplier shall be subject to criminal or civil liability for the release of customer information as authorized by this Code section."

## SECTION 2.

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

Senator Shafer of the 48th moved that the Senate agree to the House substitute to SB 46.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D

Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
E Grant	Y Reed	Y Weber
Y Hamrick Harbison	Y Rogers Y Schaefer	Y Whitehead Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 46, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 46.

The following bill was taken up to consider House action thereto:

HB 312. By Representatives Freeman of the 140th, May of the 111th, Roberts of the 154th, Golick of the 34th, Smith of the 129th and others:

A BILL to be entitled an Act to amend Title 50 of the O.C.G.A., relating to state government, and Title 45 of the O.C.G.A., relating to public officers and employees, so as to provide for the substantial revision and transfer of certain powers, duties, and authority of the Department of Administrative Services, the Georgia Technology Authority, the Office of Planning and Budget, the Board of Regents of the University System of Georgia, the Department of Agriculture, the Department of Veterans Service, and the state accounting officer; to change certain provisions regarding the establishment, powers, purchasing authority, procedures, and limitations and vendor qualification of the Georgia Technology Authority; to change certain provisions regarding powers, purchasing personnel, competitive bidding, emergency purchasing, and prohibited practices with respect to the Department of Administrative Services; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The House amendment to the Senate amendment was as follows:

Representative Freeman of the 140th moves to amend HB 312 by inserting after "Budget" on line 28 on page 21 "consistent with legislative appropriations".

Senator Cagle of the 49th moved that the Senate agree to the House amendment to the Senate amendment to HB 312.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	E Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Seay	Y Zamarripa
Henson	Y Shafer,D	

On the motion, the yeas were 44, nays 3; the motion prevailed, and the Senate agreed to the House amendment to the Senate amendment to HB 312.

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

The following bill was taken up to consider House action thereto:

SB 144. By Senators Mullis of the 53rd, Whitehead, Sr. of the 24th, Schaefer of the 50th and Pearson of the 51st:

A BILL to be entitled an Act to amend Code Section 50-8-150 of the Official Code of Georgia Annotated, relating to the creation of the State Advisory Committee on Rural Development, so as to create the Georgia Rural Development Council; to provide for its duties and responsibilities; to provide for the composition of the council; to provide for membership, officers, and terms of office; to provide for bylaws; to provide for compensation; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House amendment was as follows:

Representative Burns of the 157th, et al. moved to amend SB 144 by striking lines 1 and 2 on page 1 and inserting in lieu thereof the following:

"To amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to change the descriptions of certain state service delivery regions; to create the Georgia".

By redesignating Section 2 as Section 3 and striking lines 9 through 11 on page 1 and inserting in lieu thereof the following:

"Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by striking paragraphs (7) and (12) of subsection (a) of Code Section 50-4-7, relating to state service delivery regions, and inserting in lieu thereof new paragraphs (7) and (12) to read as follows:

'(7) State Service Delivery Region 7 shall be composed of Burke, Columbia, Glascock, Hancock, Jefferson, Jenkins, Lincoln, McDuffie, Richmond, Screven, Taliaferro, Warren, Washington, and Wilkes counties;'

'(12) State Service Delivery Region 12 shall be composed of Bryan, Bulloch, Camden, Chatham, Effingham, Glynn, Liberty, Long, and McIntosh, and Screven counties.'

## SECTION 2.

Said title is further amended by striking Code Section 50-8-150, relating to the creation of the State Advisory Committee on Rural Development, and inserting in lieu thereof a new Code Section 50-8-150 to read as follows:".

Senator Mullis of the 53rd moved that the Senate agree to the House amendment to SB 144.

On the motion, a roll call was taken and the vote was as follows:

Adelman	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson

Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	E Seay	Y Zamarripa
Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 0; the motion prevailed, and the Senate agreed to the House amendment to SB 144.

The following bill was taken up to consider House action thereto:

SB 90. By Senators Thomas of the 54th, Reed of the 35th, Unterman of the 45th, Schaefer of the 50th, Miles of the 43rd and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, so as to enact the "Georgia Smokefree Air Act of 2005"; to prohibit smoking in certain facilities and areas; to state findings; to provide for definitions; to provide for exceptions; to provide for posting of signs; to provide for violations, penalties, and state and local government enforcement and administration; to provide for construction; to provide that this prohibition shall be cumulative to other general or local acts, rules, and regulations; to repeal a former prohibition against smoking in public places; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 12 of Title 16 and Title 31 of the Official Code of Georgia Annotated, relating to offenses against public health and morals and to health, respectively, so as to provide comprehensive changes and additions to the prohibition on smoking in this state; to amend certain provisions relating to the prohibition against smoking in public places; to enact the "Georgia Smokefree Air Act of 2005"; to provide for definitions; to prohibit smoking in certain facilities and areas; to provide for exceptions; to provide that entire establishments, facilities, or outdoor areas shall be nonsmoking; to provide for posting of signs and removal of ashtrays; to provide for an informational program; to provide for enforcement; to provide that this prohibition shall be cumulative to other general or local acts, rules, and regulations; to provide for statutory construction; to provide for related

matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, is amended by striking Code Section 16-12-2, relating to prohibited smoking in public places, and inserting in lieu thereof the following:

"16-12-2.

(a) A person ~~who smokes smoking~~ tobacco in ~~violation of Chapter 12A of Title 31 any form in any of the following public places~~ shall be guilty of a misdemeanor ~~and, if convicted, shall be punished by a fine of not less than \$100.00 nor more than \$500.00.~~

(1) ~~An enclosed elevator which is used by or open to the public and which is clearly designated by a no smoking sign;~~

(2) ~~Any place on a public transportation vehicle which is used by the public and which is clearly designated by a no smoking sign;~~

(3) ~~Any area which is used by or open to the public and which is clearly designated by a no smoking sign; or~~

(4) ~~Any area which is the real property upon which is operated a day care center, group day care home, or family day care home, as defined in Code Section 49-5-3, during the hours of operation of such facility.~~

(b) ~~A person convicted of violating subsection (a) of this Code section shall be punished by a fine of not less than \$10.00 nor more than \$100.00.~~

(e)(b) This Code section shall be cumulative to and shall not prohibit the enactment of any other general and local laws, rules and regulations of state or local agencies, and local ordinances prohibiting smoking which are more restrictive than this Code section."

**SECTION 2.**

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding after Chapter 12 a new Chapter 12A to read as follows:

"CHAPTER 12A

31-12A-1.

This chapter shall be known and may be cited as the "Georgia Smokefree Air Act of 2005."

31-12A-2.

As used in this chapter, the term:

(1) 'Bar' means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to,

taverns, nightclubs, cocktail lounges, and cabarets.

(2) 'Business' means any corporation, sole proprietorship, partnership, limited partnership, limited liability corporation, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether for profit or nonprofit.

(3) 'Employee' means an individual who is employed by a business in consideration for direct or indirect monetary wages or profit.

(4) 'Employer' means an individual or a business that employs one or more individuals.

(5) 'Enclosed area' means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

(6) 'Health care facility' means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, homes for the chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities. This definition shall not include long-term care facilities as defined in paragraph (3) of Code Section 31-8-81.

(7) 'Infiltrate' means to permeate an enclosed area by passing through its walls, ceilings, floors, windows, or ventilation systems to the extent that an individual can smell secondhand smoke.

(8) 'Local governing authority' means a county or municipal corporation of the state.

(9) 'Place of employment' means an enclosed area under the control of a public or private employer that employees utilize during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, and hallways. A private residence is not a place of employment unless it is used as a licensed child care, adult day-care, or health care facility. This term shall not include vehicles used in the course of employment.

(10) 'Public place' means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a licensed child care, adult day-care, or health care facility.

(11) 'Restaurant' means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving

elsewhere. The term shall include a bar area within any restaurant.

(12) 'Retail tobacco store' means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(13) 'Secondhand smoke' means smoke emitted from lighted, smoldering, or burning tobacco when the person smoking is not inhaling, smoke emitted at the mouthpiece during puff drawing, and smoke exhaled by the person smoking.

(14) 'Service line' means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

(15) 'Shopping mall' means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

(16) 'Smoking' means inhaling, exhaling, burning, or carrying any lighted tobacco product including cigarettes, cigars, and pipe tobacco.

(17) 'Smoking area' means a separately designated enclosed room which need not be entered by an employee in order to conduct business that is designated as a smoking area and, when so designated as a smoking area, shall not be construed as to deprive employees of a nonsmoking lounge, waiting area, or break room.

(18) 'Sports arena' means enclosed stadiums and enclosed sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

### 31-12A-3.

Smoking shall be prohibited in all enclosed facilities of, including buildings owned, leased, or operated by, the State of Georgia, its agencies and authorities, and any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly or by ordinance or resolution of the governing body of a county or municipal corporation individually or jointly with other political subdivisions or municipalities of the state.

### 31-12A-4.

Except as otherwise specifically authorized in Code Section 31-12A-6, smoking shall be prohibited in all enclosed public places in this state.

### 31-12A-5.

(a) Except as otherwise specifically provided in Code Section 31-12A-6, smoking shall be prohibited in all enclosed areas within places of employment, including, but not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.

(b) Such prohibition on smoking shall be communicated to all current employees by

July 1, 2005, and to each prospective employee upon their application for employment.

31-12A-6.

- (a) Notwithstanding any other provision of this chapter, the following areas shall be exempt from the provisions of Code Sections 31-12A-4 and 31-12A-5:
- (1) Private residences, except when used as a licensed child care, adult day-care, or health care facility;
  - (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20 percent of rooms rented to guests in a hotel or motel may be so designated;
  - (3) Retail tobacco stores, provided that secondhand smoke from such stores does not infiltrate into areas where smoking is prohibited under the provisions of this article;
  - (4) Long-term care facilities as defined in paragraph (3) of Code Section 31-8-81;
  - (5) Outdoor areas of places of employment;
  - (6) Smoking areas in international airports, as designated by the airport operator;
  - (7) All workplaces of any manufacturer, importer, or wholesaler of tobacco products, of any tobacco leaf dealer or processor, all tobacco storage facilities, and any other entity set forth in Code Section 10-13A-2;
  - (8) Private and semiprivate rooms in health care facilities licensed under Title 31 that are occupied by one or more persons, all of whom have written authorization by their treating physician to smoke;
  - (9) Bars and restaurants, as follows:
    - (A) All bars and restaurants to which access is denied to any person under the age of 18 and that do not employ any individual under the age of 18; or
    - (B) Private rooms in restaurants and bars if such rooms are enclosed and have an air handling system independent from the main air handling system that serves all other areas of the building and all air within the private room is exhausted directly to the outside by an exhaust fan of sufficient size;
  - (10) Convention facility meeting rooms and public and private assembly rooms contained within a convention facility not wholly or partially owned, leased, or operated by the State of Georgia, its agencies and authorities, or any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly while these places are being used for private functions and where individuals under the age of 18 are prohibited from attending or working as an employee during the function;
  - (11) Smoking areas designated by an employer which shall meet the following requirements:
    - (A) The smoking area shall be located in a nonwork area where no employee, as part of his or her work responsibilities, shall be required to enter, except such work responsibilities shall not include custodial or maintenance work carried out in the smoking area when it is unoccupied;
    - (B) Air handling systems from the smoking area shall be independent from the main air handling system that serves all other areas of the building and all air within

the smoking area shall be exhausted directly to the outside by an exhaust fan of sufficient size and capacity for the smoking area and no air from the smoking area shall be recirculated through or infiltrate other parts of the building; and

(C) The smoking area shall be for the use of employees only.

The exemption provided for in this paragraph shall not apply to restaurants and bars; and

(12) Common work areas, conference and meeting rooms, and private offices in private places of employment, other than medical facilities, that are open to the general public by appointment only; except that smoking shall be prohibited in any public reception area of such place of employment.

(13) Private clubs, military officer clubs and noncommissioned officer clubs.

(b) In order to qualify for exempt status under subsection (a) of this Code section, any area described in subsection (a) of this Code section, except for areas described in paragraph (1) of subsection (a) of this Code section, shall post conspicuously at every entrance a sign indicating that smoking is permitted.

### 31-12A-7.

Notwithstanding any other provision of this chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of subsection (a) of Code Section 31-12A-8 is posted.

### 31-12A-8.

(a) 'No Smoking' signs or the international 'No Smoking' symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this article.

(b) All ashtrays shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of the area, unless such ashtray is permanently affixed to an existing structure.

### 31-12A-9.

The Department of Human Resources and the agency designated by each local governing authority in this state may engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens affected by it and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter.

### 31-12A-10.

The Department of Human Resources and the county boards of health and their duly

authorized agents are authorized and empowered to enforce compliance with this chapter and the rules and regulations adopted and promulgated under this chapter and, in connection therewith, to enter upon and inspect the premises of any establishment or business at any reasonable time and in a reasonable manner, as provided in Article 2 of Chapter 5 of this title.

31-12A-11.

The county boards of health may annually request other governmental and educational agencies having facilities within the area of the local government to establish local operating procedures in cooperation and compliance with this chapter.

31-12A-12.

This chapter shall be cumulative to and shall not prohibit the enactment of any other general or local laws, rules, and regulations of state or local governing authorities or local ordinances prohibiting smoking which are more restrictive than this chapter or are not in direct conflict with this chapter.

31-12A-13.

- (a) This chapter shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.
- (b) Nothing in this chapter shall be construed as to repeal the provisions of Code Section 16-12-2.
- (c) This chapter shall be liberally construed so as to further its purposes."

**SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval only for purposes of promulgating rules and regulations; for all other purposes, this Act shall become effective on July 1, 2005.

**SECTION 4.**

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

Senator Thomas of the 54th moved that the Senate agree to the House substitute to SB 90.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	N Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate

Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
N Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	E Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	N Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 46, nays 4; the motion prevailed, and the Senate agreed to the House substitute to SB 90.

The following bill was taken up to consider House action thereto:

SB 35. By Senators Moody of the 56th, Carter of the 13th, Stephens of the 27th, Starr of the 44th, Hill of the 4th and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 20 of the O.C.G.A., relating to elementary and secondary education, so as to provide for the revision of certain provisions regarding education flexibility; to change certain provisions relating to expenditure controls for the 2005-2006 school year; to change certain provisions regarding program weights; to change certain provisions regarding legislative intent with respect to charter schools; to change certain provisions regarding minimum requirements for charter petitions; to repeal Code Section 20-2-2063.1; to change certain provisions regarding operation, control, and management requirements for charter schools; to amend Code Section 40-5-22; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**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 change program weights for funding purposes; to provide for the revision of certain provisions regarding education flexibility; to provide for the development of rules and regulations by the State Board of Education

for specified information, including budget and expenditure information and site average class size by grade, to be provided by local boards of education to school councils and the general public; to change certain provisions relating to expenditure controls for the 2005-2006 school year; to change certain provisions regarding program weights; to revise legislative intent relative to charter schools; to add and revise definitions; to provide for charter petitions from a group of two or more local schools or local school systems; to repeal Code Section 20-2-2063.1, relating to exemption of charter schools from statutory and regulatory requirements; to provide that a charter school shall not be subject to the provisions of Title 20 and other regulations; to change certain provisions relating to operating requirements, control, and management; to change certain provisions relating to admission, enrollment, and withdrawal of students; to change certain provisions relating to the term and length of a charter; to change the provisions relating to the annual required report on the progress of the school; to revise and clarify certain provisions relating to funding for charter schools; to change certain provisions relating to purposes for which facilities funds may be used and upkeep of charter school property; to change certain provisions relating to the annual report to the General Assembly; to amend Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the education coordinating council, so as to change certain provisions relating to the duties of the office of student achievement; to change certain provisions relating to indicators of quality of learning in individual schools; to change certain provisions relating to school report cards; to change certain provisions relating to appropriate levels of intervention for failing schools; to change certain provisions relating to the Education Information Steering Committee; to amend Code Section 40-5-22, relating to persons not to be issued a driver's license, school attendance requirements, and driving training requirements, so as to provide for an additional exception to the school attendance requirements to obtain a driver's license for a minor pursuing a general educational development diploma; to change certain provisions relating to suspension of driver's licenses of minors; to provide for related matters; to provide an effective date; 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 in Code Section 20-2-161, relating to the Quality Basic Education Formula, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

"(b) As the cost of instructional programs varies depending upon the teacher-student ratios and specific services typically required to address the special needs of students enrolled, state authorized instructional programs shall have the following program weights and teacher-student ratios:

(1) Kindergarten program .....	<u>1.6226</u>	
	<u>1.6422</u>	weight
		and
		1 to 15
		ratio
(2) Kindergarten early intervention program.....	<u>1.9952</u>	
	<u>2.0248</u>	weight
		and
		1 to 11
		ratio
(3) Primary grades program (1-3).....	<u>1.2686</u>	
	<u>1.2775</u>	weight
		and
		1 to 17
		ratio
(4) Primary grades early intervention program (1-3).....	<u>1.7617</u>	
	<u>1.7838</u>	weight
		and
		1 to 11
		ratio
(5) Upper elementary grades program (4-5) .....	<u>1.0258</u>	
	<u>1.0290</u>	weight
		and
		1 to 23
		ratio
(6) Upper elementary grades early intervention program (4-5).....	<u>1.7549</u>	
	<u>1.7774</u>	weight
		and 1 to
		11 ratio
(7) Middle grades program (6-8) .....	<u>1.0102</u>	
	<u>1.0134</u>	weight
		and

	1 to 23 ratio
(8) Middle school program (6-8) as defined in Code Section 20-2-290.....	<u>1.1104</u> <u>1.1164</u> weight and 1 to 20 ratio
(9) High school general education program (9-12).....	1.0000 weight and 1 to 23 ratio
(10) Vocational laboratory program (9-12) .....	<u>1.2010</u> <u>1.1914</u> weight and 1 to 20 ratio
(11) Program for persons with disabilities: Category I.....	<u>2.3409</u> <u>2.3706</u> weight and 1 to 8 ratio
(12) Program for persons with disabilities: Category II .....	<u>2.7330</u> <u>2.7773</u> weight and 1 to 6.5 ratio
(13) Program for persons with disabilities: Category III .....	<u>3.4778</u> <u>3.5356</u> weight and

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	1 to 5 ratio
(14) Program for persons with disabilities: Category IV .....	<u>5.6253</u> <u>5.7294</u> weight and 1 to 3 ratio
(15) Program for persons with disabilities: Category V .....	<u>2.4233</u> <u>2.4421</u> weight and 1 to 8 ratio
(16) Program for intellectually gifted students: Category VI.....	<u>1.6340</u> <u>1.6521</u> weight and 1 to 12 ratio
(17) Remedial education program .....	<u>1.2917</u> <u>1.3031</u> weight and 1 to 15 ratio
(18) Alternative education program.....	<u>1.5683</u> <u>1.5871</u> weight and 1 to 15 ratio
(19) English for speakers of other languages (ESOL) program .....	<u>2.4521</u> <u>2.4948</u> weight and

1 to 7  
ratio"

### **SECTION 2.**

Said chapter is further amended in Code Section 20-2-167, relating to funding for direct instructional, media center, and staff development costs, by adding a new subsection to the end of such Code section to read as follows:

"(e) No later than October 1, 2005 the State Board of Education shall develop rules and regulations requiring that each local board of education provide information as specified by the state board and which is not specifically made confidential by law, including school site budget and expenditure information and site average class size by grade, to members of the school council and the general public."

### **SECTION 3.**

Said chapter is further amended by striking Code Section 20-2-167.1, relating to the application of Code Section 20-2-167 for the 2003-2004 and 2004-2005 school year, and inserting in lieu thereof the following:

"20-2-167.1.

- (a) For the purposes of the 2003-2004, and 2004-2005, and 2005-2006 school years only, the following changes to Code Section 20-2-167 shall apply:
  - (1) Except as otherwise provided in paragraph (2) of this subsection, for each program identified in Code Section 20-2-161, each local school system shall spend 100 percent of funds designated for direct instructional costs on the direct instructional costs of such program on one or more of the programs identified in Code Section 20-2-161 at the system level, with no requirement that the school system spend any specific portion of such funds at the site where such funds were earned;
  - (2) Direct instruction funds for the kindergarten early intervention program, the primary grades early intervention program, the upper elementary grades early intervention program, the remedial education program, and the alternative education program shall be expended on one or more of these programs at the system level, with no requirement that the school system spend any specific portion of such funds at the site where such funds were earned;
  - (3) Each local school system shall spend 100 percent of the funds designated for media center costs for such costs at the system level, and 100 percent of the funds designated for media materials at the system level;
  - (4) During the 2003-2004 school year, funds allocated for staff development may be spent for any program approved under the 'Quality Basic Education Act.' During the 2004-2005 and 2005-2006 school year years, each school system shall spend 90 percent of funds allocated for professional development for such costs at the system level; and
  - (5) Each local school system shall report to the Department of Education its budgets and expenditures in accordance with this Code section with expenditures based in the

preceding school year for each school site as a part of its report in October for the FTE count and on March 15.

- (b) Except as otherwise provided by subsection (a) of this Code section, Code Section 20-2-167 shall apply during the 2003-2004, and 2004-2005, and 2005-2006 school years.
- (c) No penalty shall apply for failure to comply with expenditure controls set out in Code Section 20-2-167 that are contrary to this Code section, notwithstanding any law to the contrary, as long as the local school system complies with this Code section.
- (d) Nothing in this Code section shall be construed to repeal any other provision of Code Section 20-2-167 or this chapter, or to apply to any time period other than the two three fiscal years beginning July 1, 2003, and ending June 30, 2005 2006.
- (e) This Code section shall be automatically repealed July 1, 2005 2006."

#### SECTION 4.

Said chapter is further amended by striking subsections (i) and (k) of Code Section 20-2-182, relating to program weights, and inserting in lieu thereof the following:

- "(i) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article and the middle school program provided for in Code Section 20-2-290 the maximum number of students which may be taught by a teacher in an instructional period. Such maximum class sizes shall be equal to or greater than the teacher student ratios used in the calculation of the program weights as set forth in subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, however, that in no case shall the 20 percent maximum be exceeded for mathematics, science, social studies, or English classes; provided, further, that the The State Board of Education shall provide for a system average maximum class size that shall not exceed the funding class size by more than 20 percent for mathematics, science, social studies, or language arts classes, unless specifically authorized by the State Board of Education. The system average maximum class size for kindergarten and grades one through three shall not exceed 20 percent over the funding ratio except for art, music, or physical education classes; provided, further, that the system average maximum class size for special education, gifted, and English for speakers of other languages classes shall be set by the State Board of Education. For each instructional program, the maximum number of students who may be taught by a teacher in an instructional period shall not exceed the system average maximum class size for the program by more than two students; provided, however, that a system average maximum class size which results in a fractional full-time equivalent shall be rounded up to the nearest whole number. For a period not to exceed ~~four~~ seven years, beginning with the 2000-2001 school year, local school systems shall be allowed to exceed the maximum class sizes set forth in this subsection in a manner consistent with State Board of Education rules and subsection (k) of this Code section. The State Board of Education shall lower the current maximum class sizes set by state board rules in effect for the 1999-2000 school year, beginning with the 2000-2001 school year, by a

~~proportional amount each school year an amount so that, beginning with the 2003-2004 2007-2008 school year, State Board of Education rules are in compliance with this subsection except as otherwise provided in subsection (k) of this Code section for the 2003-2004 and 2004-2005 school years only.~~ An aide may be used in programs to increase class size as allowed by State Board of Education rule ~~and subsection (k) of this Code section~~, except that beginning with the 2007-2008 school year, an aide shall not be used to increase the maximum class size in kindergarten or grades one through three, ~~except as otherwise provided in subsection (k) of this Code section for the 2003-2004 and 2004-2005 school years only.~~ The maximum class size for the kindergarten and primary grades programs is defined as the number of students in a physical classroom. Maximum class sizes that result in a fractional full-time equivalent shall be rounded up to the nearest whole number as needed. The middle school program shall use the teacher-student ratio of the middle grades program for the purpose of this subsection. The number of students taught by a teacher at any time after the first 15 school days of a school year may not exceed the maximum such number unless authorization for a specific larger number is requested of the state board, along with the educational justification for granting the requested exemption, and the state board has approved said request. The state board shall not reduce class sizes without the authorization of the General Assembly if this reduction necessitates added costs for facilities, personnel, and other program needs. Local boards of education may reduce class sizes, build additional facilities, and provide other resources at local cost if such actions are in the best interest of the local school systems' programs as determined by the local boards of education."

"(k) For the 2003-2004, ~~and 2004-2005, 2005-2006, and 2006-2007~~ school years, the maximum class sizes set by the State Board of Education for the 2002-2003 school year shall apply for grades four through 12. For the 2003-2004, ~~and 2004-2005, 2005-2006, and 2006-2007~~ school years, the maximum class sizes set by the State Board of Education for the 2003-2004 school year shall apply to kindergarten and grades one through three, except that a kindergarten class may be increased to 20 students if a paraprofessional is present in addition to the certificated teacher. ~~For the 2003-2004 and 2004-2005 school years, compliance with maximum class size requirements shall be determined by the system average for kindergarten and for each grade and no class shall exceed the applicable maximum size by more than two students.~~ Except as otherwise provided in this subsection, other provisions of this Code section shall apply. This subsection shall not be construed to repeal any other provision of this Code section or this chapter, or to apply to any period of time other than the ~~two~~four fiscal years beginning July 1, 2003, and ending June 30, ~~2005~~2007. This subsection shall be automatically repealed July 1, ~~2005~~2007."

## SECTION 5.

Said chapter is further amended by striking Code Section 20-2-320, relating to the Education Information Steering Committee, identification of data to implement Quality Basic Education Program; State Data and Resource Center, and the state-wide

comprehensive educational information network, and inserting in lieu thereof the following:

"20-2-320.

(a) The Governor shall appoint a steering committee, which shall be named the Education Information Steering Committee, composed of representatives from the Department of Education, the Department of Technical and Adult Education, the Board of Regents of the University System of Georgia, the office of the Governor, the Office of Planning and Budget, the Department of Audits and Accounts, the Georgia Technology Authority, the Department of Early Care and Learning, the Professional Standards Commission, the Office of Student Achievement, ~~the State Data and Research Center at the Georgia Institute of Technology~~, the Georgia Public Telecommunications Commission, the Legislative Budget Office, and local school systems. The steering committee shall identify the data required to implement the Quality Basic Education Program on a fiscally sound basis and the data required to evaluate the effectiveness of the components of public education in Georgia. The steering committee shall identify data that shall be required from local units of administration, ~~public libraries, public colleges and universities through the Board of Regents of the University System of Georgia, pre kindergarten programs, the Professional Standards Commission, and postsecondary technical colleges and schools~~ for the implementation of this article. Further, the steering committee shall develop a design for a state-wide comprehensive educational information system which will provide for the accurate, seamless, and timely flow of information from local and regional education agencies, units of the University System of Georgia, and technical schools and colleges to the state. The design shall include hardware, software, data, collection methods and times, training, maintenance, communications, security of data, and installation specifications and any other relevant specifications needed for the successful implementation of this system. The state-wide comprehensive educational information system shall not use a student's social security number or an employee's social security number in violation of state or federal law to identify a student or employee. The steering committee shall present such recommendations to the Education Coordinating Council. Upon approval of the boards of the respective education agencies, ~~the steering committee such boards~~ shall issue appropriate requests for proposals to implement a state-wide comprehensive educational information system, subject to appropriation by the General Assembly. ~~The State Data and Research Center, boards of the respective education agencies,~~ at the direction of the Education Coordinating Council and working through the steering committee, shall initiate contracts with appropriate vendors and local units of administration for the procurement of services, purchase of hardware and software, and for any other purpose as directed by the Education Coordinating Council, consistent with appropriation by the General Assembly.

(b) The State Board of Education, the Board of Technical and Adult Education, the Board of Regents of the University System of Georgia, and the Department of Early Care and Learning shall require an individual student record for each student enrolled

which at a minimum includes the data specifications recommended by the steering committee and approved by the Education Coordinating Council. The Professional Standards Commission shall maintain an individual data record for each certificated person employed in a public school.

(c) For the purpose of this article, authorized educational agencies shall be the Department of Education; the Department of Early Care and Learning; the Board of Regents of the University System of Georgia; the Department of Technical and Adult Education; the Education Coordinating Council; the Professional Standards Commission; ~~the State Data and Research Center and units under contract to the State Data and Research Center~~; the Office of Student Achievement; the education policy and research components of the office of the Governor; the Office of Planning and Budget; the Legislative Budget Office; the House Research Office; and the Senate Research Office. Any information collected over the state-wide comprehensive educational information system, including individual student records and individual personnel records, shall be accessible by authorized educational agencies, provided that any information which is planned for collection over the system but which is temporarily being collected by other means shall also be accessible by authorized educational agencies and provided, further, that adequate security provisions are employed to protect the privacy of individuals. All data maintained for this system shall be used for educational purposes only. In no case shall information be released by an authorized educational agency which would violate the privacy rights of any individual student or employee. Information released by an authorized educational agency in violation of the privacy rights of any individual student or employee shall subject the authorized educational agency to all penalties under applicable state and federal law. Any information collected over the state-wide comprehensive educational information system which is not stored in an individual student or personnel record format shall be made available to the Governor and the House and Senate Appropriations, Education, and Higher Education committees, except information otherwise prohibited by statute. Data which are included in an individual student record or individual personnel record format shall be extracted from such records and made available in nonindividual record format for use by the Governor, committees of the General Assembly, and agencies other than authorized educational agencies.

(d) ~~The State Data and Research Center through the Board of Regents of the University System of Georgia Department of Education~~ shall request sufficient funds annually for the development, operation, training of appropriate personnel, and maintenance and enhancements of the system. ~~The State Data and Research Center shall submit quarterly reports to the Education Coordinating Council that include budgetary data reflecting expenditures related to the state-wide comprehensive educational information system.~~

(e) ~~The In a phased approach, the state-wide comprehensive educational information system shall be fully completed by July 1, 2003, subject to appropriation by the General Assembly for this purpose; provided, however, that the steering committee shall have the authority to specify components which, in its judgment, cannot be completed until July 1, 2004.~~ During the phased implementation of the system, highest priority shall be

given to the electronic transmission of complete full-time equivalent counts, the uniform budgeting and accounting system, and complete salary data for each local school system. All pre-kindergarten programs, local units of administration for grades kindergarten through 12, technical schools and colleges, public libraries, public colleges and universities, and regional educational service agencies shall provide data to the State Data and Research Center as required by their respective boards and agencies. Notwithstanding any provision of this Code section to the contrary, no local school system shall earn funds under Code Section 20-2-186 for superintendents, assistant superintendents, or principals if the local unit of administration fails to comply with the provisions of this Code section.

(f) Notwithstanding any other provision of law, the ~~State Data and Research Center Department of Education~~ is authorized to and shall obtain and provide to the Department of Public Safety, in a form to be agreed upon between the ~~State Data and Research Center Department of Education~~ and the Department of Public Safety, enrollment, attendance, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22."

## SECTION 6.

Said chapter is further amended by striking Code Section 20-2-2061, relating to legislative intent, and inserting in lieu thereof the following:

"20-2-2061.

~~It is the intent of the General Assembly to provide a means whereby a petitioner may seek a performance based contract called a charter, which ties improved performance to the waiver of specifically identified state and local rules, regulations, policies, procedures, and identified provisions of this title other than the provisions of this article. In addition to specifically identified provisions of this title, a charter school shall be exempt from provisions listed in Code Section 20-2-2063.1. It is the intent of the General Assembly to increase student achievement through academic and organizational innovation by encouraging local school systems to utilize the flexibility of a performance based contract called a charter.~~

## SECTION 7.

Said chapter is further amended in Code Section 20-2-2062, relating to definitions, by inserting new paragraphs (1.1) and (5.1) to read as follows:

"(1.1) 'Charter attendance zone' means all or any portion of the local school system in which the charter school is located and may include all or any portion of other local school systems if the charter school is jointly authorized pursuant to subsection (c) of Code Section 20-2-2063."

"(5.1) 'High school cluster' means a high school and all of the middle and elementary schools which contain students who matriculate to such high school. The schools in a high school cluster may include charter schools, local schools, or a combination of

both."

#### SECTION 8.

Said chapter is further amended in Code Section 20-2-2062, relating to definitions, by striking paragraphs (8), (9), and (10) and inserting in lieu thereof the following:

~~(10) (8)~~ 'Local tax revenue' means local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds, local option sales tax for capital projects, ~~budgeted transportation costs, budgeted central administration costs,~~ and budgeted school food service program costs. Nothing in this paragraph shall be construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum.

~~(8) (9)~~ 'Local school' means a public school in Georgia that is under the management and control of a local board.

~~(9) (10)~~ 'Local school system' means the system of public schools established and maintained by a local board within its limits pursuant to Article VIII, Section V, Paragraph I of the Constitution."

#### SECTION 9.

Said chapter is further amended by striking Code Section 20-2-2063, relating to minimum requirements for charter petitions, and inserting in lieu thereof the following:

"20-2-2063.

(a) The State Board of Education shall promulgate rules, regulations, policies, and procedures to govern the contents of a charter petition, ~~provided that the following shall be required at a minimum:~~

~~(1) The state board shall require that a petition designate the performance to be improved and how it will be improved through the waiver of specifically identified state and local rules, regulations, policies, and procedures, or provisions of this title other than the provisions of this article;~~

~~(2) The state board shall require that a petition describe how it will measure the improvement in such performance and over what period of time, provided that such requirement shall not waive the accountability provisions of Part 3 of Article 2 of Chapter 14 of this title; and~~

~~(3) The state board shall require that a petition demonstrate how any such waiver does not undermine and is consistent with the intent of the waived state and local rules, regulations, policies, and procedures, or the provisions of this title.~~

(b) The State Board of Education shall establish rules, regulations, policies, and procedures to provide for the receipt of charter petitions from a group of two or more local schools as a single charter petitioner to convert to conversion charter school status. An existing conversion charter school may join as part of a group charter

petition, and if such group charter petition is approved, the new charter shall supersede the conversion charter school's previous charter. A group charter petition may be comprised of all the schools in a high school cluster as such term is defined in Code Section 20-2-2062.

(c) The State Board of Education shall establish rules, regulations, policies, and procedures to provide for charter petitions from two or more local school systems to jointly authorize a local charter school."

#### **SECTION 10.**

Said chapter is further amended by repealing in its entirety Code Section 20-2-2063.1, relating to exemption of charter schools from statutory and regulatory requirements.

#### **SECTION 11.**

Said chapter is further amended by striking Code Section 20-2-2064.1, relating to review of charter by state board and charters for state chartered special schools, and inserting in lieu thereof the following:

"20-2-2064.1.

(a) The state board shall approve the charter of a charter petitioner if the petition has been approved by the local board of the local school system in which the proposed charter school will be located and the state board finds that the petition complies with the rules, regulations, policies, and procedures promulgated in accordance with Code Section 20-2-2063 and the provisions of this title and is in the public interest. If the state board denies a petition, it must within 60 days specifically state the reasons for the denial, list all deficiencies with regard to Code Section 20-2-2063, and provide a written statement of the denial to the charter petitioner and to the local board.

(b) No application for a state chartered special school may be made to the state board by a petitioner for a conversion charter school that has been denied by a local board. Upon denial of a petition for a start-up charter school by a local board and upon application to the state board by the petitioner, the state board shall approve the charter of a start-up charter petitioner for a state chartered special school if the state board finds that such petition meets the requirements set forth in Code Section 20-2-2063 and the provisions of this title, and is in the public interest."

#### **SECTION 12.**

Said chapter is further amended by striking Code Section 20-2-2065, relating to operating requirements, control, and management, and inserting in lieu thereof the following:

"20-2-2065.

(a) Except as provided in this article or in a charter, a charter school shall not be subject to the provisions of this title or any state or local rule, regulation, policy, or procedure relating to schools within an applicable school system regardless of whether such rule, regulation, policy, or procedure is established by the local board, the state board, or the Department of Education; provided, however, that the state board may

establish rules, regulations, policies, or procedures consistent with this article relating to charter schools. In exchange for such a waiver, the charter school agrees to meet or exceed the performance based goals included in the charter and approved by the local board, including but not limited to raising student achievement.

(b) In determining whether to waive, as sought by the petitioner, specifically identified state and local rules, regulations, policies, and procedures, and provisions of this title other than the provisions of this article to approve a charter petition or renew an existing charter, the local board and state board shall ensure that a charter school shall be:

- (1) A public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a charter school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity;
- (2) Subject to the control and management of the local board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the Constitution, if a local charter school;
- (3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;
- (4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to conversion charter schools any charter petitioner who is a local school, or state or local public entity;
- (5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct;
- (6) Subject to all laws relating to unlawful conduct in or near a public school;
- (7) Subject to an annual financial audit in the manner specified in the charter conducted by the state auditor, or if specified in the charter, by an independent certified public accountant licensed in this state;
- (8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;
- (9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;
- (10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133; and
- (11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection."

### SECTION 13.

Said chapter is further amended in Code Section 20-2-2066, relating to admission, enrollment, and withdrawal of students, by striking paragraph (1) of subsection (a) and inserting in lieu thereof a new paragraph (1) of subsection (a) to read as follows:

"(1)(A) A local start-up charter school shall enroll any student who resides in the

~~school system in which the local charter school is located charter attendance zone as specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a local start-up charter school shall may give enrollment preference to such students who reside in the attendance zone specified in the charter and may give enrollment preference to a sibling of a resident student currently enrolled in the local charter school; applicants in any one or more of the following categories in the order of priority specified in the charter:~~

- (i) ~~A sibling of a student enrolled in the start-up charter school;~~
  - (ii) ~~A sibling of a student enrolled in another local school designated in the charter;~~
  - (iii) ~~A student whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the charter school; and~~
  - (iv) ~~Students matriculating from a local school designated in the charter;~~
- (B) ~~A conversion charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter. If the number of applying students who reside in the attendance zone does not exceed the capacity as specified in the charter, additional students shall be enrolled based on a random selection process; provided however, that enrollment preferences may be given to applicants in any one or more of the following categories in the order of priority specified in the charter:~~
- (i) ~~A sibling of a student enrolled in the charter school or in any school in the high school cluster;~~
  - (ii) ~~Students whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the charter school;~~
  - (iii) ~~Students who were enrolled in the local school prior to its becoming a charter school; and~~
  - (iv) ~~Students who reside in the charter attendance zone specified in the charter; and"~~

#### SECTION 14.

Said chapter is further amended by striking Code Section 20-2-2067.1, relating to amendment of terms of charter for charter school, initial term of charter, and annual report, and inserting in lieu thereof the following:

"20-2-2067.1.

- (a) The terms of a charter for a local charter school may be amended during the term of the charter upon the approval of the local board, the state board, and the charter school. The terms of a charter for a state chartered special school may be amended during the term of the charter upon the approval of the state board and the charter school.

- (b) The initial term of a charter shall be for a minimum of three five years, unless the petitioner shall request a shorter period of time, and shall not exceed five ten years. The local board and the state board, in accordance with Code Section 20-2-2064.1, may renew a local charter, upon the request of the charter school, for the period of time specified in the request, not to exceed five ten years. The state board may renew a state chartered special school, upon the request of the school, for the period of time specified in the request, not to exceed ten years. For a local charter school, approval of the local board shall also be required to renew a charter.
- (c) A charter school shall provide an annual report to parents or guardians, the community, and the state board which indicates the progress made by the charter school in the previous year in implementing its charter goals. A local charter school shall also provide an annual report to the local board. A charter school shall submit an annual report outlining the previous year's progress to the authorizing local board or state board, as appropriate, to parents and guardians of students enrolled in the school, and to the Department of Education no later than October 1 of each year. The report shall contain, but is not limited to:
- (1) An indication of progress towards the goals as included in the charter;
- (2) Academic data for the previous year, including state academic accountability data, such as standardized test scores and adequate yearly progress data;
- (3) Unaudited financial statements for the fiscal year ending on June 30, provided that audited statements will be forwarded to the local board and state board upon completion;
- (4) Updated contact information for the school and the administrator;
- (5) Proof of current nonprofit status, if applicable; and
- (6) Any other supplemental information that the charter school chooses to include or that the state board requests that demonstrates its success."

#### SECTION 15.

Said chapter is further amended by striking subsections (a) through (e) of Code Section 20-2-2068.1, relating to application of the Quality Basic Education Formula, grants, local tax revenue, and funds from local bonds, and inserting in lieu thereof the following:

"(a) A local charter school shall be included in the allotment of QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants to the local school system in which the local charter school is located under Article 6 of this chapter. The local board and the state board shall treat a conversion charter school no less favorably than other local schools located within the applicable local school system unless otherwise provided by law. The local board and the state board shall treat a start-up charter school no less favorably than other local schools within the applicable local system with respect to the provision of funds for instruction and school administration and, where feasible, transportation, food services, and building programs.

(b) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants earned by a local charter school shall be distributed to the

local charter school by the local board; provided, however, that state equalization grant earnings shall be distributed as provided in subsection (c) of this Code section. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, and earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development. The local charter school shall report enrolled students in a manner consistent with Code Section 20-2-160.

(c) In addition to the earnings set out in subsection (b) of this Code section, local ~~tax~~ revenue shall be earned by allocated to a local charter school on the same basis as for any local school in the local school system, and In the case of a start-up charter school, local revenue earnings shall be calculated as follows:

- (1) Determine the total amount of state and local five mill share funds earned by students enrolled in the local start-up charter school as calculated by the Quality Basic Education Formula pursuant to Code Section 20-2-160 Part 4 of Article 6 of this chapter including any funds for psychologists and school social workers but excluding any system-wide funds for central administration and pupil transportation and excluding any categorical grants not applicable to the charter school;
- (2) Determine the total amount of state and local five mill share funds earned by all students in the public schools of the local school system, including any charter schools that receive local ~~tax~~ revenue, as calculated by the Quality Basic Education Formula but excluding categorical grants and other nonQBE formula grants;
- (3) Divide the amount obtained in paragraph (1) of this subsection by the amount obtained in paragraph (2) of this subsection; and
- (4) Multiply the quotient obtained in paragraph (3) of this subsection by the school system's local ~~tax~~ revenue.

The product obtained in paragraph (4) of this subsection shall be the amount of local funds to be distributed to the local start-up charter school by the local board; provided, however, that nothing in this subsection shall preclude a charter petitioner and a local board of education from specifying in the charter a greater amount of local funds to be provided by the local board to the local start-up charter school if agreed upon by all parties to the charter. Local funds so earned shall be distributed to the local start-up charter school by the local board. Where feasible and where services are provided, funds for transportation, food service programs, and construction projects shall also be distributed to the local start-up charter school as earned. In all other fiscal matters, including applicable federal allotments, the local board shall treat the local start-up charter school no less favorably than other local schools located within the applicable school system and shall calculate and distribute the funding for the start-up charter school on the basis of its actual or projected enrollment in the current school year according to an enrollment counting procedure or projection method stipulated in the terms of the charter.

(c.1) The adjustments in each program for training and experience used in calculating

the start-up charter school's QBE formula earnings shall be calculated in the same manner as for any local school within the local school system; provided, however, that the adjustments in each program for training and experience used in calculating the start-up charter school's QBE formula earnings shall not be less than one-half of the comparable percentages for the local school system in which the charter school is located.

(d) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants that are earned by a state chartered special school shall be distributed to the local board of the local school system in which the state chartered special school is located which shall distribute the same amount to the state chartered special school; provided, however, that a state chartered special school shall not be included in the calculation and distribution of the local school system's equalization grant unless the voters of the local school system have approved the use of ~~local tax revenue from local tax levies and funds from local bonded indebtedness~~ to support the state chartered special school in accordance with subsection (e) of this Code section. If such approval has been given, state equalization grant earnings shall be earned for the state chartered special school and shall be distributed as provided in subsection (f) of this Code section. The local board shall not be responsible for the fiscal management, accounting, or oversight of the state chartered special school. The state chartered special school shall report enrolled students in a manner consistent with Code Section 20-2-160. Any data required to be reported by the state chartered special school shall be submitted directly by the school to the appropriate state agency. Where feasible, the state board shall treat a state chartered special school no less favorably than other public schools within the state with respect to the provision of funds for transportation and building programs.

(e) The state board may require a local referendum of the qualified voters in the local school system in which the proposed state chartered special school will be located. Such referendum shall be held at the next regularly scheduled general election or as may otherwise be authorized at an earlier date by the local board or boards of education affected. Such referendum shall be held for the purpose of deciding whether the local board of education shall provide funds from school tax levies to support such state chartered special school or incur bonded indebtedness to support such state chartered special school or both. The ballot question shall be approved by the state board."

#### SECTION 16.

Said chapter is further amended in Code Section 20-2-2068.2, relating to facilities fund for charter schools, purposes for which funds may be used, upkeep of charter school property, and receipt of surplus from board of education, by striking subsections (c) and (e) and inserting in lieu thereof new subsections (c) and (e) to read as follows:

- "(c) A charter school's governing body may use moneys from the facilities fund for the following purposes:
- (1) Purchase of real property;
  - (2) Construction of school facilities, including initial and additional equipment and

furnishings;

- (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- (4) Purchase of vehicles to transport students to and from the charter school; and
- (5) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer."

"(e) Local boards are required to renovate, repair, and maintain the school facilities of charter schools in the district to the same extent as other public schools in the district if the local board owns the charter school facility, unless otherwise agreed upon by the petitioner and the local board in the charter."

#### **SECTION 17.**

Said chapter is further amended by striking Code Section 20-2-2070, relating to annual report to the general assembly, and inserting in lieu thereof the following:

"20-2-2070.

The state board shall report to the General Assembly no later than November 1 December 31 of each year on the status of the charter school program."

#### **SECTION 18.**

Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the education coordinating council, is amended by striking subsection (a) of Code Section 20-14-26, relating to duties of the office of student achievement, and inserting in lieu thereof the following:

"(a) The office shall have the following duties:

- (1) To create, ~~with the approval of the State Board of Education, a performance-based a single state-wide~~ accountability system, establish indicators of performance, rate schools and school systems, develop annual report cards for elementary, middle, and secondary schools, and formulate a system of school ~~rewards awards~~ and interventions. The State Board of Education shall approve ~~no later than December 31, 2004~~, a single ~~state wide~~ accountability system for local schools and school systems that incorporates federal law, rules, and regulations relating to accountability;
- (2) To audit and inspect or cause to be audited or inspected for the purpose of verification, research, analysis, reporting, or for other purposes related to the performance of its powers and duties as provided in this article and for the purposes of auditing pre-kindergarten, elementary, middle grades, and secondary education, postsecondary education, and education work force programs and schools, local school systems, institutes, colleges, universities, regional educational service agencies, and other public education programs and entities as defined by the council;
- (3) ~~To assist the council in the development of a state-wide education student information system;~~
- (4) To serve as staff to the council; and
- (5) To exercise the powers and discharge duties of the council, as set forth in Code

Section 20-14-8, under the supervision and oversight of the council."

### **SECTION 19.**

Said chapter is further amended by striking subsections (a), (d), and (h) of Code Section 20-14-33, relating to indicators of quality of learning in individual schools, and inserting in their respective places the following:

- "(a) The office shall adopt and biennially review, and revise as necessary, indicators of the quality of learning by students in an individual school and school system."
- "(d) The office shall establish individual school and school system ratings for each public school and school system in this state for annual academic performance on the assessment instruments required under Code Section 20-2-281."
- "(h) The office shall annually review the performance of each school and school system on the indicators in subsection (b) of this Code section and determine whether a change in the school or school system rating status of the school or school system is warranted."

### **SECTION 20.**

Said chapter is further amended by striking subsections (b) and (d) of Code Section 20-14-34, relating to school report cards, and inserting in their respective places the following:

- "(b) The report card shall include the following information, where applicable:
  - (1) The individual school and school system ratings as provided for in subsection (d) of Code Section 20-14-33;
  - (2) The academic excellence indicators in subsection (b) of Code Section 20-14-33;
  - (3) Teacher-student ratios; and
  - (4) Administrative and instructional costs per student and other financial accounting information as may be required."
- "(d) The State Board of Education shall adopt rules requiring dissemination of appropriate student performance and school completion performance portions of school report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the school. On written request, the local school system shall provide a copy of a school report card to any other party. These reports shall be posted on the Office of Student Achievement website, the Department of Education website, and the existing website of such local school system."

### **SECTION 21.**

Said chapter is further amended by striking subparagraph (D) of paragraph (6) of subsection (a) of Code Section 20-14-41, relating to appropriate levels of intervention for failing schools, and inserting in lieu thereof the following:

- "(D) Mandate that the parents have the option to relocate the student to other public schools in the local school system to be chosen by the parents of the student ~~with~~

~~transportation costs borne by the system from a list of available options provided by the local school system. The local school system shall provide transportation for students in Title I schools in accordance with the requirements of federal law. The local school system may provide transportation for students in non-Title I schools. In any year in which the General Assembly does not appropriate funds for the provision of transportation to non-Title I students, the parent or guardian shall assume responsibility for the transportation of that student;"~~

## SECTION 22.

Code Section 40-5-22 of the Official Code of Georgia Annotated, relating to persons not to be issued a driver's license, school attendance requirements, and driving training requirements, is amended by striking subsection (a.1) and inserting in lieu thereof the following:

"(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion, or has terminated his or her secondary education and is enrolled in a postsecondary school, is pursuing a general educational development (GED) diploma, or the records of the department indicate that said applicant:

- (A) Is enrolled in and not under suspension expulsion from a public or private school and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license; or
- (B) Is enrolled in a home education program that satisfies the reporting requirements of all state laws governing such courses program.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school or who is pursuing a general education development (GED) diploma that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice pursuant to Code Section 20-2-701 that indicates that such minor:

- (A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;
- (B) Has more than ten or more school days of unexcused absences in any semester or combination of two consecutive quarters the current academic year or ten or more school days of unexcused absences in the previous academic year; or
- (C) Has been suspended from school for found in violation by a hearing officer.

panel, or tribunal of one of the following offenses, has received a change in placement for committing one of the following offenses, or has waived his or her right to a hearing and pleaded guilty to one of the following offenses:

- (i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;
- (ii) Possession or sale of drugs or alcohol on school property or at a school sponsored event;
- (iii) Possession or use of a weapon on school property or at a school sponsored event. For purposes of this subparagraph, the term 'weapon' shall be defined in accordance with Code Section 16-11-127.1 but shall not include any part of an archeological or cultural exhibit brought to school in connection with a school project;
- (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or
- (v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student.

Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday or upon receipt of satisfactory proof that the minor is pursuing or has received a general educational development (GED) diploma, whichever comes first.

(3) The State Board of Education and the commissioner of motor vehicle safety are authorized to promulgate rules and regulations to implement the provisions of this subsection.

(4) The Department of Technical and Adult Education shall be responsible for compliance and noncompliance data for students pursuing a general education

development (GED) diploma."

**SECTION 23.**

This Act shall become effective on July 1, 2005.

**SECTION 24.**

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

Senator Carter of the 13th moved that the Senate agree to the House substitute to SB 35.

On the motion, a roll call was taken and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	E Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
N Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 32, nays 19; the motion prevailed, and the Senate agreed to the House substitute to SB 35.

Senator Reed of the 35th introduced the Mayor of the City of Atlanta, Shirley Franklin. Mayor Franklin addressed the Senate briefly.

Senator Seabaugh of the 28th asked unanimous consent that Senator Johnson of the 1st be excused. The consent was granted, and Senator Johnson was excused.

Senator Seabaugh of the 28th asked unanimous consent that Senator Stephens of the 27th be excused. The consent was granted, and Senator Stephens was excused.

The following bill was taken up to consider House action thereto:

SB 272. By Senators Moody of the 56th, Shafer of the 48th, Miles of the 43rd, Hill of the 4th and Seabaugh of the 28th:

A BILL to be entitled an Act to amend Part 14 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to specific programs in elementary and secondary education, so as to provide that the State Board of Education shall develop a school interscholastic extracurricular athletic policy that provides for the use of a single, comprehensive, preparticipation physical examination form; to provide for physical examinations in certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Part 14 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to specific programs in elementary and secondary education, so as to provide that the State Board of Education shall develop a school interscholastic extracurricular athletic policy that provides for the use of a single, comprehensive, preparticipation physical examination form; to provide for use of the form by schools and school systems; to provide for related matters; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

This Act shall be known and may be cited as the "Ryan Boslet Bill."

**SECTION 2.**

Part 14 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to specific programs in elementary and secondary education, is amended by adding a new Code Section 20-2-319 to read as follows:

"20-2-319.

- (a) The State Board of Education shall develop, with input from appropriate experts and organizations, a school interscholastic extracurricular athletic policy that provides for the use of a single, comprehensive, preparticipation physical examination form.
- (b) As used in this Code section, the term 'participation' means participation in sports try-outs and practices and actual interscholastic extracurricular sports competition.
- (c) When a school or school district has a policy which requires students who

participate in extracurricular sports to have a physical examination prior to participation, the person conducting the physical examination shall use the State Board of Education approved form pursuant to subsection (d) of this Code section, provided that the form may at the option of the local board include additional elements.

(d) The State Board of Education shall appoint an appropriate committee to make recommendations concerning the comprehensive, preparticipation physical examination form to be used for physical examinations referred to in this Code section. The committee may consult or work with appropriate voluntary organizations and shall give due consideration to the recommendations of the American Academy of Pediatrics on this subject. The final form shall be adopted and may from time to time be modified by rule by the State Board of Education."

### SECTION 3.

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

Senator Wiles of the 37th moved that the Senate agree to the House substitute to SB 272.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	E Stephens
Y Butler	E Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 272.

At 7:30 p.m., the President announced that the Senate would stand in recess until 8:30 p.m..

At 8:30 p.m. the President called the Senate to order.

The following bill was taken up to consider House action thereto:

SB 295. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Jeff Davis County, approved March 25, 1958 (Ga. L. 1958, p. 3288), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend an Act creating the Board of Commissioners of Jeff Davis County, approved March 25, 1958 (Ga. L. 1958, p. 3288), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

An Act creating the Board of Commissioners of Jeff Davis County, approved March 25, 1958 (Ga. L. 1958, p. 3288), as amended, is amended by striking subsection (a) of Section 1A of said Act and inserting in lieu thereof the following:

"(a)(1) The Board of Commissioners of Jeff Davis County as it exists immediately prior to January 1, 2006, is continued in existence but on and after January 1, 2006, shall be constituted as provided in this Act. The Board of Commissioners of Jeff Davis County so continued and constituted, sometimes referred to in this Act as the 'board,' shall continue to have the powers, duties, rights, obligations, and liabilities of that board as existed immediately prior to January 1, 2006, and shall be subject to all

constitutional and statutory provisions relating to boards of county commissioners.

(2) Those members of the Board of Commissioners of Jeff Davis County who are serving as such immediately prior to January 1, 2006, and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office and upon the election and qualification of their respective successors. On and after January 1, 2006, the Board of Commissioners of Jeff Davis County shall consist of five members all of whom shall be elected from commissioner districts described in paragraph (3) of this subsection. Commissioner Districts 1, 2, 3, 4, and 5 as they exist immediately prior to January 1, 2006, shall continue to be designated as Commissioner Districts 1, 2, 3, 4, and 5, respectively, but as newly described under this Act, and on and after January 1, 2006, such members of the board serving from those former commissioner districts shall be deemed to be serving from and representing their respective districts as newly described under this Act.

(3) For purposes of electing members of the board of commissioners, Jeff Davis County is divided into five commissioner districts. One member of the board shall be elected from each such district by majority vote of the qualified voters residing within such commissioner district. The five commissioner districts shall be and correspond to those five numbered districts described in and attached to and made a part of this Act and further identified as Plan Name: jeffdccsbw3 Plan Type: Local User: staff Administrator: Jeff Davis.

(4) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a 'BG' heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of Jeff Davis County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of Jeff Davis County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Except as otherwise provided in the description of any commissioner district, whenever the description of such district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2000 for the State of Georgia."

## **SECTION 2.**

Said Act is further amended by striking Section 2A, relating to commissioner districts, in

its entirety.

### **SECTION 3.**

The governing authority of Jeff Davis County shall through its legal counsel cause 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 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

### **SECTION 4.**

This section and Section 3 of this Act and those provisions of this Act necessary for the election of members of the Board of Commissioners of Jeff Davis County in 2006 shall become effective upon the approval of this Act by the Governor or upon its becoming law without such approval. The remaining provisions of this Act shall become effective January 1, 2006.

### **SECTION 5.**

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

Plan Name: jeffdccsbw3 Plan Type: Local User: staff Administrator: Jeff Davis

#### Redistricting Plan Components Report

District 001

Jeff Davis County

Tract: 9601

BG: 3

3017 3018 3019 3020 3021 3022 3023 3024 3025 3026 3027 3028  
3029 3030 3031 3032 3033 3034 3042 3043 3044 3045 3047 3048  
3049 3050 3051 3052 3053

BG: 4

4003 4004 4005 4006 4014 4015 4016 4017 4018 4019 4020 4021  
4022 4023

BG: 5

5003

Tract: 9602

BG: 1

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1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024  
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BG: 3

THURSDAY, MARCH 31, 2005

3389

3016 3017 3018 3019 3020 3021 3022 3023 3024

BG: 4

4000 4001 4002 4018 4019 4020 4021 4022

District 002

Jeff Davis County

Tract: 9601

BG: 1

BG: 2

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011

3012 3013 3014 3015 3016 3035 3036 3037 3038 3039 3040 3041

3046 3054 3055

District 003

Jeff Davis County

Tract: 9601

BG: 4

4000 4001 4002 4007 4008 4009 4010 4011 4012 4013 4024 4025

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4038 4039 4040 4041 4042 4043 4044 4045 4046 4047

BG: 5

5000 5001 5002 5010 5011 5012 5019 5020 5044 5045 5046 5047

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BG: 6

Tract: 9603

BG: 2

2000 2028 2029 2030 2031 2034 2035 2036 2037 2038 2039 2040

2041 2042 2043 2044 2045 2104 2105 2999

District 004

Jeff Davis County

Tract: 9601

BG: 5

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5033 5034 5035 5036 5037 5038 5039 5040 5041 5042 5043 5053

Tract: 9602

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4046 4047 4048 4049 4050 4051 4052 4053 4054

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5051 5052 5057 5058

Tract: 9603

BG: 1

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BG: 2

2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012  
2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024  
2025 2026 2027 2032 2033 2046 2047 2048 2049 2050 2051 2052  
2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064  
2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076  
2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088  
2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100  
2101 2102 2103

District 005

Jeff Davis County

Tract: 9602

BG: 1

1004 1046 1047 1048 1049 1050 1998

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011  
3012 3013 3014 3015

BG: 4

4003 4004 4005 4006 4007 4008 4009 4010 4011 4012 4013 4014  
4015 4016 4017 4023 4024 4025 4026 4027 4028 4029 4032 4033  
4034 4035

BG: 5

5000 5001 5002 5003 5004 5005 5006 5007 5008 5009 5010 5011  
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5025 5030 5031 5032 5033 5034 5035 5036 5037 5038 5039 5040  
5041 5042 5043 5053 5054 5055 5056 5998 5999

Tract: 9603

BG: 1

1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013  
1014 1015 1016 1017 1018 1019 1020 1021 1027 1028 1050 1051  
1052 1053 1054 1998 1999

Senator Williams of the 19th moved that the Senate agree to the House substitute to SB 295.

On the motion, a roll call was taken and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Henson	Y Shafer,D	

On the motion, the yeas were 42, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 295.

The following bill was taken up to consider House action thereto:

SB 226. By Senators Smith of the 52nd, Thomas of the 54th, Mullis of the 53rd, Cagle of the 49th, Unterman of the 45th and others:

A BILL to be entitled an Act to amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, so as to provide a short title; to create the Georgia Driver's Education Commission; to provide for the membership, appointment, terms, and duties of such commission; to provide for the ability of the commission to accept federal grants and funds and donations from other sources and the disposition of such funds; to provide for the imposition, collection, and disposition of certain additional fees for violation of certain criminal and traffic laws of this state; to provide for appropriations; to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so as to change the minimum age for the issuance of certain licenses and permits; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to superior courts, so as to update the priorities of distributions of fines; to amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, so as to provide a short title; to create the Georgia Driver's Education Commission; to provide for the membership, appointment, terms, and duties of such commission; to provide for the ability of the commission to accept federal grants and funds and donations from other sources and the disposition of such funds; to provide for the imposition, collection, and disposition of certain additional fees for violation of certain criminal and traffic laws of this state; to provide for appropriations; to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so as to change the minimum age for the issuance of certain licenses and permits; to provide that a Class D license holder, during the second six-month period following issuance of such license, may transport only one other passenger in the vehicle who is less than 21 years of age and is not a member of the driver's immediate family; to provide for revocation of minors' permits and drivers' licenses upon requests by persons who signed and verified the minors' applications; to provide for issuance of new instruction permits and drivers' licenses following such revocations; to provide for a mandatory waiting period; to provide for insurance matters related to such revocations; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

WHEREAS, Joshua Brown, the son of Alan and LuGina Brown, was killed in a tragic automobile accident on July 9, 2003; and

WHEREAS, the death of this young man has underscored the need for a greater effort to train Georgia young people in how to drive; and

WHEREAS, the state should assist in getting more young people into these driver education and training programs.

NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to superior courts, is amended by inserting a new paragraph (.1) in Code Section 15-6-95, relating to priorities of distributions of fines and forfeitures, to read as follows:

"(1) The amount provided for in subsection (a) of Code Section 15-21-179;"

**SECTION 2.**

Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and disposition of fines, is amended by adding a new Article 10 to read as follows:

**"ARTICLE 10****15-21-170.**

This article shall be known and may be cited as 'Joshua's Law.'

**15-21-171.**

As used in this article, the term 'commission' means the Georgia Driver's Education Commission created in Code Section 15-21-172.

**15-21-172.**

There is established the Georgia Driver's Education Commission, which is assigned to the Department of Motor Vehicle Safety for administrative purposes only, as prescribed in Code Section 50-4-3.

**15-21-173.**

(a) The Georgia Driver's Education Commission shall consist of nine members who shall serve for terms of four years, except that with respect to the first members appointed, three members shall be appointed for a term of three years, three for a term of two years, and three for a term of one year. The State Board of Education shall appoint one member of the commission and the Department of Motor Vehicle Safety shall appoint two members of the commission. The director of the Governor's Office of Highway Safety shall appoint one member of the commission. The remaining four members of the commission shall be appointed by the Governor, two of whom shall be public school driver's education providers and the other two shall be private driver's education providers. The Governor shall also establish initial terms of office for all nine members of the commission within the limitations of this subsection.

(b) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment and the successor shall serve for the unexpired term.

(c) Membership on the commission does not constitute a public office, and no member shall be disqualified from holding public office by reason of his or her membership.

(d) The Governor shall designate a chairperson of the commission from among the members, which chairperson shall serve in that position at the pleasure of the Governor. The commission may elect such other officers and committees as it considers appropriate.

(e) The commission, with the approval of the Governor, may employ such professional, technical, or clerical personnel as deemed necessary to carry out the purposes of this article.

15-21-174.

Members of the commission shall serve without compensation but shall receive the same expense allowance per day as that received by a member of the General Assembly for each day such member of the commission is in attendance at a meeting of such commission, plus either reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance for use of a personal car in connection with such attendance as members of the General Assembly receive. Such expense and travel allowance shall be paid in lieu of any per diem, allowance, or other remuneration now received by any such member for such attendance.

15-21-175.

(a) The commission shall do all of the following:

- (1) Meet at such times and places as it shall determine necessary or convenient to perform its duties. The commission shall also meet on the call of the chairperson or the Governor;
- (2) Maintain minutes of its meetings;
- (3) Adopt rules and regulations for the transaction of its business;
- (4) Accept applications for disbursements of available moneys;
- (5) Maintain records of all expenditures of the commission, funds received as gifts and donations, and disbursements made; and
- (6) Conform to the standards and requirements prescribed by the state auditor pursuant to Chapter 6 of Title 50.

(b) The commission shall utilize existing state resources and staff of participating departments whenever practicable.

15-21-176.

The commission may recommend to the Governor and the General Assembly changes in state programs, statutes, policies, budgets, and standards relating to the provision of driver education and training in this state, with the objective of maximizing participation in driver's education and training and accident reduction.

15-21-177.

The commission may accept federal funds granted by Congress or executive order for the purposes of this article as well as gifts and donations from individuals, private organizations, or foundations. The acceptance and use of federal funds do not commit state funds and do not place an obligation upon the General Assembly to continue the purposes for which the federal funds are made available.

15-21-178.

The commission may authorize the disbursement of available funds from moneys appropriated to the commission by the General Assembly for purposes of providing driver education and training to a person, entity, or program eligible pursuant to criteria to be set by the commission. Nothing in this Code section shall be construed to limit

the authority of the Department of Motor Vehicle Safety under Chapter 13 of Title 43, 'The Driver Training School and Commercial Driver Training School License Act.'

15-21-179.

- (a) In every case in which any court in this state shall impose a fine or bond payment, which shall be construed to include costs, for any violation of the traffic laws of this state or for violations of ordinances of political subdivisions which have adopted by reference the traffic laws of this state, there shall be imposed as an additional penalty a sum equal to 5 percent of the original fine.
- (b) Such sums shall be in addition to any amount required to be paid into any pension, annuity, or retirement fund under Title 47 or any other law and in addition to any other amounts provided for in this article.
- (c) This Code section shall be repealed in its entirety on June 30, 2008, unless extended by an Act of the General Assembly.

15-21-180.

- (a) The sums provided for in Code Section 15-21-179 shall be assessed and collected by the clerk or other court officer charged with the duty of collecting moneys from fines and shall be paid over by the last day of the following month to the Georgia Superior Court Clerks' Cooperative Authority for remittance to the Office of Treasury and Fiscal Services to be deposited into the general fund of the state treasury.
- (b) Any person whose duty it is to collect and remit the sums provided for in this article who refuses to so remit shall be guilty of a misdemeanor.

15-21-181.

As soon as practicable after the end of each fiscal year, the Office of Treasury and Fiscal Services shall report the amount of funds received pursuant to Code Section 15-21-179 to the Office of Planning and Budget and the commission. It is the intent of the General Assembly that, subject to appropriation, an amount equal to such proceeds received from such fines in any fiscal year shall be made available during the following fiscal year to the commission for the purposes set forth in Code Section 15-21-178."

**SECTION 3.**

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, is amended by striking Code Section 40-5-22, relating to persons not to be licensed and minimum ages for licenses, and inserting in lieu thereof a new Code Section 40-5-22 to read as follows:

"40-5-22.

- (a) ~~The Except as otherwise provided in this Code section, the department shall not issue any Class C driver's license to any person who is under 18 years of age or Class M driver's license to any person who is under the age of 16~~ 17 years, except that the department may, under subsection (a) of Code Section 40-5-24, issue a Class P instruction permit permitting the operation of a noncommercial Class C vehicle to any

person who is at least 15 years of age, and may, under subsection (b) of Code Section 40-5-24, issue a Class D driver's license permitting the operation of a noncommercial Class C vehicle to any person who is at least 16 17 years of age. On and after January 1, 1985, the department shall not issue any driver's license to any person under 18 years of age unless such person presents a certificate or other evidence acceptable to the department which indicates satisfactory completion of an alcohol and drug course as prescribed in subsection (b) of Code Section 20-2-142; provided, however, that a person under 18 years of age who becomes a resident of this state and who has in his or her immediate possession a valid license issued to him or her in another state or country shall not be required to take or complete the alcohol and drug course. The department shall not issue a driver's license or a Class P instruction permit for the operation of a Class A or B vehicle or any commercial driver's license to any person who is under the age of 18 years.

(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion; or has terminated his or her secondary education and is enrolled in a postsecondary school or the records of the department indicate that said applicant:

- (A) Is enrolled in and not under suspension from a public or private school and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license; or
- (B) Is enrolled in a home education program that satisfies the requirements of all state laws governing such courses.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice pursuant to Code Section 20-2-701 that indicates that such minor:

- (A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;
- (B) Has more than ten school days of unexcused absences in any semester or combination of two consecutive quarters; or
- (C) Has been suspended from school for:
  - (i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;
  - (ii) Possession or sale of drugs or alcohol on school property;

- (iii) Possession or use of a weapon on school property. For purposes of this subparagraph, the term 'weapon' shall be defined in accordance with Code Section 16-11-127.1 but shall not include any part of an archeological or cultural exhibit brought to school in connection with a school project;
- (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or
- (v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student.

Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday, whichever comes first.

(3) The State Board of Education and the commissioner of motor vehicle safety are authorized to promulgate rules and regulations to implement the provisions of this subsection.

(a.2)(1) On and after January 1, 2002, the department shall not issue any initial Class D driver's license or, in the case of a person who has never been issued a Class D driver's license by the department or the equivalent thereof by any other jurisdiction, any initial Class C driver's license unless such person:

- (A) ~~Has Is at least 16 years of age and has~~ completed an approved driver education course in a licensed private or public driver training school and in addition a cumulative total of at least ~~20~~ 40 hours of other supervised driving experience including at least six hours at night, all of which is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; or
- (B) ~~Has Is at least 17 years of age and has~~ completed a cumulative total of at least

40 hours of supervised driving experience including at least six hours at night, and the same is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; provided, however, that a person 17 years of age or older who becomes a resident of this state, who meets all of the qualifications for issuance of a Class C license with the exception of the completion of an approved driver's training course and at least 40 hours of supervised driving experience as required by this subsection, and who has in his or her immediate possession a valid license equivalent to a Class C license issued to him or her in another state or country shall be entitled to receive a Class C license.

- (2) The commissioner shall by rule or regulation establish standards for approval of any driver education course for purposes of subparagraph (A) of paragraph (1) of this subsection, provided that such course shall be designed to educate young drivers about safe driving practices and the traffic laws of this state and to train young drivers in the safe operation of motor vehicles.
- (3) For purposes of supervised driving experience under paragraph (1) of this subsection, supervision shall be provided by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.
- (b) Notwithstanding the provisions of subsection (a) of this Code section, any person 14 years of age who has a parent or guardian who is medically incapable of being licensed to operate a motor vehicle due to visual impairment may apply for and, subject to the approval of the commissioner, may be issued a restricted noncommercial Class P instruction permit for the operation of a noncommercial Class C vehicle. Any person permitted pursuant to this subsection shall be accompanied by such visually impaired parent or guardian whenever operating a motor vehicle.
- (c) The department shall not issue any driver's license to nor renew the driver's license of any person:
  - (1) Whose license has been suspended during such suspension, or whose license has been revoked, except as otherwise provided in this chapter;
  - (2) Whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter;
  - (3) Who is a habitual user of alcohol or any drug to a degree rendering him incapable of safely driving a motor vehicle;
  - (4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;
  - (5) Who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;
  - (6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the

highway; or

(7) Whose license issued by any other jurisdiction is suspended or revoked by such other jurisdiction during the period such license is suspended or revoked by such other jurisdiction."

#### SECTION 4.

Said article is further amended by striking Code Section 40-5-24, relating to instruction permits and graduated licensing, and inserting in lieu thereof a new Code Section 40-5-24 to read as follows:

"40-5-24.

(a)(1) Any resident of this state who is at least 15 years of age may apply to the department for an instruction permit to operate a noncommercial Class C vehicle. The department shall, after the applicant has successfully passed all parts of the examination referred to in Code Section 40-5-27 other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a Class C vehicle upon the public highways for a period of two years when accompanied by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(2) A person who has been issued an instruction permit under this subsection and has never been issued a Class D driver's license under subsection (b) of this Code section will become eligible for a Class D driver's license under subsection (b) of this Code section only if such person is at least ~~16~~ 17 years of age, has a valid instruction permit which is not under suspension, and, for a period of not less than 12 consecutive months prior to making application for a Class D driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57; provided, however, that a person who is at least 16 ~~16~~ years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 will be eligible for a Class D driver's license.

(3) This subsection does not apply to instruction permits for the operation of motorcycles.

(b)(1) Any resident of this state who is at least ~~16~~ 17 years of age and who, for a period of at least 12 months, had a valid instruction permit issued under subsection (a) of this Code section may apply to the department for a Class D driver's license to operate a noncommercial Class C vehicle if such resident has otherwise complied with all prerequisites for the issuance of such Class D driver's license as provided in subsection (a) of this Code section, provided that a resident at least ~~16~~ 17 years of age

who has at any age surrendered to the department a valid instruction permit or driver's license issued by another state or the District of Columbia or who has submitted to the department proof, to the satisfaction of the department, of a valid instruction permit or driver's license issued by another state or the District of Columbia may apply his or her driving record under such previously issued permit or driver's license toward meeting the eligibility requirements for a Class D driver's license the same as if such previously issued permit or driver's license were an instruction permit issued under subsection (a) of this Code section; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this paragraph except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class D driver's license.

(2) The department shall, after all applicable requirements have been met, issue to the applicant a Class D driver's license which shall entitle the applicant, while having such license in his or her immediate possession, to drive a Class C vehicle upon the public highways of this state under the following conditions:

(A) Any Class D license holder shall not drive a Class C motor vehicle on the public roads, streets, or highways of this state between the hours of 12:00 Midnight and 6:00 A.M. eastern standard time or eastern daylight time, whichever is applicable; and

(B)(i) Any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than three other passengers in the vehicle who are not members of the driver's immediate family are less than 21 years of age.

(ii) During the six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when any other passenger in the vehicle is not a member of the driver's immediate family;

(iii) Notwithstanding the provisions of division (i) of this subparagraph, during the second six-month period immediately following issuance of such license, any Class D license holder shall not drive a Class C motor vehicle upon the public roads, streets, or highways of this state when more than one other passenger in the vehicle who is not a member of the driver's immediate family is less than 21 years of age;

provided, however, that a Class D license holder shall not be charged with a violation of this paragraph alone but may be charged with violating this paragraph in addition to any other traffic offense.

(3) A person who has been issued a Class D driver's license under this subsection and has never been issued a Class C driver's license under this chapter will become eligible for a Class C driver's license under this chapter only if such person has a valid Class D driver's license which is not under suspension and, for a period of not less than 12 consecutive months prior to making application for a Class C driver's license, has not been convicted of a violation of Code Section 40-6-391, hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on

highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, or convicted of any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57 and is at least 18 years of age.

(c) Any resident of this state who is at least ~~16~~ 17 years of age may apply to the department for a noncommercial Class M motorcycle instruction permit. The department shall, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his or her immediate possession, to drive a motorcycle or a motor driven cycle upon the public highways for a period of six months; provided, however, that a person who is at least 16 years of age and meets all of the other qualifications of this subsection except for age who has completed an approved driver education training course as provided in subsection (a.2) of Code Section 40-5-22 may apply for a Class M motorcycle instruction permit. A motorcycle instruction permit shall not be valid when carrying passengers, on a limited access highway, or at night.

(d) Any resident of this state who is at least 18 years of age may apply to the department for an instruction permit to operate noncommercial vehicles in Classes A and B. Such permits may be issued only to persons with valid commercial or noncommercial Class C licenses or persons who have passed all required tests for a commercial or noncommercial Class C license. The department shall, after the applicant has successfully passed all parts of the appropriate examination other than the skill and driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having the permit in his or her immediate possession, to operate a vehicle of the appropriate noncommercial class upon the public highways for a period of 12 months when accompanied by a licensed driver, qualified in the vehicle being operated, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver as an instructor. Prior to being issued a driver's license for Classes A and B, the applicant shall pass a knowledge and skill test for driving a Class A or B vehicle as provided by the commissioner.

(e) The department shall issue a temporary driver's permit to an applicant for a driver's license permitting him or her to operate a specified type or class of motor vehicle while the department is completing its investigation and determination of all facts relative to such applicant's eligibility to receive a driver's license. Such permit must be in his or her immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused. Such permit shall be valid for no more than 45 days. When a license has been refused, the permit shall be returned to the department within ten days of receipt of written notice of refusal."

#### **SECTION 5.**

Said article is further amended in Code Section 40-5-26, relating to applications of minors for drivers' licenses and distinctive licenses for persons under age 21, by striking subsection (a) and inserting in lieu thereof the following:

"(a)(1) The application of any person under the age of 18 years for an instruction permit or driver's license shall be:

(1)(A) Signed and verified by the father, mother, or guardian of the applicant before a person authorized to administer oaths or, in the event there is no parent or guardian, by another responsible adult; or

(2)(B) Signed and verified by a licensed driver training instructor before a person authorized to administer oaths when such instructor is acting as an agent for such purposes on behalf of the father, mother, or guardian of the applicant and such agency is evidenced by permission of such parent or guardian which has been granted in writing and signed and verified by such parent or guardian before a person authorized to administer oaths and on such form as shall be prescribed by rule or regulation of the department.

(2)(A) A person who signed and verified a minor's successful application for an instruction permit or driver's license may subsequently during such minority request revocation of the minor's instruction permit or driver's license by written notice to the department on such form as specified thereby, signed and verified before a person authorized to administer oaths. If the request for revocation is submitted by a licensed driver training instructor acting as an agent on behalf of the father, mother, or guardian of the applicant, such agency must be evidenced by permission for the revocation of such parent or guardian which has been granted in writing and signed and verified by such parent or guardian before a person authorized to administer oaths. Upon receipt of such request and payment of a fee in an amount equivalent to that which was required for issuance of the instruction permit or driver's license, and after a mandatory three business day waiting period, during which the request for revocation may be withdrawn but the fee shall not be returned, the department shall revoke the minor's instruction permit or driver's license.

(B) A minor whose instruction permit or driver's license has been revoked under this paragraph shall not be eligible for issuance of another instruction permit or driver's license until he or she reaches 18 years of age, unless consent for issuance of an instruction permit or driver's license has been granted as provided by subparagraphs (A) and (B) of paragraph (1) of this subsection upon application of the minor made not sooner than three months after the effective date of revocation.

(C) The provisions of Code Section 40-5-62 shall not apply to a person whose instruction permit or driver's license has been revoked under this paragraph.

(D) A revocation of a minor's instruction permit or driver's license under this paragraph shall not be deemed a revocation for purposes of any increase in insurance rates or cancellation of any policy of motor vehicle insurance for which the minor is not the sole named insured, but such a policy may be amended so as to remove such minor from the list of named insureds under such policy."

## SECTION 6.

The provisions of this Act shall not apply to or otherwise affect any valid license or instructional permit which has been issued to any person by this state and which is in

effect on the effective date of this Act. On and after the effective date of this Act, no new license or instructional permit shall be issued except in compliance with the provisions of this Act.

**SECTION 7.**

Section 2 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to all traffic offenses committed on and after such date. The remaining sections of this Act shall become effective on January 1, 2007, subject to available funds.

**SECTION 8.**

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

Senator Smith of the 52nd moved that the Senate agree to the House substitute to SB 226.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	N Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Me V Bremen	Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 45, nays 2; the motion prevailed, and the Senate agreed to the House substitute to SB 226.

The following bill was taken up to consider House action thereto:

SB 254. By Senators Hill of the 4th, Williams of the 19th and Johnson of the 1st:

A BILL to be entitled an Act to amend Title 2 of the O.C.G.A., relating to agriculture; Title 8 of the O.C.G.A., relating to buildings; Title 15 of the O.C.G.A., relating to courts; Title 17 of the O.C.G.A., relating to criminal procedure; Title 20 of the O.C.G.A., relating to education; Title 26 of the O.C.G.A., relating to food, drugs, and cosmetics; Title 28 of the O.C.G.A., relating to the General Assembly; Title 35 of the O.C.G.A., relating to law enforcement; Title 40 of the O.C.G.A., relating to motor vehicles; Title 43 of the O.C.G.A., relating to professions; Title 45 of the O.C.G.A., relating to public officers; Title 49 of the O.C.G.A., relating to social services; and Title 50 of the O.C.G.A., relating to state government; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture; Title 8 of the Official Code of Georgia Annotated, relating to buildings; Title 15 of the Official Code of Georgia Annotated, relating to courts; Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure; Title 20 of the Official Code of Georgia Annotated, relating to education; Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics; Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly; Title 35 of the Official Code of Georgia Annotated, relating to law enforcement; Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles; Title 43 of the Official Code of Georgia Annotated, relating to professions; Title 45 of the Official Code of Georgia Annotated, relating to public officers; Title 49 of the Official Code of Georgia Annotated, relating to social services; and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the comprehensive revision of provisions regarding state budgeting; to revise and change duties and responsibilities of budget units; to provide for the transfer of the duties and responsibilities of the Legislative Budget Office and legislative budget offices; to provide for the powers, duties, and responsibilities of the Senate Budget Office and the House Budget Office; to revise and change terminology regarding budget unit object class; to revise and change certain provisions regarding powers of the Lieutenant Governor; to repeal provisions regarding the Budgetary Responsibility and Oversight Committee; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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

**PART I  
SECTION 1.**

Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by striking Code Section 2-18-4, relating to the attachment of the Georgia Tobacco Community Development Board for administrative purposes to the Office of Planning and Budget, and inserting in its place a new Code Section 2-18-4 to read as follows:

"2-18-4.

The board is attached to the Office of Planning and Budget for administrative purposes. Without limitation, the office shall provide such staff and other services as the board may need for its functions. ~~Without detracting from the status of the board as a budget unit, the~~ The Office of Planning and Budget may expend its funds for purposes of the board as if such funds were appropriated directly to the board."

**SECTION 2.**

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by striking Code Section 20-1A-1, relating to creation of the Department of Early Care and Learning, and inserting in its place a new Code Section 20-1A-1 to read as follows:

"20-1A-1.

The Department of Early Care and Learning is created as a department of the executive branch of state government and shall have the duties, responsibilities, functions, powers, and authority set forth in this chapter and otherwise provided by law. The Department of Early Care and Learning is the successor to the Office of School Readiness and shall have the duties, responsibilities, functions, powers, authority, employees, office equipment, furniture, and other assets formerly held by the Office of School Readiness. ~~The Department of Early Care and Learning shall be a separate budget unit.~~"

**SECTION 3.**

Said title is further amended by striking subsection (a) of Code Section 20-3-82, relating to the Georgia Eminent Scholars Trust Fund, and inserting in its place a new subsection (a) to read as follows:

"(a) There is created the Georgia Eminent Scholars Endowment Trust Fund. The board of regents shall serve as trustees of such fund. ~~The fund shall be a budget unit for the purpose of appropriations of state funds as provided for in Part 1 of Article 4 of Chapter 42 of Title 45.~~"

**SECTION 4.**

Said title is further amended by striking subsection (b) of Code Section 20-3-231, relating to the purpose of the Georgia Student Finance Commission, and inserting in its place a new subsection (b) to read as follows:

"(b) *Purpose of commission.* The purpose of the commission shall be to help improve

the higher educational opportunities of citizens and persons in this state by serving as an agency ~~and budget unit~~ within the executive branch of state government for the purpose of carrying out and effectuating the powers, duties, and functions set forth in this part."

#### **SECTION 5.**

Said title is further amended by striking subsection (a) of Code Section 20-3-233, relating to the creation of the Georgia Student Finance Commission, and inserting in its place a new subsection (a) to read as follows:

"(a) There is created within the executive branch of state government a commission to be known as the Georgia Student Finance Commission. The commission shall be an agency of the state ~~and a budget unit thereof.~~"

#### **SECTION 6.**

Said title is further amended by striking subsection (a) of Code Section 20-3-250.5, relating to administration of the Nonpublic Postsecondary Education Commission, and inserting in its place a new subsection (a) to read as follows:

"(a) The commission shall be assigned to the Georgia Student Finance Commission for administrative purposes only. ~~The commission shall be a budget unit of the executive branch of the state government.~~"

#### **SECTION 7.**

Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics, is amended by striking subsection (a) of Code Section 26-4-29, relating to the Georgia Drugs and Narcotics Agency, and inserting in its place a new subsection (a) to read as follows:

"(a) The agency created in 1908 as the Office of the Chief Drug Inspector and known as the Georgia Drugs and Narcotics Agency since 1976 is continued in existence as the Georgia Drugs and Narcotics Agency. ~~This agency shall be a budget unit as defined under Code Section 45-12-7; provided, however, that the~~ The agency shall be assigned for administrative purposes only, as defined in Code Section 50-4-3, to the office of the Secretary of State. The Georgia Drugs and Narcotics Agency is authorized by this Code section to enforce the drug laws of this state. The board shall appoint a director who shall be charged with supervision and control of such agency. The agency shall employ the number of personnel deemed necessary to properly protect the health, safety, and welfare of the citizens of this state. Such personnel shall be pharmacists registered in this state when employed as either special agents or the deputy director."

#### **SECTION 8.**

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement, is amended by striking Code Section 35-6A-9, relating to the Criminal Justice Coordinating Council, and inserting in its place a new Code Section 35-6A-9 to read as follows:

"35-6A-9.

The council shall prepare a budget request in the same manner as any such request would be prepared by a budget unit under Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' and a separate appropriation shall be provided for the council in the general appropriations Act. The council is authorized to accept and use gifts, grants, and donations for the purpose of carrying out this chapter. The council is also authorized to accept and use property, both real and personal, and services, for the purpose of carrying out this chapter. Any funds, property, or services received as gifts, grants, or donations shall be kept separate and apart from any funds received by the Office of Planning and Budget; and such funds, property, or services so received by gifts, grants, or donations shall be the property and funds of the council and, as such, shall not lapse at the end of each fiscal year but shall remain under the control and subject to the direction of the council to carry out this chapter."

#### **SECTION 9.**

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by striking subsection (a) of Code Section 40-16-7, relating to the budget of the Department of Motor Vehicle Safety, and inserting in its place a new subsection (a) to read as follows:

"(a) ~~The department shall be a budget unit to which funds may be appropriated as provided in the 'Budget Act,' Part 1 of Article 4 of Chapter 12 of Title 45.~~ The department shall be an independent and distinct department of state government. The duties of the department shall be performed by that department and not by any other agency of state government, and the department shall not perform the duties of any other agency of state government. The position of commissioner of motor vehicle safety shall be a separate and distinct position from any other position in state government. The duties of the commissioner shall be performed by the commissioner and not by any other officer of state government, and the commissioner shall not perform the duties of any other officer of state government."

#### **SECTION 10.**

Title 43 of the Official Code of Georgia Annotated, relating to professions, is amended by repealing it its entirety subsection (l) of Code Section 43-1-2, relating to the director of the professional licensing boards division of the office of the Secretary of State, which reads as follows:

"(l) Funding for the office of the division director and the various professional licensing boards served by such office shall be contained in a common budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act.'"

#### **SECTION 11.**

Said title is further amended by striking subsection (g) of Code Section 43-40-2, relating to the Georgia Real Estate Commission, and inserting in its place a new subsection (g) to

read as follows:

"(g) The commission shall be a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the commission shall be assigned for administrative purposes only to the office of the Secretary of State."

#### SECTION 12.

Title 45 of the Official Code of Georgia Annotated, relating to public officers, is amended by striking Code Section 45-5-7, relating to hearing of complaints against budget unit employees, and inserting in its place a new Code Section 45-5-7 to read as follows:

"45-5-7.

Upon information being received that any individual employed by the state government is guilty or is alleged to be guilty of irregularities, misconduct, malpractice, malfeasance, misfeasance, incompetence, incapability, or inefficiency in the conduct of his or her official duties, the head of the ~~budget unit~~, department, or agency employing said person shall be notified of such charges; and if the head of the ~~budget unit~~, department, or agency takes the position that the charges are unfounded and fails or refuses to discharge the individual against whom the complaint is lodged, it shall be the duty of the Governor to hear the complaint and if, in his or her opinion, the facts sustain the truth of the accusation, the individual shall stand discharged from state service. Nothing in this Code section shall affect the tenure of office of the elected officials of this state, nor the tenure of office of appointed officials of this state who have been confirmed by the Senate as required by law, nor the tenure of office of those employees who are subject to merit system laws and rules and regulations."

#### SECTION 13.

Said title is further amended by striking subsection (a) of Code Section 45-12-72, relating to the Office of Planning and Budget, and inserting in its place a new subsection (a) to read as follows:

"(a) There is established in the office of the Governor the Office of Planning and Budget as a separate budget unit for the purpose of promoting economy and efficiency in the fiscal management of the state government. The Governor shall be ex officio director of the budget."

#### SECTION 14.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by striking subsection (b) of Code Section 49-5-135, relating to the Children and Youth Coordinating Council, and inserting in its place a new subsection (b) to read as follows:

"(b) The council shall prepare a budget request in the same manner as any such request would be prepared by a budget unit in accordance with Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' and a separate appropriation shall be provided for the

council in the General Appropriations Act. The council is authorized to accept and use gifts, grants, and donations for the purpose of carrying out this article. The council is also authorized to accept and use property, both real and personal, and services for the purpose of carrying out this article. Any funds, property, or services received as gifts, grants, or donations shall be kept separate and apart from any funds received by the Office of Planning and Budget; and such funds, property, or services so received by gifts, grants, or donations shall be the property and funds of the council and, as such, shall not lapse at the end of each fiscal year but shall remain under the control of and subject to the direction of the council to carry out this article."

#### **SECTION 15.**

Said title is further amended by striking subsection (n) of Code Section 49-5-273, relating to creation of PeachCare, and inserting in its place a new subsection (n) to read as follows:

"(n) There shall be created a ~~separate budget unit 'C'~~ and a separate appropriation in the department for the purpose of carrying out the provisions of this article."

#### **SECTION 16.**

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by striking paragraph (1) of subsection (g) of Code Section 50-17-22, relating to the State Financing and Investment Commission, and inserting in its place a new paragraph (1) to read as follows:

"(1) The commission ~~is designated a budget unit and~~ shall be subject to Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act.'"

#### **SECTION 17.**

Said title is further amended by striking paragraph (2) of subsection (c) of Code Section 50-27-13, relating to lottery proceeds, and inserting in its place a new paragraph (2) to read as follows:

"(2) In the budget report the Governor shall further make specific recommendations as to the education programs and purposes for which appropriations should be made from the Lottery for Education Account. The General Assembly shall appropriate from the Lottery for Education Account by specific reference to it, or by reference to 'lottery proceeds.' All appropriations of lottery proceeds to any particular budget unit shall be ~~made together in a separate part entitled,~~ identified, administered, and accounted for separately as a distinct budget unit for lottery proceeds program. Such appropriations shall otherwise be made in the manner required by law for appropriations."

#### **PART II SECTION 18.**

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is

amended by striking Code Section 28-5-25, relating to joint meetings of the fiscal affairs subcommittees, and inserting in its place a new Code Section 28-5-25 to read as follows:

"28-5-25.

The fiscal affairs subcommittees shall meet jointly as one committee at least once each quarter, or more often, at the call of the Governor, for the purpose of reviewing and approving budget unit ~~object class~~ program transfers recommended by the Governor. Such transfers shall not be made without the approval of at least 11 members of such subcommittees sitting jointly. No funds whatsoever shall be transferred for use in commencing any new program or activity which does not currently have an appropriation or which would require operating funds or capital outlay funds beyond the biennium in which such transfer is made."

#### SECTION 19.

Title 45 of the Official Code of Georgia Annotated, relating to public officers, is amended by striking paragraph (10) of Code Section 45-12-71, relating to definitions regarding the Office of Planning and Budget, and inserting in its place a new paragraph (10) to read as follows:

"(10) 'Budget unit' means a department, institution, agency, or other unit of organization for which separate appropriations are made. Each specified section of the General Appropriations Act is a budget unit."

#### SECTION 20.

Said title is further amended by striking paragraphs (5) and (6) of Code Section 45-12-75, relating to the budget report, and inserting in their place new paragraphs (5) and (6) to read as follows:

"(5) Detailed comparative statements of expenditures and requests for appropriations by funds, budget units, and ~~budget classes~~ programs, showing the expenditures for each of the two fiscal years last concluded, the budget of the current year, and the Governor's recommendations for appropriations for each budget unit and program for the next fiscal year. Following the lists of actual and proposed expenditures of each budget unit and program there shall be a brief explanation of the functions of the unit and program and comments on its policies and plans and on any considerable differences among the amounts expended and the amounts recommended, with such descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as is considered necessary or desirable. ~~In connection with each budget class of For~~ capital outlays involving construction projects to be completed in two or more fiscal years, there shall be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs shall be projected for a period that is consistent with each organization's approved strategic plan as summarized in the budget;

(6) A summary statement of the cash resources estimated to be available at the

beginning of the next fiscal year and the estimated cash receipts of the fiscal year as compared with the total recommended amounts of appropriation for all ~~budget classes~~ programs for the year and, if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of receipts from any proposed additional revenues;".

### **SECTION 21.**

Said title is further amended by striking subsection (d) of Code Section 45-12-80, relating to financial plans regarding the Appropriations Act, and inserting in its place a new subsection (d) to read as follows:

"(d) The annual operating budget for each budget unit shall be submitted for approval to the Office of Planning and Budget by May 31 of the fiscal year preceding the effective date; shall be submitted on forms and in the format as determined by the Office of Planning and Budget; and shall conform to approved appropriations Acts. The total annual operating budget, including such schedules and supplementary information as may be required by the Office of Planning and Budget, shall be considered the financial plan for the budget unit. The various schedules included in the annual operating budget shall govern the approved expenditures for the ~~applicable object class~~ program and shall ensure that these expenditures conform to both the letter and the intent of approved appropriations Acts. The Governor through the Office of Planning and Budget shall direct to be made such changes in the submitted annual operating budget as the Governor deems necessary to bring the annual operating budget into conformity with approved appropriations Acts."

### **SECTION 22.**

Said title is further amended by striking Code Section 45-12-90, relating to disposition of appropriations, and inserting in its place a new Code Section 45-12-90 to read as follows: "45-12-90.

In the event that any duties, ~~and purposes, and objects~~ for which appropriations are made shall be transferred to a budget unit other than that to which appropriated, the appropriations for such duties, ~~and purposes, and objects~~ shall be made available, subject to this part, to such budget unit or budget units to which the duties, ~~and purposes, and objects~~ are transferred. Should the appropriation to be transferred not be shown in the appropriation Act as a separate and identifiable item, the amount to be transferred shall be decided by the Office of Planning and Budget in accordance with the detailed estimates or other information embodied in the budget report."

### **SECTION 23.**

Said title is further amended by striking subsections (a) and (b) of Code Section 45-12-78, relating to submission of annual budget estimates, and inserting in their place new subsections (a) and (b) to read as follows:

"(a) Not later than September 1 of each year, the head of each budget unit, other than

the General Assembly and the judiciary, shall submit to the Office of Planning and Budget estimates of the financial requirements of the budget unit for the next fiscal year, on the forms and in the manner prescribed by the Office of Planning and Budget, with such explanatory data as is required by the Office of Planning and Budget. Such submission shall utilize such ~~budget classes programs~~ and be within such expenditure parameters as may be established by the Governor. The head of a budget unit also may submit such additional data as is helpful. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted.

(b) Except as otherwise provided in this subsection, the budget estimates for the General Assembly, including all the legislative agencies, ~~shall be prepared by the Speaker of the House of Representatives and the President of the Senate and such other legislative officers as appropriate~~ and shall be submitted to the director of the budget at the same time as other budget estimates are submitted. The Department of Audits and Accounts, for the purpose of this part, is a legislative agency and shall be construed in all respects as such; and the budget estimate for said department shall be prepared by the state auditor and shall be included in the budget report without revision and shall not be subject to review or control by the Office of Planning and Budget. The director of the Office of Treasury and Fiscal Services shall assist in the preparation of these budget estimates, if requested. ~~Effective with the budget estimates for the fiscal year beginning July 1, 1985, the~~ ~~The~~ budget estimates for the Senate, the office of the Lieutenant Governor, and the office of the Secretary of the Senate shall be prepared by the Senate; the budget estimates for the House of Representatives, the office of the Speaker of the House of Representatives, and the office of the Clerk of the House of Representatives shall be prepared by the House of Representatives; and the budget estimates for the Office of Legislative Counsel, ~~and the~~ Office of Legislative Fiscal Officer, ~~and the~~ Office of Legislative Budget Analyst shall be prepared by the Legislative Services Committee. All of such budget estimates shall include such ~~object classes programs~~ as the Legislative Services Committee shall determine, and transfers of funds may be made between such ~~object classes programs~~. Funds may also be transferred ~~between~~ ~~across programs within~~ the Senate, the office of the Lieutenant Governor, and the office of the Secretary of the Senate. Funds may also be transferred ~~between~~ ~~across programs within~~ the House of Representatives, the office of the Speaker of the House of Representatives, and the office of the Clerk of the House of Representatives. Funds may also be transferred between the Office of Legislative Counsel, ~~and the~~ Office of Legislative Fiscal Officer, ~~and the~~ Office of Legislative Budget Analyst."

**PART III  
SECTION 24.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers, is amended by striking Code Section 45-12-82, relating to filing of periodic work programs, and inserting in its place a new Code Section 45-12-82 to read as follows:

"45-12-82.

The Governor, through the Office of Planning and Budget, shall require each budget unit, other than those of the legislative branch and the judicial branch, to file periodic work programs with the Office of Planning and Budget at such time as the Office of Planning and Budget shall direct. As provided in Code Section 45-12-83, no allotment of funds shall be approved for any budget unit until such budget unit has filed a periodic work program with the Office of Planning and Budget and the periodic work program has been approved by the Governor. The work program shall be presented on forms prescribed by the Office of Planning and Budget and shall contain such information as the Governor, through the Office of Planning and Budget, may require. The work program shall include the amount of the portion of the appropriation required for the period's expenditures based on the budget prepared as provided in this part. Periodic work programs may be amended from time to time in such manner as the Office of Planning and Budget may require. A duplicate copy of all of the periodic work programs and any amendments thereto shall be filed simultaneously with the Office of Planning and Budget, the director of the Office of Treasury and Fiscal Services, the state auditor, ~~the Comptroller General, and the Office of Legislative Budget Analyst~~ the Senate Budget Office, and the House Budget Office."

#### SECTION 25.

Title 8 of the Official Code of Georgia Annotated, relating to buildings, is amended by striking Code Section 8-2-144, relating to accounting of certain fees by the Commissioner of Insurance, and inserting in its place a new Code Section 8-2-144 to read as follows:

"8-2-144.

The Commissioner of Insurance shall file a report on or before December 15 of each year accounting for all fees received by the Commissioner under this part and Part 3 of this article for the preceding 12 month period and for the actual costs of the inspection programs under this part and Part 3 of this article for the preceding 12 month period. Such report shall be provided to the chairpersons of the House Appropriations Committee, the Senate Appropriations Committee, the House Governmental Affairs Committee, and the Senate Regulated Industries and Utilities Committee, the director of the Office of Planning and Budget, ~~and the director of the Legislative~~ Senate Budget Office, and the director of the House Budget Office."

#### SECTION 26.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking subsection (a) of Code Section 15-6-77.4, relating to certain additional divorce case filing fees, and inserting in its place a new subsection (a) to read as follows:

"(a) In addition to any fees required in Code Sections 15-6-77, 15-6-77.2, 15-6-77.3, and 47-14-51, for filing each divorce case, the clerk of superior court shall charge an additional fee of \$5.00. Each clerk of the superior court shall collect the additional fees

for divorce cases as provided in this Code section and shall pay such moneys over to the Georgia Superior Court Clerks' Cooperative Authority by the last day of the month there following, to be deposited by the authority into the general treasury. The authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this Code section and shall submit such report and accounting to the Office of Planning and Budget, the Legislative House Budget Office, and the Senate Budget Office no later than 60 days after the last day of the preceding quarter."

#### **SECTION 27.**

Said title is further amended by striking Code Section 15-9-60.1, relating to certain additional marriage license fees, and inserting in its place a new Code Section 15-9-60.1 to read as follows:

"15-9-60.1.

In addition to any fees required in Code Section 15-9-60 for receiving marriage applications, issuing marriage licenses, and recording relative thereto, the judge of the probate court shall charge an additional fee of \$15.00 for issuing a marriage license. No amount of this additional fee shall be paid into the Judges of the Probate Courts Retirement Fund of Georgia provided for in Chapter 11 of Title 47 or be used for the purpose of calculating retirement benefits for judges of the probate courts. Each judge of the probate court shall collect the additional fees for issuing marriage licenses as provided in this Code section and shall pay such moneys over to the Georgia Superior Court Clerks' Cooperative Authority by the last day of the month there following, to be deposited by the authority into the general treasury. The authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this Code section and shall submit such report and accounting to the Office of Planning and Budget, the Legislative House Budget Office, and the Senate Budget Office no later than 60 days after the last day of the preceding quarter."

#### **SECTION 28.**

Said title is further amended by striking paragraph (3) of subsection (e) of Code Section 15-18-12, relating to judicial circuit travel expenses, and inserting in its place a new paragraph (3) to read as follows:

"(3) In determining the travel budget for each judicial circuit, the council shall consider the budget request submitted by the district attorney of each judicial circuit, the geographic size and the caseload of each circuit, and such other facts as may be relevant. The council is authorized to establish a contingency reserve of not more than 3 percent of the total amount appropriated by the General Assembly in order to meet any expenses which could not be reasonably anticipated. The council shall submit to each district attorney, the state auditor, ~~and the legislative budget analyst the House Budget Office, and the Senate Budget Office~~ a monthly report showing the budget amount of expenditures made under the travel budget. The council may periodically review and adjust said budget as may be necessary to carry out the purposes of this

Code section."

### **SECTION 29.**

Said title is further amended by striking Code Section 15-21-74, relating to payment of certain amounts of the Georgia Superior Court Clerks' Cooperative Authority, and inserting in its place a new Code Section 15-21-74 to read as follows:

"15-21-74.

The sums provided for in Code Section 15-21-73 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and forfeited bonds and shall be paid over to the Georgia Superior Court Clerks' Cooperative Authority by the last day of the month there following, to be deposited by the authority into the general treasury. The authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this article and shall submit such report and accounting to the Office of Planning and Budget, the Legislative House Budget Office, and the Senate Budget Office no later than 60 days after the last day of the preceding quarter."

### **SECTION 30.**

Said title is further amended by striking Code Section 15-21-113, relating to payment of certain amounts to the Georgia Superior Court Clerks' Cooperative Authority, and inserting in its place a new Code Section 15-21-113 to read as follows:

"15-21-113.

The sums provided for in Code Section 15-21-112 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid over by the last day of the following month to the Georgia Superior Court Clerks' Cooperative Authority for remittance to the Georgia Crime Victims Compensation Board, to be deposited into the Georgia Crime Victims Emergency Fund. The authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this article and shall submit such report and accounting to the Office of Planning and Budget, the Legislative House Budget Office, and the Senate Budget Office no later than 60 days after the last day of the preceding quarter."

### **SECTION 31.**

Said title further amended by striking subsection (c) of Code Section 15-21A-7, relating to the reporting and accounting system of the Georgia Superior Court Clerks' Cooperative Authority, and inserting in its place a new subsection (c) to read as follows:

"(c) The authority shall, on a quarterly basis, make a detailed report and accounting of all fines and fees collected and remitted by any court and shall submit such report and accounting to the General Oversight Committee for the Georgia Public Defender Standards Council, the Office of Planning and Budget, the Chief Justice of the Supreme Court of Georgia, the Legislative House Budget Office, and the Senate Budget Office no later than 60 days after the last day of the preceding quarter."

**SECTION 32.**

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking paragraph (3) of subsection (c) of Code Section 17-12-26, relating to the budget of the Georgia Public Defender Standards Council, and inserting in its place a new paragraph (3) to read as follows:

"(3) In determining the travel budget for each judicial circuit, the council shall consider the budget request submitted by the circuit public defender of each judicial circuit, the geographic size and the caseload of each circuit, and other facts as may be relevant. The council is authorized to establish a contingency reserve of not more than 3 percent of the total amount appropriated by the General Assembly in order to meet any expenses which could not be reasonably anticipated. The council shall submit to each circuit public defender, the state auditor, ~~and the legislative budget analyst the Senate Budget Office, and the House Budget Office~~ a monthly report showing the budget amount of expenditures made under the travel budget. The council may periodically review and adjust the travel budget as may be necessary to carry out the purposes of this subsection."

**SECTION 33.**

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by striking subsections (a) and (c) of Code Section 20-2-320, relating to the Education Information Steering Committee, and inserting in their place new subsections (a) and (c), respectively, to read as follows:

"(a) The Governor shall appoint a steering committee, which shall be named the Education Information Steering Committee, composed of representatives from the Department of Education, the Department of Technical and Adult Education, the Board of Regents of the University System of Georgia, the office of the Governor, the Office of Planning and Budget, the Department of Audits and Accounts, the Georgia Technology Authority, the Department of Early Care and Learning, the Professional Standards Commission, the Office of Student Achievement, the State Data and Research Center at the Georgia Institute of Technology, the Georgia Public Telecommunications Commission, ~~the Legislative Budget Office, the Senate Budget Office, the House Budget Office~~, and local school systems. The steering committee shall identify the data required to implement the Quality Basic Education Program on a fiscally sound basis and the data required to evaluate the effectiveness of the components of public education in Georgia. The steering committee shall identify data that shall be required from local units of administration, public libraries, public colleges and universities through the Board of Regents of the University System of Georgia, pre-kindergarten programs, the Professional Standards Commission, and postsecondary technical colleges and schools for the implementation of this article. Further, the steering committee shall develop a design for a state-wide comprehensive educational information system which will provide for the accurate, seamless, and timely flow of information from local and regional education agencies, units of the University System of Georgia, and technical schools and colleges to the state. The design shall include

hardware, software, data, collection methods and times, training, maintenance, communications, security of data, and installation specifications and any other relevant specifications needed for the successful implementation of this system. The state-wide comprehensive educational information system shall not use a student's social security number or an employee's social security number in violation of state or federal law to identify a student or employee. The steering committee shall present such recommendations to the Education Coordinating Council. Upon approval of the boards of the respective education agencies, the steering committee shall issue appropriate requests for proposals to implement a state-wide comprehensive educational information system, subject to appropriation by the General Assembly. The State Data and Research Center, at the direction of the Education Coordinating Council and working through the steering committee, shall initiate contracts with appropriate vendors and local units of administration for the procurement of services, purchase of hardware and software, and for any other purpose as directed by the Education Coordinating Council, consistent with appropriation by the General Assembly."

"(c) For the purpose of this article, authorized educational agencies shall be the Department of Education; the Department of Early Care and Learning; the Board of Regents of the University System of Georgia; the Department of Technical and Adult Education; the Education Coordinating Council; the Professional Standards Commission; the State Data and Research Center and units under contract to the State Data and Research Center; the Office of Student Achievement; the education policy and research components of the office of the Governor; the Office of Planning and Budget; the ~~Legislative Budget Office~~; the House Research Office; and the Senate Research Office. Any information collected over the state-wide comprehensive educational information system, including individual student records and individual personnel records, shall be accessible by authorized educational agencies, provided that any information which is planned for collection over the system but which is temporarily being collected by other means shall also be accessible by authorized educational agencies and provided, further, that adequate security provisions are employed to protect the privacy of individuals. All data maintained for this system shall be used for educational purposes only. In no case shall information be released by an authorized educational agency which would violate the privacy rights of any individual student or employee. Information released by an authorized educational agency in violation of the privacy rights of any individual student or employee shall subject the authorized educational agency to all penalties under applicable state and federal law. Any information collected over the state-wide comprehensive educational information system which is not stored in an individual student or personnel record format shall be made available to the Governor and the House and Senate Appropriations, Education, and Higher Education committees, except information otherwise prohibited by statute. Data which are included in an individual student record or individual personnel record format shall be extracted from such records and made available in nonindividual record format for use by the Governor, committees of the General Assembly, and agencies other than authorized educational agencies."

**SECTION 34.**

Said title is further amended by striking Code Section 20-3-133, relating to certain payments to local operating authorities, and inserting in its place a new Code Section 20-3-133 to read as follows:

"20-3-133.

There shall be paid to every local operating authority which shall have established a junior college under this article, upon which construction had commenced prior to January 1, 1964, and which is not operated as a unit of the university system under the board of regents an amount which shall be determined on the basis of a budget for each fiscal year, developed pursuant to a formula agreed upon by the local operating authority, the director of the Senate Budget Office, the director of the House Budget Office, and the director of the Office of Planning and Budget, and the legislative budget analyst. Budgets prepared pursuant to this authority shall be for expenses incurred by a junior college for educational and general expenditures as set forth in the latest edition of the publication entitled 'College and University Business Administration.' Such formula shall include financial participation from the local operating authority to include student matriculation fees and funds derived from not less than a one-half nor more than a three-fourths mill tax established by the local operating authority on the ad valorem tax digest of its political subdivision. No state funds shall be appropriated for capital construction. Expenditure under this article shall be audited annually by the Department of Audits and Accounts."

**SECTION 35.**

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended by striking subsection (e) of Code Section 28-4-2, relating to powers of the Legislative Services Committee, and inserting in its place a new subsection (e) to read as follows:

"(e) The committee shall contract with a licensed certified public accountant or certified public accounting firm to conduct annually in accordance with accepted accounting principles a financial audit of legislative funds and expenditures. Such audit shall detail the expenditures of the following offices of the legislative branch: Lieutenant Governor, Secretary of the Senate, Senate, Speaker of the House of Representatives, Clerk of the House of Representatives, House of Representatives, Office of Legislative Counsel, Office of Legislative Budget Analyst, and Office of Legislative Fiscal Officer."

**SECTION 36.**

Said title is further amended by striking Code Section 28-4-6, relating to the legislative fiscal officer and legislative budget analyst, and inserting in its place a new Code Section 28-4-6 to read as follows:

"28-4-6.

(a) The Legislative Services Committee is authorized to employ a legislative fiscal

officer for the legislative branch of government, ~~and the fiscal officer and personnel to assist him shall be a part of the Office of Legislative Counsel.~~ The fiscal officer shall act as the bookkeeper-comptroller for the legislative branch of government and shall maintain an account of legislative expenditures and commitments. ~~He Such fiscal officer~~ shall maintain an inventory of the equipment, furnishings, and nonexpendable items belonging to the legislative branch. ~~He Such fiscal officer~~ shall prepare and sign vouchers pertaining to the expenditure of legislative funds. ~~He Such fiscal officer~~ shall prepare and sign all warrants for the expenditure of funds appropriated to and available to the legislative branch of government. Such warrants shall be paid by the fiscal officer, and it shall not be necessary that they be countersigned by the Comptroller General. All payments from funds appropriated to the legislative branch of government shall be made by the fiscal officer, and reference in any other law to any other official or person in connection with any duties pertaining to such payments shall be deemed to refer to the fiscal officer; all duties of any such other official or person in connection therewith are transferred to the fiscal officer. The fiscal officer shall be under such bond as the Legislative Services Committee shall prescribe, and the premium thereon shall be paid from funds appropriated to the legislative branch of government. The fiscal officer shall have such other duties as shall be prescribed by the committee.

(a-1)(b) The legislative fiscal officer is authorized on behalf of the legislative branch to pay any properly authorized invoice which does not exceed \$5,000.00. Any invoice which exceeds \$5,000.00 may not be paid by such fiscal officer without prior approval from the committee. The committee may provide for such approval to be given at meetings of the committee, or in writing between meetings by a majority of the members of the committee, or in such other manner as the committee may establish. All invoices shall contain in detail a description of the work performed, materials used or purchased, and any other information pertinent to the obligation. Before the fiscal officer may pay any invoice, a requisition or purchase order covering such invoice and signed by the person or persons authorized by the Legislative Services Committee to do so plus evidence of delivery must have been submitted to the fiscal officer. A list of all invoices which have been paid shall be submitted by the fiscal officer to the committee on a monthly basis.

(b) ~~The Legislative Services Committee is authorized to employ a legislative budget analyst to assist the General Assembly and its committees in connection with appropriations and budgetary matters. The legislative budget analyst shall render assistance and give advice to the appropriations committees of the Senate and the House of Representatives. He is authorized to request information and material from all state departments, boards, bureaus, commissions, committees, authorities, and agencies in connection with his duties; and all such departments, boards, bureaus, commissions, committees, authorities, and agencies are directed to furnish such information and material as he shall request. The legislative budget analyst shall perform such other duties as the General Assembly, the Legislative Services Committee, and the appropriations committees shall prescribe.~~

(c) A majority vote of the total membership of the Legislative Services Committee

shall be necessary to employ the legislative fiscal officer ~~and the legislative budget analyst.~~

### **SECTION 37.**

Said title is further amended by striking Code Section 28-4-7, relating to control of joint legislative offices, and inserting in its place a new Code Section 28-4-7 to read as follows:

"28-4-7.

The Office of Legislative Counsel, and the Office of Legislative Fiscal Officer, ~~and the Office of Legislative Budget Analyst~~ shall be under the budgetary control of the Legislative Services Committee. The committee shall provide procedures for the employment of personnel to assist the legislative counsel; and the legislative fiscal officer, ~~and the legislative budget analyst~~; and those ~~three~~ two officials and such personnel shall be compensated under such procedure as the committee shall provide. The ~~three~~ two officials shall have supervision of personnel in their offices relative to the duties of their employment. The committee shall provide office space for the ~~three~~ offices and furnish them with supplies, materials, furniture, furnishings, books, equipment, and services."

### **SECTION 37.1.**

Said title is further amended by inserting a new Code Section 28-5-6 to read as follows:

"28-5-6.

(a) The Senate is authorized to establish and provide for a Senate Budget Office. The House of Representatives is authorized to establish and provide for a House Budget Office.

(b) The director of the Senate Budget Office is authorized to request information and material from all state departments, boards, bureaus, commissions, committees, authorities, and agencies in connection with his or her duties; and all such departments, boards, bureaus, commissions, committees, authorities, and agencies are directed to furnish such information and material as the director shall request.

(c) The director of the House Budget Office is authorized to request information and material from all state departments, boards, bureaus, commissions, committees, authorities, and agencies in connection with his or her duties; and all such departments, boards, bureaus, commissions, committees, authorities, and agencies are directed to furnish such information and material as the director shall request."

### **SECTION 38.**

Said title is further amended by striking paragraph (1) of subsection (c) of Code Section 28-5-42, relating to fiscal note requirements, and inserting in its place a new paragraph (1) to read as follows:

"(c)(1) In the event a bill having a significant impact as described in paragraph (1) of subsection (a) of this Code section is introduced not later than the twentieth day of

any session, the chairperson of the committee to which such bill is referred shall request the director of the Office of Planning and Budget and the state auditor to submit any such fiscal note as to the fiscal effect of any such bill and to file a copy of such fiscal note with the ~~legislative budget analyst~~ Senate Budget Office and the House Budget Office. The chairperson shall make such request after the bill is referred to the committee."

### **SECTION 39.**

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement, is amended by striking subsection (a) of Code Section 35-2-41.1, relating to donation or conveyance of property, equipment, or services to the Department of Public Safety, and inserting in its place a new subsection (a) to read as follows:

"(a) Any offer to donate or convey by deed, gift, rent, lease, or other means any property, equipment, or services to the department shall be made in writing through command channels to the commissioner. If the commissioner approves the offer, he or she shall submit a written proposal of the offer to the board for its approval. A copy of the formal proposal shall be forwarded by the commissioner to the Office of Planning and Budget ~~and the legislative budget analyst, either, the Senate Budget Office, and the House Budget Office,~~ any of which may comment on the proposal."

### **SECTION 40.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers, is amended by striking subsection (b) of Code Section 45-12-85, relating to periodic work programs, and inserting in its place a new subsection (b) to read as follows:

"(b) The Governor through the Office of Planning and Budget shall seek to effect economy, efficiency, decentralization of state government, and sound fiscal management in reviewing budget allotment requests and may make such changes to the budget allotment requests to meet these goals and objectives and which are consistent with and subject to the method and provisions contained in the General Appropriations Act. Upon determination that the requested budget allotment conforms with the approved work program and meets the above-mentioned goals and objectives, the Governor shall execute his or her warrant on the treasury for the funds included in the approved budget allotment. Notwithstanding any authorization for expenditure included in an appropriations Act, all appropriations in excess of the approved budget allotments for the budget year, as determined by the Office of Planning and Budget, shall cease to be an obligation of the state. The Office of Planning and Budget shall notify the House Budget Office of Legislative Budget Analyst and the Budgetary Responsibility Oversight Committee Senate Budget Office of any such action with appropriate supporting information."

### **SECTION 41.**

Said title is further amended by striking subsection (d) of Code Section 45-12-95, relating

to certain duties of the Office of Planning and Budget, and inserting in its place a new subsection (d) to read as follows:

"(d) The Office of Planning and Budget must review and approve all proposed cost-saving initiatives prior to their implementation for the implementing agency to be eligible for receipt of financial incentives. However, as part of this review, the Office of Planning and Budget must consult with a cross section of agencies and the Office of Legislative Budget Analyst House Budget Office and the Senate Budget Office."

#### **SECTION 42.**

Said title is further amended by striking Code Section 45-12-110, relating to federal assistance requirements, and inserting in its place a new Code Section 45-12-110 to read as follows:

"45-12-110.

(a) Any state department, board, bureau, commission, authority, or other state agency, except the Board of Regents of the University System of Georgia and its employees, intending to apply for any new program of federal assistance under any federal program shall notify the ~~legislative budget analyst~~ House Budget Office, the Senate Budget Office, and the director of the Office of Planning and Budget of its intention to apply for such federal assistance at least 30 days prior to filing the application for such assistance. Such notification shall include a summary description of the proposed federal assistance project, the amount of federal funds to be requested, the amount of state matching funds, if any, to be required in connection with obtaining federal assistance, and the period of time to be covered by the proposed federal assistance project.

(b) The ~~legislative budget analyst~~ House Budget Office, the Senate Budget Office, and the director of the Office of Planning and Budget, acting jointly or independently, are authorized and directed to devise and distribute such forms as may be necessary to carry out subsection (a) of this Code section and, in connection therewith, to adopt and promulgate such rules and regulations as may be necessary to ensure compliance with said subsection."

#### **SECTION 43.**

Said title is further amended by striking paragraph (25) of subsection (c) of Code Section 45-13-22, relating to distribution of Georgia Laws and House and Senate journals, and inserting in its place a new paragraph (25) and (25.1) to read as follows:

"(25) ~~Legislative budget analyst~~ House Budget Office — one set;

(25.1) Senate Budget Office — one set;"

#### **SECTION 44.**

Said title is further amended by striking Code Section 45-20-7, relating to legislative branch employees, and inserting in its place a new Code Section 45-20-7 to read as follows:

"45-20-7.

Any other provision of this article to the contrary notwithstanding, an employee of the legislative branch of government may become a covered employee in the manner provided for in this Code section. As relates to employees in the office of the Lieutenant Governor, the Lieutenant Governor shall act. As related to employees of the Senate, its officers, and its committees, the Lieutenant Governor President Pro Tempore shall act. As relates to employees in the office of the Speaker of the House of Representatives and employees of the House, its officers, and its committees, the Speaker of the House shall act. As relates to employees in the office of the Secretary of the Senate, the Secretary of the Senate shall act. As relates to employees in the office of the Clerk of the House of Representatives, the Clerk of the House shall act. As relates to employees in the Office of Legislative Counsel, the legislative counsel shall act. ~~As relates to employees in the Office of the Legislative Budget Analyst, the legislative budget analyst shall act.~~ As relates to employees in the Office of Legislative Fiscal Officer, the legislative fiscal officer shall act. The above officers or officials shall notify the state merit system in writing of the positions or employees which are to become covered under this article and the effective date thereof. On that date, this article, as it relates to such covered employees, shall apply."

#### SECTION 45.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by striking paragraph (5) of subsection (e) of Code Section 50-5A-11, relating to certain nonpublic records, and inserting in its place a new paragraph (5) to read as follows:

"(5) Given to the Governor, the Attorney General and the Department of Law, the Office of Planning and Budget, officers of the General Assembly, the Legislative House Budget Office, the Senate Budget Office, the state auditor and the Department of Audits and Accounts, or the State Depository Board for use and public disclosure in the ordinary performance of those officers' and offices' duties."

#### SECTION 46.

Said title is further amended by striking Code Section 50-25-7.1, relating to the technology empowerment fund to be administered by the Georgia Technology Authority, and inserting in its place a new Code Section 50-25-7.1 to read as follows:

"50-25-7.1.

- (a) The authority is authorized and directed to establish a technology empowerment fund to be administered by the authority. The fund shall consist of such moneys appropriated or otherwise available to the authority as the board may determine from time to time to deposit therein. Subject to the appropriations process, the decision-making and priority-setting responsibilities for allocating these funds are vested in the chief information officer and the director of the Office of Planning and Budget.
- (b) The chief information officer is authorized to identify and select individual

projects, initiatives, and systems to improve service delivery to be funded through the technology empowerment fund. Such projects shall demonstrate, to the satisfaction of the chief information officer, reduced costs through the use of technology. In identification and selection of such projects, initiatives, and systems, the chief information officer shall give priority to those which provide demonstrable cost savings and improved service delivery on a recurring basis through the employment of technology and training. Eligible projects, initiatives, and systems to receive disbursements from the technology empowerment fund may be selected from agency budget requests. Quarterly reports of the operations of the technology empowerment fund shall be required to be made to the board, the Office of Planning and Budget, and the Legislative Senate Budget Office, and the House Budget Office to ensure proper oversight and accountability.

(c) Each project or initiative developed and supported from the technology empowerment fund shall employ technology that is compatible with the architecture and standards established by the authority and shall be accounted for by a discrete account established for the individual project or initiative item in the operating budget and capital budget.

(d) A steering committee composed of the chairperson of the House Appropriations Committee or his or her designee from among the membership of the committee, the chairperson of the Senate Appropriations Committee or his or her designee from among the membership of the committee, the director of the Office of Planning and Budget, ~~the legislative budget analyst the House Budget Office, the Senate Budget Office~~, the state auditor, and a representative from the Governor's office shall advise and consult with the chief information officer regarding initiatives to receive funding from the technology empowerment fund and shall receive quarterly reports from the chief information officer as to the status of funded projects."

#### **SECTION 47.**

Said title is further amended in Code Section 50-34-17, relating to the OneGeorgia Authority Overview Committee, by striking subsection (a) and inserting in its place a new subsection (a) to read as follows:

"(a) There is established the OneGeorgia Authority Overview Committee to be composed of one member of the House of Representatives to be appointed by the Speaker of the House of Representatives, one member of the Senate to be appointed by the President of the Senate, ~~the director of the Senate Budget Office or his or her designee, the director of the House Budget Office or his or her designee, and~~ two members of the General Assembly to be appointed by the Governor, ~~and the director of the Legislative Budget Office~~. The legislative members shall serve for terms as members of the committee concurrent with their terms of office as members of the General Assembly. The first members of the committee shall be appointed by not later than July 1, 2000. Thereafter, their successors shall be appointed during the first 30 days of each regular legislative session which is held immediately following the election of members of the General Assembly."

**PART IV**  
**SECTION 48.**

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended by repealing in its entirety Code Section 28-5-5, relating to the Budgetary Responsibility Oversight Committee, which reads as follows:

"28-5-5.

- (a) There is created the Budgetary Responsibility Oversight Committee which shall be composed of six members of the House of Representatives appointed by the Speaker of the House of Representatives and six members of the Senate appointed by the President of the Senate. The members of such committee shall be selected within ten days after the convening of the General Assembly in each odd-numbered year and shall serve until their successors are appointed.
- (b) The Speaker of the House of Representatives shall appoint a member of the committee to serve as chairperson and the President of the Senate shall appoint members of the committee to serve as vice chairperson and secretary during each even-numbered year. The President of the Senate shall appoint a member of the committee to serve as chairperson and the Speaker of the House of Representatives shall appoint members to serve as vice chairperson and secretary during each odd-numbered year. Such committee shall meet at least six times each year and, upon the call of the chairperson, at such additional times as deemed necessary by the chairperson.
- (c) It shall be the duty of such committee to consult with the Governor and the Office of Planning and Budget concerning the development and implementation of the strategic planning process, the development of outcome measures for program evaluation, and the implementation of related actions.
- (d) It shall be the duty of such committee to review and evaluate the following:
  - (1) Information on new programs submitted in accordance with Code Section 45-12-88;
  - (2) The continuation budget report submitted in accordance with Code Section 45-12-75.1;
  - (3) The strategic plans for the state and individual departments submitted by the Office of Planning and Budget;
  - (4) Program evaluation reports submitted in accordance with Code Section 45-12-178;
  - (5) Information or reports to be submitted by the Office of Planning and Budget identifying moneys received and purposes for which moneys are expended in any case in which the receipt or expenditure is not contemplated by an appropriations Act; and
  - (6) Such other information or reports as deemed necessary by such committee.
- (e) The Office of Planning and Budget and the head of each budget unit shall cooperate with such committee and provide such information or reports as requested by the committee for the performance of its functions.
- (f) The committee shall make an annual report of its activities and findings to the membership of the General Assembly and the Governor within one week of the convening of each regular session of the General Assembly. The chairperson of the

committee shall deliver written executive summaries of such report to the members of the General Assembly prior to the adoption of the General Appropriations Act each year.

(g) The members of the committee shall receive the allowances authorized for legislative members of legislative committees. The funds necessary to pay such allowances shall come from funds appropriated to the House of Representatives and the Senate.

(h) The committee shall be authorized to request that a performance audit be conducted for any department which the committee deems necessary."

#### **SECTION 49.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers, is amended by repealing in its entirety Code Section 45-12-75.1, relating to the annual continuation budget report, which reads as follows:

"45-12-75.1.

(a) On or before October 1 of 1994 and each year thereafter, the Governor, through the Office of Planning and Budget, shall prepare and submit to the Budgetary Responsibility Oversight Committee a continuation budget report. On or before May 1 of 1994 and every year thereafter, the Governor, through the Office of Planning and Budget, shall consult and coordinate with the chairperson of the Budgetary Responsibility Oversight Committee to develop a list of agencies and programs in agencies which will be included in the continuation budget report for the year. Each state department shall be included in the continuation budget report not less than once every five years. The continuation budget report shall contain a detailed analysis of the funds necessary to provide services in the current fiscal year for each state agency and program examined. Such report shall address all programs and shall include a description of the purposes and accomplishments of the programs.

(b) The committee shall consider the budget report prepared pursuant to this Code section in conjunction with the audit report prepared pursuant to paragraph (4) of Code Section 50-6-24.

(c) The committee shall submit to the membership of the General Assembly within one week of the convening of each regular session of the General Assembly a list of all programs included in the continuation budget report for each department examined as well as actions recommended, if any, by the committee.

(d) It is the intent of this Code section to examine all state departments not less than once every five years."

#### **SECTION 50.**

Said title is further amended by striking Code Section 45-12-88, relating to information required to be furnished to the Budgetary Responsibility Oversight Committee, and inserting in its place a new Code Section 45-12-88 to read as follows:

"45-12-88.

~~When any budget unit has plans to institute any new program, it shall be the duty of the head of such unit to furnish to the Budgetary Responsibility Oversight Committee, on~~

~~September 1 prior to the convening date of the session at which appropriations to finance such program are to be sought, a description of the program, the reason for seeking to institute such program, the operating procedure of such program, the manner in which it conforms to the organization's strategic plan as well as the state strategic plan, the extent to which the facilities and staff to implement or provide the program will be decentralized, and any other information which would be helpful to the members of the committee in determining whether or not to appropriate funds therefor. The members shall also be furnished with the projected cost to implement the program fully. Reserved."~~

#### **SECTION 51.**

Said title is further amended by striking subsection (b) of Code Section 45-12-175, relating to preparation of long-range development plans, and inserting in its place a new subsection (b) to read as follows:

"(b) The Office of Planning and Budget shall cause to be prepared and coordinate the development of strategic plans by departments, boards, bureaus, commissions, institutions, authorities, and other agencies to ensure that the state-wide directions are met. The Office of Planning and Budget shall:

- (1) Ensure that the focus of the various plans do not conflict with the general state goals;
- (2) Offer assistance to the various departments, boards, bureaus, commissions, institutions, authorities, and other agencies of state government in the design and execution of their programs and be the coordinating agency for the separate department or agency proposals; and
- (3) Phase in implementation by the various departments, boards, bureaus, commissions, institutions, authorities, and other agencies of state government. ~~By September 1 of 1993 and each year thereafter until all departments, boards, bureaus, commissions, institutions, authorities, and other agencies have initiated strategic planning, the Office of Planning and Budget shall notify the Budgetary Responsibility Oversight Committee as to which departments, boards, bureaus, commissions, institutions, authorities, and other agencies will initiate strategic planning in the coming year; and~~  
~~"Present such strategic plans, in cooperation with the affected department, board, bureau, commission, institution, authority, or other agency, to the Budgetary Responsibility Oversight Committee."~~

(4)

#### **SECTION 52.**

Said title is further amended by repealing in its entirety Code Section 45-12-178, relating to certain review of state programs and functions, which reads as follows:

~~"45-12-178.~~

(a) It is the intent of the Governor and the General Assembly that taxpayers' money be spent in the most effective and efficient manner possible in order to obtain the

maximum benefit from such expenditures. In furtherance of this objective, the Governor, through the Office of Planning and Budget, shall assist the General Assembly in establishing an ongoing review and evaluation of all programs and functions in state government.

(b) The chairperson of the Budgetary Responsibility Oversight Committee shall maintain a list of those programs for which the committee is requesting evaluations. The chairperson shall provide the list, and any subsequent revisions to the list, to the director of the Governor's Office of Planning and Budget and to the state auditor.

(c) The Office of Planning and Budget, the Department of Audits and Accounts, and the Research Office of the Budgetary Responsibility Oversight Committee shall undertake and complete evaluations on as many of those requested programs as resources will permit. The Office of Legislative Budget Analyst, the Board of Regents of the University System of Georgia, and all other state agencies are authorized and directed to provide assistance to the Office of Planning and Budget, the Department of Audits and Accounts, and the Research Office of the Budgetary Responsibility Oversight Committee, as requested, in the performance of these evaluations. The Office of Planning and Budget, the Department of Audits and Accounts, and the Research Office of the Budgetary Responsibility Oversight Committee are also authorized to contract with private contractors to perform, or assist in the performance of, these evaluations.

(d) The Office of Planning and Budget, the Department of Audits and Accounts, and the Research Office of the Budgetary Responsibility Oversight Committee shall report to the Budgetary Responsibility Oversight Committee on the results of program evaluations as such evaluations are completed. Such reports shall include:

- (1) Appropriate background information on the affected program, including how and why it was initiated, its functions, what group it serves, how it is organized structurally and geographically, what are its staff size and composition, and what is its workload;
  - (2) Financial information including the source and amounts of funding and unit costs, where applicable;
  - (3) A description of the program's mission, goals, and objectives and an assessment of the extent to which the program has performed in comparison;
  - (4) Comparisons with other applicable public and private entities as to their experiences, service levels, costs, and staff resources required;
  - (5) Recommendations concerning the program, including whether it should be continued as it is currently operated, continued with identified steps to remediate deficiencies or institute improvements, or discontinued. Consideration should also be given to possible privatization or consolidation with other similar programs;
  - (6) Information describing the locations at which the program is operated and administered and the extent to which the operation and administration could be decentralized; and
  - (7) Such other information as is identified as appropriate.
- (e) It is the intent of the General Assembly that all programs be evaluated at least every

ten years.

(f) Department heads shall respond, in writing, within 90 days of the receipt of the report to recommendations and findings by the Office of Planning and Budget or the Department of Audits and Accounts setting forth in detail the action to be taken by said department to address the recommendations and findings. Said written response shall be made to the Office of Planning and Budget, the Department of Audits and Accounts, and the Budgetary Responsibility Oversight Committee.

(g) The Research Office of the Budgetary Responsibility Oversight Committee shall verify with state departments the implementation of the departments' plans set forth in their 90 day responses as submitted in accordance with subsection (f) of this Code section. The Research Office shall inform the Budgetary Responsibility Oversight Committee about each department's progress at reasonable intervals."

**PART V  
SECTION 53.**

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

**SECTION 54.**

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

Senator Hill of the 4th moved that the Senate agree to the House substitute to SB 254.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 49, nays 1; the motion prevailed, and the Senate agreed to the House substitute to SB 254.

The following bill was taken up to consider House action thereto:

SB 258. By Senators Douglas of the 17th, Staton of the 18th, Johnson of the 1st, Shafer of the 48th, Balfour of the 9th and others:

A BILL to be entitled an Act to amend Code Section 15-12-1 of the O.C.G.A., relating to exemptions from jury duty, so as to provide that any service member on ordered military duty and his or her spouse may be exempt from jury duty; to amend Article 3 of Chapter 4 of Title 26 of the O.C.G.A., relating to the practice of pharmacy, so as to provide that a service member whose license expired while he or she was on duty outside the state may practice pharmacy on such expired license; to amend Code Section 27-2-4 of the O.C.G.A., relating to honorary hunting and fishing licenses, so as to provide for an honorary license for returning veterans; to amend Article 2 of Chapter 5 of Title 40 of the O.C.G.A.; to amend Chapter 1 of Title 43 of the O.C.G.A.; to amend Article 1 of Chapter 7 of Title 44 of the O.C.G.A.; to amend Article 1 of Chapter 5 of Title 46 of the O.C.G.A.; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 15-12-1 of the Official Code of Georgia Annotated, relating to exemptions from jury duty, so as to provide that any service member on ordered military duty and his or her spouse may be exempt from jury duty; to amend Article 3 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to the practice of pharmacy, so as to provide that a service member whose license expired while he or she was on duty outside the state may practice pharmacy on such expired license; to amend Code Section 27-2-4 of the Official Code of Georgia Annotated, relating to honorary hunting and fishing licenses, so as to provide for an honorary license for returning veterans; to amend Code Section 38-2-9 of the Official Code of Georgia Annotated, relating to the state retired list, officers, enlisted persons, grade upon grade transfer to list, return to active duty, and computation of time, so as to change conditions for transferring certain personnel to the retired list; to amend Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to the issuance, expiration, and renewal of drivers' licenses, so as to provide that a service member whose driver's license expires

while he or she is on military duty outside the state may drive on such expired license for six months; to amend Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to professions and businesses, so as to provide that a service member whose professional license expires while he or she is on military duty outside the state may use such expired license for six months; to amend Article 1 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to general provisions relative to landlord and tenant, so as to provide that under certain circumstances a service member may terminate a residential rental agreement; to amend Article 1 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to general provisions relative to telephone and telegraph service, so as to provide that a service member who is transferred may, under certain conditions, terminate a wireless telecommunications contract; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

Code Section 15-12-1 of the Official Code of Georgia Annotated, relating to exemptions from jury duty, is amended by inserting at the end thereof a new subsection to read as follows:

"(c)(1) As used in this subsection, the term:

(A) 'Ordered military duty' means any military duty performed in the service of the state or of the United States including but not limited to attendance at any service school or schools conducted by the armed forces of the United States which requires a service member to be at least 50 miles from his or her home.

(B) 'Service member' means an active duty member of the regular or reserve component of the United States Armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard who was on ordered federal duty for a period of 90 days or longer.

(2) Any service member on ordered military duty and the spouse of any such service member who requests to be excused or deferred shall be excused or deferred from jury duty upon presentation of either a copy of the official military orders or a written verification signed by the service member's commanding officer of such duty."

**SECTION 2.**

Article 3 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to the practice of pharmacy, is amended by inserting immediately following Code Section 26-4-44.1 a new Code section to read as follows:

"26-4 -44.2.

(a) As used in this Code section, the term 'service member' means an active duty member of the regular or reserve component of the United States Armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard who was on ordered federal duty for a period of 90 days or longer.

(b) Any service member whose license issued pursuant to this article expired while

such service member was serving on active duty outside the state shall be permitted to practice pharmacy in accordance with such expired license and shall not be charged with a violation of this chapter related to practicing pharmacy with an expired license for a period of six months from the date of his or her discharge from active duty or reassignment to a location within the state. Any such service member shall be entitled to renew such expired license without penalty within six months after the date of his or her discharge from active duty or reassignment to a location within the state. The service member must present to the board either a copy of the official military orders or a written verification signed by the service member's commanding officer to waive any charges."

### **SECTION 3.**

Code Section 27-2-4 of the Official Code of Georgia Annotated, relating to honorary hunting and fishing licenses, is amended by inserting at the end thereof a new subsection to read as follows:

- "(g)(1) As used in this subsection, the term 'returning veteran' means a person who is discharged from active duty as a member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard and who was on ordered federal duty for a period of 90 days or longer.
- (2) The department shall issue an honorary hunting and fishing license to any returning veteran which shall entitle him or her to hunt and fish in this state without the payment of fees described in Code Section 27-2-23 for a period of one year following issuance. A returning veteran requesting such an honorary license shall provide proof of his or her discharge."

### **SECTION 4.**

Code Section 38-2-9 of the Official Code of Georgia Annotated, relating to the state retired list, officers, enlisted persons, grade upon grade transfer to list, return to active duty, and computation of time, is amended by striking in its entirety subsection (a) and inserting in lieu thereof the following:

- "(a) Any member of the organized militia who has reached the age of 64 years ~~shall~~ may be retired for the reason of age and ~~shall~~ be transferred to the state retired list by the Governor. A member may be retired for reason of age and transferred to the state retired list by the Governor before reaching 64 years of age in order to conform to the laws and regulations of the United States which are applicable to the organized militia."

### **SECTION 5.**

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to the issuance, expiration, and renewal of drivers' licenses, is amended by inserting at the end thereof the following:

"40-5-37.

- (a) As used in this Code section, the term 'service member' means an active duty

member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard who is on ordered federal duty for a period of 90 days or longer.

(b) Any service member whose Georgia driver's license expired while such service member was serving on active duty outside the state shall be permitted to operate a motor vehicle in accordance with such expired license and shall not be charged with a violation of Code Section 40-5-20 for a period of six months from the date of his or her discharge from active duty or reassignment to a location within the state. The service member must present to the department either a copy of the official military orders or a written verification signed by the service member's commanding officer to waive charges."

#### **SECTION 6.**

Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to professions and businesses, is amended by inserting at the end thereof the following:

"43-1-31.

(a) As used in this Code section, the term 'service member' means an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered federal duty for a period of 90 days or longer.

(b) Any service member whose license to practice a profession issued pursuant to any provision of this title expired while such service member was serving on active duty outside the state shall be permitted to practice such profession in accordance with such expired license and shall not be charged with a violation of this title related to practicing a profession with an expired license for a period of six months from the date of his or her discharge from active duty or reassignment to a location within the state. Any such service member shall be entitled to renew such expired license without penalty within six months after the date of his or her discharge from active duty or reassignment to a location within the state. The service member must present to the applicable professional licensing board either a copy of the official military orders or a written verification signed by the service member's commanding officer to waive any charges."

#### **SECTION 7.**

Article 1 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to general provisions relative to landlord and tenant, is amended by inserting at the end thereof a new Code section to read as follows:

"44-7-22.

(a) As used in this Code section, the term 'service member' means an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National

Guard on ordered federal duty for a period of 90 days or longer.

(b) Any service member may terminate his or her residential rental or lease agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice if any of the following criteria are met:

- (1) The service member is required, pursuant to a permanent change of station orders, to move 35 miles or more from the location of the rental premises;
- (2) The service member is released from active duty or state active duty after having leased the rental premises while on active duty status and the rental premises is 35 miles or more from the service member's home of record prior to entering active;
- (3) After entering into a rental agreement, the service member receives military orders requiring him or her to move into government quarters;
- (4) After entering into a rental agreement, the service member becomes eligible to live in government quarters and the failure to move into government quarters will result in a forfeiture of the service member's basic allowance for housing;
- (5) The service member receives temporary duty orders, temporary change of station orders, or state active duty orders to an area 35 miles or more from the location of the rental premises, provided such orders are for a period exceeding 60 days; or
- (6) The service member has leased the property but prior to taking possession of the rental premises receives a change of orders to an area that is 35 miles or more from the location of the rental premises.

(c) The notice to the landlord pursuant to subsection (b) of this Code section shall be accompanied by either a copy of the official military orders or a written verification signed by the service member's commanding officer.

(d) In the event a service member dies during active duty, an adult member of his or her immediate family may terminate the service member's residential rental or lease agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders showing the service member was on active duty or a written verification signed by the service member's commanding officer and a copy of the service member's death certificate.

(e) Upon termination of a rental agreement under this Code section, the service member is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The service member is not liable for any other rent or damages due to the early termination of the tenancy as provided for in this subpart. Notwithstanding any provision of law to the contrary, if a service member terminates the rental agreement pursuant to this Code section 14 or more days prior to occupancy, no damages or penalties of any kind will be assessable.

(f) The provisions of this Code section shall apply to all residential rental or lease agreements entered into on or after July 1, 2005, and to any renewals, modifications, or extensions of such agreements in effect on such date. The provisions of this Code

section may not be waived or modified by the agreement of the parties under any circumstances."

#### **SECTION 8.**

Article 1 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to general provisions relative to telephone and telegraph service, is amended by inserting at the end thereof the following:

"46-5-8.

(a) As used in this Code section, the term 'service member' means an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered federal duty for a period of 90 days or longer.

(b) Any service member may terminate his or her wireless telecommunications service contract by providing the wireless telecommunications provider with a written notice of termination, effective on the date specified in the notice, which date shall be at least 30 days after receipt of the notice by the wireless telecommunications provider, if any of the following criteria are met:

(1) The service member is required, pursuant to a permanent change of station orders, to move outside the area served by the wireless telecommunications provider or to an area where the type of wireless telecommunications service being provided to the service member is not available from the wireless telecommunications provider;

(2) The service member is discharged or released from active duty or state active duty and will return from such duty to an area not served by the wireless telecommunications provider or where the type of telecommunications service contracted for is not available from the wireless telecommunications provider;

(3) The service member is released from active duty after having entered into a contract for wireless telecommunications service while on active duty status and the wireless telecommunications provider does not provide telecommunications service or the same type of wireless telecommunications service contracted for in the region of the service member's home of record prior to entering active duty;

(4) The service member receives military orders requiring him or her to move outside the continental United States; or

(5) The service member receives temporary duty orders, temporary change of station orders, or active duty or state active duty orders to an area not served by the wireless telecommunications provider or where the type of wireless telecommunications service contracted for is not available from the wireless telecommunications provider, provided such orders are for a period exceeding 60 days.

(c) The written notice to the wireless telecommunications provider must be accompanied by either a copy of the official military orders or a written verification signed by the service member's commanding officer.

(d) Upon termination of a contract under this Code section, the service member is liable for the amount due under the contract prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of

the contract. The service member is not liable for any other fees due to the early termination of the contract as provided for in this Code section.

(e) The provisions of this Code section shall apply to any contract for wireless telecommunications service entered into on or after July 1, 2005, and to any renewals, modifications, or extensions of any such contract in effect on such date and may not be waived or modified by the agreement of the parties under any circumstances."

### SECTION 9.

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

Senator Douglas of the 17th moved that the Senate agree to the House substitute to SB 258.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 51, nays 0; the motion prevailed, and the Senate agreed to the House substitute to SB 258.

The following bill was taken up to consider House action thereto:

HB 538. By Representatives O`Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Cagle of the 49th asked unanimous consent that the Senate insist on its amendment to HB 538.

The consent was granted, and the Senate insisted on its amendment to HB 538.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 36. By Representatives Willard of the 49th, Geisinger of the 48th and Wilkinson of the 52nd:

A BILL to be entitled an Act to revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the O.C.G.A., relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements; to provide that new municipal corporations shall have a minimum amount of time to arrange for service delivery; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to amend Code Section 48-8-89.1 of the O.C.G.A., relating to distribution of joint county and municipal local option sales tax with respect to new qualified municipalities; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 36 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of

Conference Substitute to HB 36 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Wiles of the 37th  
/s/ Senator Shafer of the 48th  
Senator Moody of the 56th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Jones of the 46th  
/s/ Representative Willard of the 49th  
/s/ Representative Wilkinson of the 52nd

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 36

A BILL TO BE ENTITLED  
AN ACT

To revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements applicable to new incorporations; to provide that new municipal corporations shall have a minimum amount of time to arrange for service delivery; to change provisions relating to development requirements for areas to be incorporated; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to provide for the orderly transition of responsibilities and functions to a new municipality from its county and provide for counties to retain certain functions and responsibilities for certain periods of time; to provide for intergovernmental relations; to provide for delayed application of certain laws; to authorize appointment of interim representatives; to provide that a chartering Act may specify any length or lengths for initial terms of office; to authorize the appropriation of funds to the Department of Community Affairs for loans or grants or both to new municipal corporations; to provide for effect with respect to certain county special districts and provide certain protections for the residents of such districts; to provide for the manner of expenditure of certain county special district taxes, fees, and assessments under certain circumstances; to provide for certain auditing and reporting requirements with respect to special district revenues and expenditures in certain counties; to amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to joint county and municipal local option sales tax, so as to change provisions for distribution with respect to certain newly incorporated municipalities and other local governments in the county; to provide for other related matters; to provide for severability; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:****SECTION 1.**

Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, is amended by striking Code Section 36-31-2 thereof, relating to minimum distances between corporate boundaries, and inserting in its place the following:

"36-31-2.

(a) ~~No local Act granting a municipal charter shall be enacted wherein any part of the proposed corporate boundary is less than three miles distance from the corporate boundary of any existing municipal corporation in this state; provided, however, that, if the residents of a certain geographical area within three miles of an existing municipal corporation have been denied annexation to the municipal corporation by the people of the municipal corporation, the residents of such geographical area shall be entitled to incorporate a new municipal corporation at any time within 12 months after such denial, and a local Act granting a municipal charter may be enacted; provided, further, that the population of the area proposed to be incorporated must exceed the population of the existing municipal corporation, and a certificate from the governing authority of the existing municipal corporation or from the judge of the superior court of the county, evidencing the denial of annexation and the population figures, must accompany the certificate of incorporation required by this chapter.~~

(b) ~~Any provision of subsection (a) of this Code section to the contrary, a local Act granting a municipal charter to any area comprising the former boundaries of a municipal corporation the charter of which was repealed by operation of Code Section 36-30-7.1 may be enacted at the regular 1996 or 1997 session of the General Assembly without regard to the proximity of the proposed municipal corporation to an existing municipal corporation.~~

When a municipal corporation is created by local Act as authorized in this chapter, the provisions of Code Section 36-30-7.1 shall not apply for two years from the date the first elected officials of such municipal corporation take office. No later than July 1 following the expiration of such two-year period, the governing authority of the municipal corporation shall file a certification with the Department of Community Affairs stating whether the municipal corporation does or does not meet the standards for an active municipality under subsection (b) of Code Section 36-30-7.1."

**SECTION 2.**

Said Chapter 31 of Title 36 is further amended by striking Code section 36-31-4, relating to standards for areas to be incorporated, and inserting in its place a new Code section to read as follows:

"36-31-4.

To be eligible for original incorporation as a municipal corporation, the area embraced shall be so developed that at least 60 percent of the total number of lots and tracts in the area at the time of incorporation are used for residential, commercial, industrial,

institutional, recreational, or governmental purposes and shall be subdivided into lots and tracts such that at least 60 percent of the total acreage, not counting the acreage used which at the time of incorporation is used for, held for future use for, or subject to a contract for future use for commercial, industrial, governmental, recreational, or institutional purposes, consists of lots and tracts of five acres or less in size."

### SECTION 3.

Said Chapter 31 of Title 36 is further amended by adding at its end new Code sections to read as follows:

"36-31-6.

When a new municipal corporation is created by local Act, the Attorney General shall be responsible for seeking any and all preclearances required in connection with such Act and incorporation under the federal Voting Rights Act of 1965, as amended, until such time as the new municipal corporation notifies the Attorney General that it has the ability to seek any further preclearances required.

36-31-7.

When a new municipal corporation is created by local Act, the governing authority of the municipal corporation shall have all the same powers to license and regulate alcoholic beverages within its territory as did the governing authority of the county when such territory was within the unincorporated area of the county. Without limiting the generality of the foregoing, it is specifically provided that no petition, election, or other condition precedent which might otherwise be required under Title 3 to authorize sales of any alcoholic beverages shall be required in order for the governing authority of the municipality to exercise such powers.

36-31-8.

(a) When a new municipal corporation is created by local Act, the local Act may provide for a transition period not to exceed 24 months for the orderly transition of governmental functions from the county to the new municipal corporation. The local Act may specify the time or times during the transition period (or the method or methods for determining the time or times during the transition period) at which:

- (1) Various governmental functions, services, and responsibilities will be assumed by the new municipal corporation within its territory; and
- (2) The municipal court of the new municipality shall begin to exercise its jurisdiction over various subject matters.

(b) When a chartering local Act so provides for a transition period, the county in which the new municipality is located shall continue to provide within the territory of the new city all government services and functions which it provided as of the date of enactment of the chartering local Act. The county shall continue to provide such services and functions until the end of the transition period; provided, however, that the new city may assume the provision of any service or function at such earlier time as may be specified in the chartering local Act or at such earlier time as may be agreed upon by

the county and the new city.

- (c) When a chartering local Act so provides for a transition period, on and after the first day the initial governing authority takes office, the governing authority may from time to time adopt appropriate measures to initiate collection within the territory of the new city during the transition period of all taxes, fees, assessments, fines and forfeitures, and other moneys. Where a particular tax, fee, assessment, fine, forfeiture, or other amount collected by the city during the transition period is specifically related to the provision of a particular government service or function by the county, the service or function shall continue to be provided by the county during the transition period contingent upon payment by the city of the actual cost of providing such service or function unless otherwise provided in a written agreement between the new city and the county.
- (d) When a chartering local Act so provides for a transition period, the county in which the new city is located shall not from the time of enactment of the charter until the end of the transition period remove from the county road system any road within the territory of the new city except with the agreement of the new city.
- (e) When a chartering local Act so provides for a transition period, the new municipality shall not be subject to the laws specified in this subsection during the transition period; provided, however, that the new city and other political subdivisions may during the transition period commence planning, negotiations, and other actions necessary or appropriate for compliance after the transition period. During the transition period, the new municipality shall not be subject to:

- (1) Chapter 70 of this title, relating to planning and service delivery strategies;
  - (2) Provisions of Code Sections 12-8-31.1 and 12-8-39.2, relating to solid waste planning and solid waste management reporting;
  - (3) Provisions of Code Section 48-13-56, relating to reporting of excise taxes collected and expended pursuant to Article 3 of Chapter 13 of Title 48; and
  - (4) Provisions of Code Section 36-81-8, relating to reporting of local government finances, reporting of revenues derived from a tax levied pursuant to Article 3 of Chapter 13 of Title 48, and reporting of local government services and operations.
- (f) When a chartering local Act so provides for a transition period, upon the termination of the transition period subsections (b) through (e) of this Code section shall cease to apply and the new city shall be a fully functioning municipal corporation and subject to all general laws of this state.
- (g) As of the date a chartering local Act is approved by the Governor or becomes law without such approval, the Governor is authorized to appoint five persons to serve as interim representatives of the newly incorporated municipality until the election of the municipality's first governing authority. The interim representatives shall cease to serve as of the time the members of the first governing authority take office. The function of the interim representatives shall be to facilitate the provision of municipal services and facilities, the collection of taxes and fees, and the negotiation of intergovernmental agreements in preparation of the establishment of the new municipality. The interim representatives shall not have the ability to enter into any binding agreements, to expend public funds, or to incur any liability on behalf of the new municipality. Any

person who is serving as or has served as an interim representative shall be ineligible to qualify for election as a member of the initial governing authority of the new municipality.

36-31-9.

When a new municipal corporation is created by local Act, the chartering local Act may provide for the initial terms of office of members of the governing authority to be of any length or lengths; and the provisions of this Code section shall control over any conflicting provisions of Code Sections 21-2-541.1 and 21-2-541.2.

36-31-10.

The General Assembly may, in connection with the incorporation of a new municipal corporation, at any time (before, after, or contemporaneously with the passage of the chartering Act) appropriate to the Department of Community Affairs funds for grants or loans or both to a specific existing or proposed municipal corporation. When funds are so appropriated, the department shall make grants as specified by recipient, amount, and purpose and loans as specified by recipient, amount, interest rate, term, and purpose in the appropriation unless the chartering Act fails to secure passage or otherwise fails to become effective.

36-31-11.

When a municipal corporation is created by local Act within a county which has a special district for the provision of local government services consisting of the unincorporated area of the county, the territory within the new municipal corporation shall be removed from the special district except to the extent otherwise provided by Code Section 36-31-8 during a transition period and except that the county may continue to levy within such territory any previously imposed tax for the purpose of retiring any special district debt until such time as such debt is retired.

36-31-12.

(a) The General Assembly finds that:

- (1) The purpose of a special services district is to provide special services to a given geographic area and to finance the provision of those services from taxes, fees, and assessments levied in the geographic area which benefits from the services;
- (2) The creation of a municipal corporation within a county which has a special services district for the unincorporated area of the county may result in the special services district being divided into noncontiguous areas or in existing noncontiguous areas of such district being even more remote from each other; and
- (3) The purpose of a special services district is defeated if it becomes divided into noncontiguous areas which are remote from each other and one or more of such noncontiguous areas is subsidizing the provision of services in other such noncontiguous areas.

(b) When a municipal corporation is created by local Act within a county which has a

special district for the provision of local government services consisting of the unincorporated area of the county and following the creation of said municipal corporation the special district is divided into two or more noncontiguous areas, any special district taxes, fees, and assessments collected in such a noncontiguous area shall be spent to provide services in that noncontiguous area.

(c) When a municipal corporation is created by local Act within a county subject to this Code section, the county shall for the fiscal year in which the municipal corporation is chartered and for each of the next two fiscal years have included in its annual audit detailed findings as to:

(1) The amount of any special district taxes, assessments, and fees collected in each noncontiguous area of the special district;

(2) The total amount of expenditures by the county for:

(A) The provision of services within each noncontiguous area of the special district, including only those services which are provided by the county only in the special district; and

(B) The construction and maintenance of facilities for the provision of services referred to in subparagraph (A) of this paragraph; and

(3) The amount by which expenditures stated in paragraph (2) of this subsection exceed or are less than the amount stated in paragraph (1) of this subsection.

(d) The party performing the audit required by subsection (c) of this Code section shall prepare as promptly as is practicable a brief informational summary of the audit findings required by that subsection. The informational summary shall also include a statement of the amount of proceeds collected by the county pursuant to any tax under Article 2 of Chapter 8 of Title 48 which would be allocated to each noncontiguous area of the special district if such area received an allocation equal on a per capita basis to the average per capita allocation to the cities in the county. After each year's summary becomes available, a copy of the summary shall be included with the next ad valorem tax bills mailed by the county to residents of the special district consisting of the unincorporated area of the county.

(e) For purposes of determining applicability of this Code section, a county shall be considered to have a special district for the provision of local government services when a county has created a special district for such purposes pursuant to Article IX, Section II, Paragraph VI of the Constitution or has created a similar district for the provision of services under any other provision of any past or present Constitution or law."

#### **SECTION 4.**

Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to joint county and municipal local option sales tax, is amended by inserting a new subsection (f) at the end of Code Section 48-8-89.1, relating to distribution of the tax upon creation of a new municipal corporation in certain counties, to read as follows:

"(f)(1) This subsection shall apply only when:

(A) A municipal corporation is chartered by local Act within a county which has a

special district for the provision of local government services consisting of the unincorporated area of the county; and

(B) The population of the unincorporated area of the county will, after removal of the population of the new municipality from the unincorporated area, constitute less than 20 percent of the population of the county according to the most recent decennial census.

(2) Notwithstanding any other provision of this Code section, if there exists within any special district in which the tax authorized by this article is imposed a qualified municipality described in paragraph (1) of this subsection which was not a qualified municipality on the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89, such qualified municipality may request the commissioner to give notice of the qualified municipality's existence and status as a qualified municipality as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he or she determines that the requesting entity is not a qualified municipality, within 30 days give written notice of the qualified municipality's existence and status to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality, the effective date of the notice, and a statement of the provisions of this subsection.

(3) Within 60 days after the effective date of the notice referred to in paragraph (2) of this subsection, a new distribution certificate shall be filed with the commissioner for the special district. This distribution certificate shall address only the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate and shall specify as a percentage of the total proceeds of the tax what portion of the proceeds shall be received by the county in which the special district is located and by the new qualified municipality.

(4) Except as otherwise provided in this paragraph, a distribution certificate required by this subsection must be executed by the governing authorities of the county within which the special district is located and each new qualified municipality located wholly or partially within the special district. If a new certificate is not filed within 60 days as required by paragraph (3) of this subsection, the commissioner shall distribute the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate such that the new qualified municipality receives an allocation equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89. Every other qualified municipality shall continue to receive the share provided by the existing distribution certificate or otherwise provided by law. The county shall receive the remaining proceeds of the tax, to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89. For the purpose of determining the population of new qualified municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. For

the purpose of determining population under this Code section, all calculations of population shall be according to the most recent decennial census.

(5) The commissioner shall begin to distribute the proceeds as specified in the certificate applicable to the county and the new qualified municipality or, if such a certificate is not filed, as specified in paragraph (4) of this subsection on the first day of the first month which begins more than 60 days after the effective date of the notice referred to in paragraph (2) of this subsection. The commissioner shall continue to distribute the proceeds of the tax according to the existing certificate and the certificate applicable to the county and the new qualified municipality or, if such a certificate is not filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89."

#### **SECTION 5.**

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

#### **SECTION 6.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

#### **SECTION 7.**

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

Senator Hill of the 32nd moved that the Senate adopt the Conference Committee Report on HB 36.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	E Stoner
Y Cagle	Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D

Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 35, nays 14; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 36.

The following bill was taken up to consider House action thereto:

SB 106. By Senators Stoner of the 6th, Hamrick of the 30th, Thompson of the 5th, Rogers of the 21st, Powell of the 23rd and others:

A BILL to be entitled an Act to amend Code Section 16-12-103 of the Official Code of Georgia Annotated, relating to selling, loaning, or distributing harmful material to minors, so as to define a certain term; to provide that a video game retailer shall display a sign explaining each rating system which appears on a video game offered by such retailer; to provide a penalty; to repeal conflicting laws; and for other purposes.

The House amendment was as follows:

Amend SB 106 by striking "offense." and inserting in its place "offense." on line 25 of page 1.

By striking in their entirety lines 1 and 2 of page 2.

Senator Hill of the 32nd moved that the Senate agree to the House amendment to SB 106.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton

Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 49, nays 0; the motion prevailed, and the Senate agreed to the House amendment to SB 106.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 244 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 244 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Wiles of the 37th  
/s/ Senator Carter of the 13th  
/s/ Senator Staton of the 18th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Burmeister of the 119th  
/s/ Representative Keen of the 179th  
/s/ Representative Burkhalter of the 50th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 244

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to amend certain definitions; to provide for the enforcement of the chapter by the State Election Board; to provide that vacancies in party nomination caused by the withdrawal of the candidate shall not be filled under certain circumstances; to revise the forms of identification that are acceptable in order to register and to vote in this state; to provide for the voting of absentee ballots by mail without a reason; to remove certain limitations on the distribution of absentee ballot applications by certain organizations; to provide for the processing of such absentee ballot applications; to provide that the political affiliation of candidates in special elections shall be shown on the ballot; to provide that a candidate must receive a majority of the votes cast to be elected to office; to provide that nonpartisan elections shall be held in conjunction with the November general election; to provide for qualifying for such nonpartisan election; to provide for certain procedures concerning write-in candidates; to provide for a state write-in absentee ballot for certain electors; to provide procedures for use of such ballot; to provide when absentee ballots must be available; to provide that no absentee ballot shall be issued on the day prior to a primary or election; to provide that certain absentee ballots that are postmarked by the date of the runoff may be received by the registrars up to three days after the runoff; to change the date of certain runoff primaries and elections; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the time of giving notice to be a write-in candidate in special elections; to delete the requirement that the Secretary of State receive all voter registration cards after a system of digitization of voter registration signatures is operational; to provide for the time for challenging the right of an elector to vote who votes by absentee ballot in person; to provide for the

sending of certain notices concerning voter registration; to provide that the individual names of candidates for the office of presidential elector shall not be listed on the ballot; to remove the authorization for counties to use lever-type voting machines; to remove the requirement that optical scanning ballots have a name stub; to provide for notice of preparation of certain voting equipment prior to runoffs; to remove the elector's place of birth from the absentee ballot oath form; to provide that absentee electors whose vote has been challenged must vote by paper or optical scanning ballot; to provide for the posting of certain information at polling places; to provide for additional state-wide poll watchers; to provide for poll watchers for advance voting sites; to limit the number of state-wide poll watchers at individual polling places simultaneously; to prohibit certain activities within close proximity to the locations where advance voting is taking place; to change the forms of identification that are acceptable for voter registration, for absentee voting, and for voting at the polls; to require the county registrars to ensure that certain information is contained on the lists of electors used at polling places; to provide for the confidentiality of certain information; to delete the requirement that poll officers ascertain whether someone timely registered to vote prior to allowing such person to vote a provisional ballot; to limit the requirement that all voters vote provisional ballots when poll hours are extended by court order to elections in which federal candidates are on the ballot; to provide for the use of provisional ballots by electors when voting machines or DRE units malfunction or an emergency exists which prevents the use of such devices; to provide for the call of special elections when held in conjunction with state-wide primaries and elections; to provide for the offense of conspiracy to commit election fraud; to amend Code Section 40-5-103 of the Official Code of Georgia Annotated, relating to fee for identification cards, so as to provide that fees for identification cards for persons who are indigent and need an identification card in order to vote shall be waived under certain circumstances; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by striking paragraphs (5), (9), (22), and (37) of Code Section 21-2-2, relating to definitions, and inserting in lieu thereof new paragraphs (5), (9), (22), and (37) to read as follows:

"(5) 'Election' ordinarily means any general or special election and shall not include a primary or special primary unless the context in which the term is used clearly requires that a primary or special primary is included."

"(9) 'Governing authority' means the governing authority of a municipality Reserved."

"(22) 'Plurality' means the receiving by one candidate alone of the highest number of votes cast for eligible candidates in an election among the candidates for the same office, provided that such number of votes exceeds 45 percent of the total number of

~~votes cast in such election for such office. In the case where two or more persons tie in receiving the highest number of votes or no candidate receives more than 45 percent of the total votes cast for eligible candidates in the election for the office sought there is no plurality Reserved."~~

"(37) Reserved 'Violator' means any individual, partnership, committee, association, corporation, limited liability company, limited liability partnership, professional corporation, trust, enterprise, franchise, joint venture, political party, political body, candidate, campaign committee, political action committee or any other political committee or business entity, or any governing authority that violates any provision of this chapter."

### SECTION 2.

Said chapter is further amended by striking subsection (d) of Code Section 21-2-4, relating to distribution of summaries of constitutional amendments, and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) The Secretary of State is authorized to provide for the preparation of a supply of audio tapes, compact discs, or other media or an Internet website which shall contain the summary of each proposed general amendment to the Constitution as provided in subsection (a) of this Code section, together with a listing of the candidates for each of the state representatives to the United States Congress and the candidates for every public office elected by the electors of the entire state. A sufficient number of the audio tapes, compact discs, or other media may be prepared as will permit the distribution of at least one tape, disc, or other media form to each of the public libraries within the state for the purpose of providing voting information and assistance to any interested citizen. The Secretary of State may cause a supply of the tapes, discs, or other media to be prepared and distributed as soon as practicable after the summary has been prepared and the names of the candidates for each of the public offices to be included are known to be candidates. If the Secretary of State provides such information through an Internet website, it shall not be necessary to provide such information by audio tape, compact disc, or other media."

### SECTION 3.

Said chapter is further amended by striking Code Section 21-2-8, relating to eligibility for nomination, election, and performance of certain acts, and inserting in lieu thereof a new Code Section 21-2-8 to read as follows:

"21-2-8.

No person shall be eligible for party nomination for or election to public office, nor shall he or she perform any official acts or duties as a superintendent, registrar, deputy registrar, poll officer, or party officer, as set forth in this chapter, in connection with any election or primary held under this chapter, if under the laws of this state, any other state, or the United States he or she has been convicted and sentenced, in any court of competent jurisdiction, for fraudulent violation of primary or election laws,

malfeasance in office, or felony involving moral turpitude, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude. Additionally, the person shall not be holding illegally any public funds. In the event of the disqualification of the superintendent as described in this Code section, the clerk of the superior court shall act in his or her stead. Notwithstanding the above, the governing authority of a municipality shall appoint an individual to serve as superintendent for municipal elections or municipal primaries in the event of the disqualification of the municipal superintendent, unless the municipality has contracted with a county government for the provision of election services, in which event the clerk of the superior court shall act in place of a disqualified superintendent."

#### **SECTION 4.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-9, relating to date of election for offices, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) All general municipal elections to fill municipal offices shall be held on the Tuesday next following the first Monday in November in each odd-numbered year. Public notice of such elections shall be published by the governing authority of the municipality in a newspaper of general circulation in the municipality at least 30 days prior to the elections."

#### **SECTION 5.**

Said chapter is further amended by striking Code Section 21-2-33.1, relating to the enforcement of the chapter, and inserting in lieu thereof a new Code Section 21-2-33.1 to read as follows:

"21-2-33.1.

(a) The State Election Board is vested with the power to issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or prohibiting the actual or threatened commission of any conduct constituting a violation, which order may include a provision requiring the violator:

- (1) To cease and desist from committing further violations;
- (2) To pay a civil penalty not to exceed \$5,000.00 for each violation of this chapter or for each failure to comply with any provision of this chapter or of any rule or regulation promulgated under this chapter. Such penalty may be assessed against ~~an individual, a governing authority which employs or compensates an individual, or both, any violator~~ as the State Election Board deems appropriate;
- (3) To publicly reprimand ~~an individual or governing authority any violator~~ found to have committed a violation;
- (4) To require that restitution be paid by any violator to a state, county, or city governing authority when it has suffered a monetary loss or damage as the result of a

violation;

- (5) To require ~~individuals~~ violators to attend training as specified by the board; and
- (6) To assess investigative costs incurred by the board against ~~an individual or the governing authority which employs or compensates an individual~~ any violator found to have committed a violation.

(b) A civil penalty shall not be assessed against any ~~person~~ violator except after notice and hearing as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In addition to the State Election Board, any contested case may be held before any representative of such board who has been selected and appointed by such board for such purpose. The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the State Election Board. All moneys recovered pursuant to this Code section shall be deposited in the state treasury.

(c) The Attorney General of this state shall, upon complaint by the State Election Board, ~~or may, upon the Attorney General's own initiative if after examination of the complaint and evidence the Attorney General believes a violation has occurred,~~ bring an action in the superior court in the name of the State Election Board for a temporary restraining order or other injunctive relief or for civil penalties assessed against any ~~person violating~~ violator of any provision of this chapter or any rule or regulation duly issued by the State Election Board.

(d) Any action brought by the Attorney General to enforce civil penalties assessed against any ~~person for violating the provisions~~ any violator of this chapter or any rule or regulation duly issued by the State Election Board or any order issued by the State Election Board ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county of the residence of the party against whom relief is sought. Service of process shall lie in any jurisdiction within the state. In such actions, the superior court inquiry will be limited to whether notice was given by the State Election Board to the violator in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the superior court shall enforce the orders of the State Election Board and the civil penalties assessed under this chapter and the superior court shall not make independent inquiry as to whether the violations have occurred.

(e) In any action brought by the Attorney General to enforce any of the provisions of this chapter or of any rule or regulation issued by the State Election Board, the judgment, if in favor of the State Election Board, shall provide that the defendant pay to the State Election Board the costs, including reasonable attorneys' fees, incurred by the State Election Board in the prosecution of such action."

#### SECTION 6.

Said chapter is further amended by striking paragraph (15) of subsection (a) of Code Section 21-2-50, relating to powers and duties of the Secretary of State, and inserting in lieu thereof a new paragraph (15) to read as follows:

"(15) To develop, program, and build, and review ballots for use by counties and municipalities on direct recording electronic (DRE) voting systems in use in the state."

#### **SECTION 7.**

Said chapter is further amended by striking Code Section 21-2-72, relating to primary and election records to be open to the public, and inserting in lieu thereof a new Code Section 21-2-72 to read as follows:

"21-2-72.

Except when otherwise provided by law or court order, the primary and election records of each governing authority, superintendent, registrar, municipal governing authority, and committee of a political party or body, including registration statements, nomination petitions, affidavits, certificates, tally papers, returns, accounts, contracts, reports, and other documents in official custody, except the contents of voting machines, shall be open to public inspection and may be inspected and copied by any elector of the county or municipality during usual business hours at any time when they are not necessarily being used by the custodian or his or her employees having duties to perform in reference thereto; provided, however, that such public inspection shall only be in the presence of the custodian or his or her employee and shall be subject to proper regulation for the safekeeping of such documents and subject to the further provisions of this chapter. The custodian shall also, upon request, if photocopying equipment is available in the building in which the records are housed, make and furnish to any member of the public copies of any of such records upon payment of the actual cost of copying the records requested."

#### **SECTION 8.**

Said chapter is further amended by striking Code Section 21-2-73, relating to preservation of primary and election records, and inserting in lieu thereof a new Code Section 21-2-73 to read as follows:

"21-2-73.

All primary and election documents on file in the office of the election superintendent of each county, municipal governing authority, superintendent, registrar, committee of a political party or body, or other officer shall be preserved therein for a period of at least 24 months and then the same may be destroyed unless otherwise provided by law."

#### **SECTION 9.**

Said chapter is further amended by striking Code Section 21-2-90, relating to the appointment of a chief manager and assistant managers, and inserting in lieu thereof a new Code Section 21-2-90 to read as follows:

"21-2-90.

All elections and primaries shall be conducted in each precinct by a board consisting of a chief manager, who shall be chairperson of such board, and two assistant managers assisted by clerks. The managers of each precinct shall be appointed by the

superintendent or, in the case of municipal elections, by the municipal governing authority. If the political parties involved elect to do so, they may submit to the superintendent or municipal governing authority, for consideration in making such appointment, a list of qualified persons. When such lists are submitted to the appropriate office, the superintendent or municipal governing authority, insofar as practicable, shall make appointments so that there shall be equal representation on such boards for the political parties involved in such elections or primaries. The superintendent or municipal governing authority shall make each appointment by entering an order which shall remain of record in the appropriate office and shall transmit a copy of such order to the appointee. The order shall include the name and address of the appointee, his or her title, and a designation of the precinct and primary or election in which he or she is to serve."

#### SECTION 10.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-99, relating to instruction of poll officers and workers in election procedures, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The election superintendent shall provide adequate training to all poll officers and poll workers regarding the use of voting equipment, voting procedures, all aspects of state and federal law applicable to conducting elections, and the poll officers' or poll workers' duties in connection therewith ~~before the first election in each election cycle prior to each general primary and general election and each special primary and special election; provided, however, such training shall not be required for a special election held between the date of the general primary and the general election.~~ Upon successful completion of such instruction, the superintendent shall give to each poll officer and poll worker a certificate to the effect that such person has been found qualified to conduct such primary or election with the particular type of voting equipment in use in that jurisdiction. Additionally, the superintendent shall notify the Secretary of State on forms to be provided by the Secretary of State of the date when such instruction was held and the number of persons attending and completing such instruction. For the purpose of giving such instructions, the superintendent shall call such meeting or meetings of poll officers and poll workers as shall be necessary. Each poll officer shall, upon notice, attend such meeting or meetings called for his or her instruction."

#### SECTION 11.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-100, relating to training of local election officials, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) A superintendent or registrar and the county or municipal governing authority which employs the superintendent or registrar may be fined by the State Election Board for failure to attend the training required in this Code section."

**SECTION 12.**

Said chapter is further amended by striking subsection (c) of Code Section 21-2-101, relating to certification program for election superintendents or election board designee, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) A superintendent and the county or municipal governing authority which employs the superintendent may be fined by the State Election Board for failure to attain the certification required in this Code section."

**SECTION 13.**

Said chapter is further amended by striking paragraph (3) of subsection (d) of Code Section 21-2-132, relating to filing notice of candidacy, nomination petition, and affidavit, and inserting in lieu thereof a new paragraph (3) to read as follows:

"(3) Each candidate for municipal office or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall ~~comply with the following:~~

(A) ~~In the case of a general election held in an odd numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday;~~

(B) ~~In the case of a general election held in an even numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday; and,~~

(C) ~~In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election.~~

The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour allowed for the lunch break; provided, however, that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period."

**SECTION 14.**

Said chapter is further amended by striking subsections (c), (d), (f), and (i) of Code Section 21-2-132, relating to filing notice of candidacy, nomination petition, and affidavit, and inserting in lieu thereof new subsections (c), (d), (f), and (i) to read as follows:

"(c) Except as provided in subsection (i) of this Code section, all candidates seeking election in a nonpartisan election shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have their names placed on the nonpartisan election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(1) Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy, giving his or her name, residence address, and the office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in April June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in April June, notwithstanding the fact that any such days may be legal holidays; and

(2) Each candidate for a county judicial office, a local school board office, or an office of a consolidated government, ~~except those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on the fourth Monday in April June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in April June, notwithstanding the fact that any such days may be legal holidays.

(d) Except as provided in subsection (i) of this Code section, all political body and independent candidates shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have their names placed on the election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(1) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election;

(2) Each candidate for a county office, ~~including those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or his or her agent, desiring to have his or her name placed on the election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later

than 25 days prior to the election in the case of a special election;

(3) Each candidate for municipal office or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall comply with the following:

(A) In the case of a general election held in an odd-numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday;

(B) In the case of a general election held in an even-numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday; and

(C) In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election.

The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour allowed for the lunch break; provided, however, that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period."

"(f) Each candidate required by this Code section to file a notice of candidacy shall accompany his or her notice of candidacy with an affidavit stating:

(1) His or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. Unless the candidate provides proof that his or her surname as it appears on the candidate's registration card is incorrect in which event the correct name shall be listed. After such name is submitted to the Secretary of State or the election superintendent, the form of such name shall not be changed during the election for which such notice of candidacy is submitted;

(2) His or her residence, with street and number, if any, and his or her post office address;

(3) His or her profession, business, or occupation, if any;

(4) The name of his or her precinct;

(5) That he or she is an elector of the county or municipality of his or her residence eligible to vote in the election in which he or she is a candidate;

(6) The name of the office he or she is seeking;

(7) That he or she is eligible to hold such office;

- (8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude or conviction of domestic violence under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude;
- (9) That he or she will not knowingly violate this chapter or rules and regulations adopted under this chapter; and
- (10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law.

The affidavit shall contain such other information as may be prescribed by the officer with whom the candidate files his or her notice of candidacy.'

"(i) Notwithstanding any other provision of this chapter to the contrary, for general elections held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, candidates in such elections shall qualify as provided in this subsection:

- (1) All candidates seeking election in a nonpartisan election shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be eligible to have their names placed on the nonpartisan election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(A) Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy, giving his or her name, residence address, and the office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on the ~~third Wednesday in June last Monday in July~~ immediately prior to the election and no later than 12:00 Noon on the Friday following the ~~third Wednesday in June last Monday in July~~, notwithstanding the fact that any such days may be legal holidays; and

(B) Each candidate for a county judicial office, a local school board office, or an office of a consolidated government, ~~except those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on the ~~third Wednesday in June last Monday in July~~ immediately prior to the election and no later than 12:00 Noon on the Friday following the ~~third Wednesday in June last Monday in July~~, notwithstanding the fact that any such days may be legal holidays;

- (2) All political body and independent candidates shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph in order

to be eligible to have their names placed on the general election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

- (A) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the general election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the last Monday in July immediately prior to the election and no later than 12:00 Noon on the Friday following the last Monday in July; and
- (B) Each candidate for a county office, ~~including those offices which on July 1, 2001, were covered by local Acts of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~, or his or her agent, desiring to have his or her name placed on the general election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the last Monday in July immediately prior to the election and no later than 12:00 Noon on the Friday following the last Monday in July; and
- (3) Candidates required to file nomination petitions under subsection (e) of this Code section shall file such petitions not earlier than 9:00 A.M. on the fourth Monday in July immediately prior to the general election and not later than 12:00 Noon on the first Monday in August immediately prior to the general election."

#### **SECTION 15.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-133, relating to write-in candidacy, and inserting in lieu thereof a new subsection (a) to read as follows:

- "(a) No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections; no later than seven days after the close of the municipal qualifying period for municipal elections in the case of a general election; ~~no earlier than January 1 and no later than the Tuesday after the first Monday in June in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary; no later than the third Monday in July in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary held in the even numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives; or at least 20 or more days prior to no later than seven days after the close of the special election qualifying period for a special election by the person to be a write-in candidate or by some other person~~

or group of persons qualified to vote in the subject election, as follows:

- (1) In a state general or special election, notice shall be filed with the Secretary of State and published in a newspaper of general circulation in the state;
- (2) In a general or special election of county officers, notice shall be filed with the superintendent of elections in the county in which he or she is to be a candidate and published in the official organ of the same county; or
- (3) In a municipal general or special election, notice shall be filed with the superintendent and published in the official gazette of the municipality holding the election."

#### **SECTION 16.**

Said chapter is further amended by striking paragraph (1) of subsection (a) and paragraph (3) of subsection (b) of Code Section 21-2-134, relating to withdrawal, death, or disqualification of candidate for office, and inserting in lieu thereof a new paragraph (1) of subsection (a) and paragraph (3) of subsection (b) to read as follows:

"(1) A candidate nominated at any primary election or nominated by means other than a primary may withdraw as a candidate at the ensuing general election by filing a notarized affidavit of withdrawal with the Secretary of State, if nominated for a state office; the county superintendent, if nominated for a county office; or the municipal superintendent, if nominated for a municipal office. The qualifying fee shall not be returned to the candidate. If the ballots have been printed, the Secretary of State or the county or municipal superintendent may reprint the ballots to omit the name of the withdrawn candidate. All votes cast for the withdrawn candidate shall be void and shall not be counted. Prominent notices shall be posted in all polling places in which the name of the withdrawn candidate appears on the ballot stating that the candidate has withdrawn and that all votes cast for such withdrawn candidate shall be void and shall not be counted. No vacancy on the ballot for a general election or for a nonpartisan election shall be filled except by reason of the withdrawal, death, or disqualification of a candidate or the withdrawal of a candidate as provided in paragraph (2) of subsection (b) of this Code section."

"(3) Any vacancy which occurs in any party nomination filled by a primary and which is created by reason of the withdrawal of a candidate less than 60 days prior to the date of the election shall not be filled in the same manner as provided in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection, as appropriate. The qualifying fee shall not be returned to the candidate. If the ballots have been printed, the Secretary of State or the county or municipal superintendent may reprint the ballots to omit the name of the withdrawn candidate. All votes cast for the withdrawn candidate shall be void and shall not be counted. Prominent notices shall be posted in all polling places in which the name of the withdrawn candidate appears on the ballot stating that the candidate has withdrawn and that all votes cast for such withdrawn candidate shall be void and shall not be counted."

**SECTION 17.**

Said chapter is further amended by striking Code Section 21-2-138, relating to nonpartisan elections for judicial offices, and inserting in lieu thereof a new Code Section 21-2-138 to read as follows:

"21-2-138.

The names of all candidates who have qualified with the Secretary of State for the office of judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court of this state and the names of all candidates who have qualified with the election superintendent for the office of judge of a state court shall be placed on the ballot in a nonpartisan election to be held and conducted jointly with the general ~~primary election~~ in each even-numbered year; ~~provided that nonpartisan elections for the office of judge of the state court which was covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary shall be held and conducted jointly with the general election in even numbered years.~~ No candidates for any such office shall be nominated by a political party or by a petition as a candidate of a political body or as an independent candidate. Candidates for any such office, ~~except offices which were covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary,~~ shall have their names placed on the nonpartisan portion of each political party ballot by complying with the requirements prescribed in Code Section 21-2-132 specifically related to such nonpartisan candidates and by paying the requisite qualifying fees as prescribed in Code Section 21-2-131. ~~The Secretary of State may provide for the printing of independent ballots containing the names of the nonpartisan candidates for those voters not affiliated with a political party.~~ Candidates shall be listed on the official ballot in a nonpartisan election as provided in Code Sections 21-2-284.1 and 21-2-285.1, respectively. Except as otherwise specified in this chapter, the procedures to be employed in conducting the nonpartisan election of judges of state courts, judges of superior courts, Judges of the Court of Appeals, and Justices of the Supreme Court shall conform as nearly as practicable to the procedures governing ~~general primaries and~~ general elections; and such ~~general primary and~~ general election procedures as are necessary to complete this nonpartisan election process shall be adopted in a manner consistent with such nonpartisan elections."

**SECTION 18.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-139, relating to nonpartisan elections authorized, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Notwithstanding any other provisions of this chapter to the contrary, the General Assembly may provide by local Act for the election in nonpartisan elections of candidates to fill county judicial offices, offices of local school boards, and offices of consolidated governments which are filled by the vote of the electors of said county or political subdivision. Except as otherwise provided in this Code section, the procedures

to be employed in such nonpartisan elections shall conform as nearly as practicable to the procedures governing nonpartisan elections as provided in this chapter. Except as otherwise provided in this Code section, the election procedures established by any existing local law which provides for the nonpartisan election of candidates to fill county offices shall conform to the general procedures governing nonpartisan elections as provided in this chapter, and such nonpartisan elections shall be conducted in accordance with the applicable provisions of this chapter, notwithstanding the provisions of any existing local law. For those offices for which the General Assembly ~~as of July 1, 2001~~, pursuant to this Code section, provided by local Act for election in nonpartisan primaries and elections, such offices shall no longer require nonpartisan primaries. Such officers shall be elected in nonpartisan elections held and conducted in conjunction with the November general primary election in accordance with this chapter without a prior nonpartisan primary. ~~For those offices for which the General Assembly as of July 1, 2001, provided by local Act for election in a nonpartisan election without a prior nonpartisan primary, such offices shall be elected in nonpartisan elections held and conducted in conjunction with the November general election without a prior nonpartisan primary.~~ Nonpartisan elections for municipal offices shall be conducted on the dates provided in the municipal charter."

#### SECTION 19.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-151, relating to authorization for political party primaries, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The primary held for such purposes shall be conducted by the superintendent in the same manner as prescribed by law and by rules and regulations of the State Election Board and the superintendent for general elections. Primaries of all political parties ~~and all nonpartisan elections for nonpartisan offices other than those offices which were covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary~~ shall be conducted jointly."

#### SECTION 20.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-153, relating to qualification of candidates for party nomination in a state or county primary, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:

(1) His or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is certified by the political party to the Secretary of State or the election superintendent, the form of

such name shall not be changed during the primary and election for which such affidavit is submitted;

- (2) His or her residence, with street and number, if any, and his or her post office address;
- (3) His or her profession, business, or occupation, if any;
- (4) The name of his or her precinct;
- (5) That he or she is an elector of the county of his or her residence eligible to vote in the primary election in which he or she is a candidate for nomination;
- (6) The name of the office he or she is seeking;
- (7) That he or she is eligible to hold such office;
- (8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude;
- (9) That he or she will not knowingly violate this chapter or rules or regulations adopted under this chapter; and
- (10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law."

## SECTION 21.

Said chapter is further amended by striking subsection (d) of Code Section 21-2-153.1, relating to qualification of candidates for party nomination in a municipal primary, and inserting in lieu thereof a new subsection (d) to read as follows:

- "(d) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:
  - (1) His or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is submitted by the candidate to the political party, the form of such name shall not be changed during the primary and election for which such affidavit is submitted;
  - (2) His or her residence, with street and number, if any, and his or her post office address;
  - (3) His or her profession, business, or occupation, if any;
  - (4) The name of his or her precinct;
  - (5) That he or she is an elector of the municipality of his or her residence and is eligible to vote in the primary election in which he or she is a candidate for nomination;
  - (6) The name of the office he or she is seeking;
  - (7) That he or she is eligible to hold such office;
  - (8) That he or she has never been convicted and sentenced in any court of

competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that his or her civil rights have been restored; and

(8) (9) That he or she will not knowingly violate this chapter or any rules and regulations adopted under this chapter."

## SECTION 22.

Said chapter is further amended by striking subsections (c) and (e) of Code Section 21-2-212, relating to county registrars, and inserting in lieu thereof new subsections (c) and (e) to read as follows:

"(c) The governing authority of each municipality shall appoint registrars as necessary, and the appointments shall be entered on the minutes of ~~the such~~ governing authority. The municipal governing authority shall designate one of the registrars as chief registrar. The chief registrar will serve as such during such registrar's term of office, and such designation shall likewise be entered on the minutes of ~~the such~~ governing authority. Such registrars shall serve at the pleasure of the municipal governing authority, and compensation of the registrars shall be fixed by ~~the such~~ governing authority. Any registrar shall have the right to resign at any time by submitting a resignation to such governing authority. In the event of any such removal or resignation of a registrar, such registrar's duties and authority as such shall terminate instantly. Successors to resigned registrars shall be appointed by the municipal governing authority. Each appointment or change in designation shall be entered on the minutes of ~~the such~~ governing authority and certified by the governing authority. The municipal governing authority may furnish such employees and facilities as it deems necessary for the operation of the office and the affairs of the registrars."

"(e) Any other provision of this Code section to the contrary notwithstanding, in any county of this state having a population of more than 600,000 according to the United States decennial census of 1990 or any future such census, the governing authority of the county shall appoint the county registrars in lieu of the judge of the superior court. The appointments shall be entered on the minutes of the county governing authority. The county governing authority shall designate one of the registrars as chief registrar, who shall serve as such during such registrar's term of office. Such designation shall likewise be entered on the minutes of ~~the such~~ governing authority. It shall be the duty of the county governing authority to certify the appointments and designation to the Secretary of State within 30 days after such appointments and designation. In certifying such names to the Secretary of State, the county governing authority shall also list the addresses of the registrars. Such registrars shall serve at the pleasure of the governing authority of the county, and the compensation of the registrars shall be fixed by the governing authority of the county. Any registrar shall have the right to resign at any time by submitting a resignation to ~~the such~~ governing authority. In the event of the death, resignation, or removal of any registrar, such registrar's duties and authority

as such shall terminate instantly. Successors shall be appointed by the county governing authority. Each appointment or change in designation shall be entered on the minutes of the such governing authority and certified as provided in this Code section. The first appointments in any such county under this article shall be made in the year 1965, and the persons appointed shall assume office July 1, 1965. The governing authorities of such counties may furnish such employees and facilities as they deem necessary for the operation of the office and affairs of the registrars."

### **SECTION 23.**

Said chapter is further amended by repealing subsection (j) of Code Section 21-2-215, relating to registrars, registration, and the digitization of signatures from voter registration cards, which reads as follows:

"(j) At such time as the Secretary of State certifies that a system for the digitization of all or a portion of the completed registration cards is operational, the board of registrars shall expeditiously transmit the registration card for each elector whose registration has been approved to the Secretary of State. The Secretary of State shall retain such cards after processing for the period of time set forth in this article."

### **SECTION 24.**

Said chapter is further amended by striking subsections (c) and (d) of Code Section 21-2-220, relating to application for registration, and inserting in lieu thereof new subsections (c) and (d) to read as follows:

"(c) Except as otherwise provided in this subsection, electors who register to vote for the first time in this state by mail must present current and valid identification either when registering to vote by mail or when voting for the first time after registering to vote by mail. The current and valid identification shall be one or more of those forms of identification provided in subsection (c) of Code Section 21-2-417 or a legible copy thereof. The registrars shall make copies of any original forms of identification submitted by applicants and return the originals to the applicants. The requirement to submit identification shall not apply to:

- (1) Persons who submit identifying information with their applications that the registrars are able to match to information contained on a state database available to such registrars containing the same number, name, and date of birth as contained in the application;
- (2) Persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq.; or
- (3) Persons who are entitled to vote otherwise than in person under any other federal law.

(d) If an applicant fails to provide all of the required information on the application for voter registration with the exception of current and valid identification, the board of registrars shall notify the registrant in writing of the missing information. The board of registrars shall not determine the eligibility of the applicant until and unless all required

information is supplied by the applicant. If the initial application is received prior to the close of voter registration prior to an election, if the applicant supplies the necessary information on or prior to the date of the election, and if the applicant is found eligible to vote, the applicant shall be added to the list of electors and shall be permitted to vote in the election and any run-off elections resulting therefrom and subsequent elections; provided, however, that voters who registered to vote for the first time in this state by mail must supply current and valid identification when voting for the first time as required in subsection (c) of this Code section. In the event the elector does not respond to the request for the missing information within 30 days, the application shall be rejected."

#### **SECTION 25.**

Said chapter is further amended by striking subsection (g) of Code Section 21-2-224, relating to official list of electors, and inserting in lieu thereof a new subsection (g) to read as follows:

"(g) The official list of electors and the official list of inactive electors prepared and distributed to the poll officers of each precinct shall include only the elector's name, address, ZIP Code, date of birth, voter identification number, a designation of whether the elector registered for the first time in this state by mail and is required to comply with Code Sections 21-2-220 and 21-2-417, congressional district, state Senate district, state House district, county commission district, if any, county or independent board of education district, if any, and municipal governing authority district designations, if any, and such other voting districts, if any. The official list of electors and the official list of inactive electors prepared and distributed to the poll officers of each precinct may also include codes designating that an elector has voted by absentee ballot, has been challenged, or has been sent mail by the registrars which has been returned marked undeliverable. No person whose name does not appear on the official list of electors shall vote or be allowed to vote at any election, except as otherwise provided in this article. The county registrars shall ensure that the information required to notify poll officers that an elector registered to vote for the first time in this state by mail and must comply with subsection (c) of Code Section 21-2-220 and subsection (c) of Code Section 21-2-417 is placed on each list of electors to be used at a polling place."

#### **SECTION 26.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-225, relating to confidentiality of original registration applications, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) All data collected and maintained on electors whose names appear on the list of electors maintained by the Secretary of State pursuant to this article shall be available for public inspection with the exception of bank statements submitted pursuant to subsection (b) (c) of Code Section 21-2-220 and subsection (c) of Code Section 21-2-417 and the social security numbers of the electors and the locations at which the

electors applied to register to vote which shall remain confidential and be used only for voter registration purposes; provided, however, that social security numbers of electors may be made available to other state agencies if the agency is authorized to maintain information by social security number and the information is used only to identify the elector on the receiving agency's data base and is not disseminated further and remains confidential."

#### **SECTION 27.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-230, relating to challenge of persons on list of electors by other electors, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Any elector of the county or municipality may challenge the right of any other elector of the county or municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector's polling place or, if such elector cast an absentee ballot, prior to 5:00 p.m. P.M. on the day before the election; provided, however, that challenges to persons voting by absentee ballot in person at the office of the registrars or the absentee ballot clerk whose vote is cast on a DRE unit must be made prior to such person's voting."

#### **SECTION 28.**

Said chapter is further amended by striking subsection (f) of Code Section 21-2-231, relating to lists of persons convicted of felonies, persons declared mentally incompetent, and deceased persons provided to Secretary of State, and inserting in lieu thereof a new subsection (f) to read as follows:

"(f) County registrars shall initiate appropriate action regarding the right of an elector to remain on the list of qualified registered voters within 60 days after receipt of the information described in this Code section. Failure to take such action may subject the registrars or the county governing authority for whom the registrars are acting to a fine by the State Election Board."

#### **SECTION 29.**

Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-233, relating to comparison of change of address information supplied by United States Postal Service, and inserting in lieu thereof new subsections (b) and (c) to read as follows:

"(b) If it appears from the change of address information supplied by the licensees of the United States Postal Service that an elector whose name appears on the official list of electors has moved to a different address in the county in which the elector is presently registered, the list of electors shall be changed to reflect the new address and the elector shall be sent a notice of the change by forwardable mail at both the elector's

old address ~~and the new address~~ with a postage prepaid, preaddressed return form by which the elector may verify or correct the address information. The registrars may also send a notice of the change by forwardable mail to the elector's new address with a postage prepaid, preaddressed return form by which the elector may verify or correct the address information.

(c) If it appears from the change of address information supplied by the licensees of the United States Postal Service that an elector whose name appears on the official list of electors has moved to a different address outside of the boundaries of the county or municipality in which the elector is presently registered, such elector shall be sent a confirmation notice as provided in Code Section 21-2-234 at ~~both~~ the old ~~and new addresses~~ address of the elector. The registrars may also send a confirmation notice to the elector's new address. If the elector confirms the change of address to an address outside of the boundaries of the county or municipality in which the elector is presently registered, the elector's name shall be removed from the appropriate list of electors. If the elector responds to the notice and affirms that the elector has not moved, the elector shall remain on the list of electors at the elector's current address. If the elector fails to respond to the notice within 30 days after the date of the notice, the elector shall be transferred to the inactive list provided for in Code Section 21-2-235."

### SECTION 30.

Said chapter is further amended by striking Code Section 21-2-264, relating to reimbursement of counties for costs incurred pursuant to alteration of precinct boundaries, and inserting in lieu thereof a new Code Section 21-2-264 to read as follows:

"21-2-264.

In all cases of the division, redivision, alteration, formation, or consolidation of precincts, the costs of the proceedings shall be paid by the county or municipal governing authority, as appropriate. There may be appropriated to the Secretary of State funds to be granted to counties or municipalities for purposes of meeting the requirements of Code Section 21-2-261.1. Upon the filing of a written request by the election officials of any qualified county or municipality, a qualified county or municipality shall be reimbursed for all reasonable expenses incurred by such county or municipality which are directly related to the redrawing of voting precinct boundaries, verification of voting precinct residency, notification of voter precinct and polling place changes, and compilation and preparation of the electors list as necessitated by Code Section 21-2-261.1; provided, however, that such reimbursement of costs shall not exceed 25¢ per registered voter whose name appeared on such county's or municipality's electors list as of January 1, 1982. Any qualified county or municipality seeking reimbursement of such costs shall present an itemized description of such costs to the Secretary of State. If the Secretary of State, after a review of the report of such costs incurred by a county or municipality, shall find that all or portions of such costs were reasonable and were directly related to the preparation of such descriptions and lists, he or she shall approve all of those parts of the costs deemed reasonable and shall reimburse the counties or municipalities for such expenses. Any state funds necessary

to carry out the provisions of this subsection shall come only from those funds appropriated to the Secretary of State specifically for the purpose of implementing the provisions of Code Section 21-2-261.1. If such funds are not sufficient to bear completely the cost of fully implementing the provisions of Code Section 21-2-261.1, payment to the counties or municipalities seeking assistance shall be made on a pro rata basis subject to the availability of appropriated funds."

### SECTION 31.

Said chapter is further amended by striking Code Section 21-2-267, relating to equipment, arrangement, and storage relating to polling places, and inserting in lieu thereof a new Code Section 21-2-267 to read as follows:

"21-2-267.

(a) The governing authority of each county and municipality shall provide and the superintendent shall cause all rooms used as polling places to be provided with suitable heat and light and, in precincts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies in which the electors may conveniently mark their ballots, with a curtain, screen, or door in the upper part of the front of each compartment or booth so that in the marking thereof they may be screened from the observation of others. A curtain, screen, or door shall not be required, however, for the self-contained units used as voting booths in which direct recording electronic (DRE) voting units are located if such booths have been designed so as to ensure the privacy of the elector. When practicable, every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein and shall be furnished with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier shall be so constructed and placed that only such persons as are inside such rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the guardrail or barrier. The voting machine or machines shall be placed in the voting rooms within the enclosed space so that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the poll officers when the machine is not occupied by an elector. In the case of direct recording electronic (DRE) voting units, the units shall be arranged in such a manner as to ensure the privacy of the elector while voting on such units, to allow monitoring of the units by the poll officers while the polls are open, and to permit the public to observe the voting without affecting the privacy of the electors as they vote.

(b) The superintendent, unless otherwise provided by law, may make such arrangements as he or she deems proper for the storage of election equipment in the various precincts of the county or municipality at such times of the year that it will not be used for election purposes and may fix reasonable compensation therefor."

**SECTION 32.**

Said chapter is further amended by striking Code Section 21-2-268, relating to compensation for rent, heat, light, and janitorial services for the use of public buildings, and inserting in lieu thereof a new Code Section 21-2-268 to read as follows:

"21-2-268.

The superintendent or county or municipal governing authority shall fix the compensation for rent, heat, light, and janitorial services to be paid for the use of polling places for primaries and elections; provided, however, that no compensation for rent, heat, or light shall be paid in the case of schoolhouses, municipal buildings or rooms, or other public buildings used as polling places."

**SECTION 33.**

Said chapter is further amended by striking Code Section 21-2-280, relating to requirement as to conduct of primaries and elections by ballot, and inserting in lieu thereof a new Code Section 21-2-280 to read as follows:

"21-2-280.

All primaries and elections in this state shall be conducted by ballot, except when voting machines are used as provided by law. A ballot may be electronic or printed on paper. All ballots used in any primary or election shall be provided by the superintendent or municipal governing authority in accordance with this article, and only official ballots furnished by the superintendent or governing authority shall be cast or counted in any primary or election in any precinct in which ballots are used."

**SECTION 34.**

Said chapter is further amended by striking Code Section 21-2-283, relating to printing and safekeeping of ballots and labels by superintendent, and inserting in lieu thereof a new Code Section 21-2-283 to read as follows:

"21-2-283.

In any primary or election, the superintendent or municipal governing authority shall cause all the ballots and ballot labels to be printed accurately and in the form prescribed by this chapter, and the superintendent or municipal governing authority shall be responsible for the safekeeping of the same while in his or her or its possession or that of his or her or its agent. The superintendent or municipal governing authority shall keep a record of the number of official ballots printed and furnished to each precinct at each primary and election, and the number of stubs, unused ballots, and canceled ballots subsequently returned therefrom."

**SECTION 35.**

Said chapter is further amended by striking Code Section 21-2-284.1, relating to the form of the ballot in nonpartisan elections, and inserting in lieu thereof a new Code Section 21-2-284.1 to read as follows:

"21-2-284.1.

(a) The names of all candidates seeking election in a nonpartisan election conducted in conjunction with a partisan primary shall be printed on the ballot of each political party; and insofar as practicable such offices to be filled in a nonpartisan election shall be separated from the names of political party candidates by being listed last on each political party ballot, with the top of that portion of the ballot relating to the nonpartisan election to have printed in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how to write in a candidate, and how to obtain a new ballot after one is spoiled shall appear immediately under the caption as specified by rules and regulations of the State Election Board. Immediately under the directions, the names of the nonpartisan candidates shall in all cases be arranged under the title of the office for which they are candidates and be printed thereunder in alphabetical order. No party designation or affiliation shall appear beside the name of any candidate for nonpartisan office. An appropriate space shall also be placed on the ballot for the casting or write in votes for such offices. The incumbency of a nonpartisan candidate seeking election to the public office he or she then holds shall be indicated on the ballots by printing the word 'Incumbent' beside his or her name. Under the title of each office shall be placed a direction as to the number of nonpartisan candidates to be voted for. The votes cast for each nonpartisan candidate listed on all political party ballots shall be combined to determine the total number of votes received by each candidate in the nonpartisan election. In the event that a candidate in such nonpartisan election does not receive a plurality of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes for such office; and the names of such candidates shall be placed on each political party ballot at the general primary runoff in the same nonpartisan portion as prescribed in this Code section. If no political party runoff is required, the form of the ballot for the nonpartisan election runoff shall be prescribed by the Secretary of State or election superintendent in essentially the same format prescribed for nonpartisan elections. The candidate receiving the highest number of votes cast in the nonpartisan election runoff shall be declared duly elected to such office.

(b) In the case of nonpartisan municipal primaries, the form of the official nonpartisan primary ballot shall conform insofar as practicable to the form of the official primary ballot as detailed in Code Section 21-2-284, except that:

(1) The following shall be printed at the top of each ballot in prominent type:

'OFFICIAL NONPARTISAN PRIMARY BALLOT OF

(Name of Municipality);

(2) There shall be no name or designation of any political organization nor any words, designation, or emblems descriptive of a candidate's political affiliation printed under or after any candidate's name which is printed on the ballot; and

(3) The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot."

**SECTION 36.**

Said chapter is further amended by striking subsection (e) of Code Section 21-2-285, relating to the form of the official election ballot, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) When presidential electors are to be elected, the ballot shall not list the individual names of the nominees candidates for presidential electors but shall list the names of each political party or body for such offices shall be arranged alphabetically under or body and the names of the candidates of the party or body for the offices of President and Vice President of the United States. The individual names or the nominees of each political party or body for such offices shall be posted at each polling place arranged alphabetically under the names of the candidates of the party or body for President and Vice President of the United States. A vote for the candidates for President and Vice President of a political party or body shall be deemed to be a vote for each of the candidates for presidential electors of such political party or body."

**SECTION 37.**

Said chapter is further amended by striking Code Section 21-2-285.1, relating to the form of the ballot in nonpartisan elections, and inserting in lieu thereof a new Code Section 21-2-285.1 to read as follows:

"21-2-285.1.

The names of all candidates for offices which were covered on July 1, 2001, by a local Act of the General Assembly which has by local Act provided for election in a nonpartisan election without a prior nonpartisan primary shall be printed on each official election ballot; and insofar as practicable such offices to be filled in the nonpartisan election shall be separated from the names of candidates for other offices by being listed last on each ballot, with the top of that portion of each official election ballot relating to the nonpartisan election to have printed in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how to write in a candidate, and how to obtain a new ballot after the elector spoils his or her ballot shall appear immediately under the caption, as specified by rule or regulation of the State Election Board. Immediately under the directions, the name of each such nonpartisan candidate shall be arranged alphabetically by last name under the title of the office for which they are candidates and be printed thereunder. The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot. No party designation or affiliation shall appear beside the name of any candidate for nonpartisan office. An appropriate space shall also be placed on the ballot for the casting of write-in votes for such offices. In the event that no candidate in such nonpartisan election receives a plurality majority of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes; and the names of such candidates shall be placed on the official ballot at the general election runoff in the same manner as prescribed in this Code section for the nonpartisan election. In the event that only nonpartisan candidates are to be placed on a run-off ballot, the form of the ballot shall

be as prescribed by the Secretary of State or election superintendent in essentially the same format as prescribed for the nonpartisan election. The candidate having a plurality majority of the votes cast in the nonpartisan election or the candidate receiving the highest number of votes cast in the nonpartisan election runoff shall be declared duly elected to such office."

### **SECTION 38.**

Said chapter is further amended by striking Code Section 21-2-320, relating to power of governing authority to authorize use of and to procure voting machines, and inserting in lieu thereof a new Code Section 21-2-230 to read as follows:

"21-2-320.

The governing authority of any ~~county or~~ municipality may at any regular meeting or at a special meeting called for the purpose, by a majority vote, authorize and direct the use of voting machines for recording and computing the vote at all elections held in the ~~county or~~ municipality; and thereupon the governing authority shall purchase, lease, rent, or otherwise procure voting machines conforming to the requirements of this part."

### **SECTION 39.**

Said chapter is further amended by striking Code Section 21-2-321, relating to referendum on question of use of voting machines, and inserting in lieu thereof a new Code Section 21-2-321 to read as follows:

"21-2-321.

(a) The governing authority of any ~~county or~~ municipality which conducts elections by paper ballot may, upon its own motion, submit to the electors of the ~~county or~~ municipality, at any election, the question: 'Shall voting machines be used in \_\_\_\_\_?'

(b) The governing authority of any ~~county or~~ municipality which conducts elections by paper ballot, ~~upon the filing of a petition with it signed by electors of the county equal in number to at least 1 percent of the total number of electors who voted in such county at the preceding general election or~~ upon the receipt of a petition signed by at least 10 percent of the electors who voted in such municipality at the preceding general election, shall, at the next election occurring at least 45 days thereafter, submit to the electors of such ~~county or~~ municipality the question: 'Shall voting machines be used in \_\_\_\_\_?'

(c) The governing authority shall cause such question to be printed upon the ballots to be used at the election in the form and manner provided by the laws governing general elections.

(d) The election on such question shall be held at the places, during the hours, and under the regulations provided by law for holding general elections and shall be conducted by the poll officers provided by law to conduct such elections. The poll officers shall count the votes cast at the election on such question and shall make return thereof to the superintendent of such ~~county or~~ municipality as required by law. The

returns shall be computed by the superintendent and, when so computed, a certificate of the total number of electors voting 'Yes' and of the total number of electors voting 'No' on such question shall be filed in the office of the municipal governing authority and in the office of the Secretary of State.

(e) Whenever, under this Code section, the question of the adoption of voting machines is about to be submitted to the electors of any ~~county or~~ municipality, it shall be the duty of the governing authority of such ~~county or~~ municipality to ascertain whether current funds will be available to pay for such machines, if adopted and purchased, or whether it has power to increase the indebtedness of the ~~county or~~ municipality in an amount sufficient to pay for the machines without the consent of the electors; and, if such current funds will not be available and the power to increase the indebtedness of the ~~county or~~ municipality in a sufficient amount without the consent of the electors is lacking, it shall be the duty of the governing authority to submit to the electors of the ~~county or~~ municipality, in the manner provided by law, at the same election at which the adoption of voting machines is to be voted on, the question of whether the indebtedness of such ~~county or~~ municipality shall be increased, in an amount specified by them, sufficient to pay for such voting machines, if adopted.

(f) If a majority of the electors voting on such question or questions shall vote in the affirmative, the governing authority of such ~~county or~~ municipality shall purchase, lease, or rent voting machines, conforming to the requirements of this part, for recording and computing the vote at all elections held in such ~~county or~~ municipality."

#### **SECTION 40.**

Said chapter is further amended by striking Code Section 21-2-323, relating to installation of voting machines, and inserting in lieu thereof a new Code Section 21-2-323 to read as follows:

"21-2-323.

(a) When the use of voting machines has been authorized in the manner prescribed by Code Section 21-2-320 or 21-2-321, such voting machines shall be installed, either simultaneously or gradually, within the ~~county or~~ municipality. Upon the installation of voting machines in any precinct, the use of paper ballots therein shall be discontinued, except as otherwise provided by this chapter.

(b) In each precinct in which voting machines are used, the municipal governing authority shall provide at least one voting machine for each 500 electors, or major fraction thereof, except that at least one voting machine shall be provided in each such precinct in any case.

(c) Voting machines of different kinds may be used for different precincts in the same ~~county or~~ municipality.

(d) The municipal governing authority shall provide voting machines in good working order and of sufficient capacity to accommodate the names of a reasonable number of candidates for all party offices and nominations and public offices, which, under existing laws and party rules, are likely to be voted for at any future primary or election."

**SECTION 41.**

Said chapter is further amended by striking subsection (g) of Code Section 21-2-324, relating to examination and approval of voting machines by Secretary of State, and inserting in lieu thereof a new subsection (g) to read as follows:

"(g) Neither the Secretary of State, nor any examiner appointed by him or her for the purpose prescribed by this Code section, nor any superintendent, nor the governing authority of any ~~county or~~ municipality or a member of such authority, nor any other person involved in the examination process shall have any pecuniary interest in any voting machine or in the manufacture or sale thereof."

**SECTION 42.**

Said chapter is further amended by striking Code Section 21-2-327, relating to preparation of voting machines, and inserting in lieu thereof a new Code Section 21-2-327 to read as follows:

"21-2-327.

(a) The superintendent of each ~~county or~~ municipality shall cause the proper ballot labels to be placed on each voting machine which is to be used in any precinct within such ~~county or~~ municipality, cause each machine to be placed in proper order for voting, examine each machine before it is sent out to a polling place, see that each registering counter on each machine is set at zero, lock each machine so that the counting machinery cannot be operated, and seal each machine with a numbered seal. The superintendent or his or her agent shall adjust each machine to be used at a primary, so that the poll officers may lock it on primary day, in such a way that each elector can vote only for the candidates seeking nomination by the political party in whose primary he or she is then voting and so that no elector can vote for the candidates seeking nomination by any political party in whose primary he or she is not then voting.

(b) The superintendent shall appoint one custodian of voting machines and such deputy custodians as may be necessary, whose duty it shall be to prepare the machines to be used ~~in the county~~ at the primaries and elections to be held therein. Each custodian and deputy custodian shall receive from the ~~county or~~ municipality such compensation as shall be fixed by the governing authority of the ~~county or~~ municipality. Such custodian shall, under the direction of the superintendent, have charge of and represent the superintendent during the preparation of the voting machines as required by this chapter, and he or she and the deputy custodians, whose duty it shall be to assist him or her in the discharge of his or her duties, shall serve at the pleasure of the superintendent. Each custodian shall take an oath of office framed by the Secretary of State, which shall be filed with the superintendent.

(c) On or before the twelfth day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall mail to the foreperson of the grand jury, the chairperson of the county executive committee of each political party which shall be entitled under existing laws to participate in primaries within the county, and to the chairperson or presiding officer of any

organization of citizens within the county having as its purpose or among its purposes the investigation or prosecution of primary and election frauds, which has registered its name and address and the names of its principal officers with the superintendent at least 30 days before such primary or election, and, in the case of an election, to the appropriate committee of each political body which shall be entitled to have the names of its candidates entered on the voting machines, and to each independent candidate who shall be entitled to have his or her name printed on the voting machines, a written notice stating the times when and the place or places where preparation of the machines for use in the several precincts ~~in the county~~ will be started. The grand jury shall appoint a committee, consisting of three of its members, which shall inspect the machines and see that the machines are properly prepared and are placed in proper condition and order for use. In the event the committee of the grand jury fails to be present, the superintendent shall immediately appoint a panel consisting of three electors to perform the duties of the committee of the grand jury set forth in this Code section. Further, one representative of each political party or body, certified by the chairperson of such political party or body, and one representative of each aforementioned organization of citizens, certified by the chairperson or presiding officer of such organization, and any such independent candidate or his or her certified agent shall be entitled to be present during the preparation of the machines and to see that the machines are properly prepared and are placed in proper condition and order for use. Such committee of the grand jury, representatives, or candidates shall not, however, interfere with the preparation of the machines; and the superintendent may make such reasonable rules and regulations concerning the conduct of such representatives and candidates.

(d) The custodian and deputy custodians of voting machines and the members of the committee of the grand jury, if any, shall make an affidavit, which each shall sign, and request each representative of a party, body, or a citizens' organization, or candidate or his or her agent present at the preparation of the machine to attest, and which shall be filed with ~~the superintendent, or in the case of a municipal election or primary,~~ the city clerk, stating:

- (1) The identifying number or other designation of the voting machine;
- (2) That each registering counter on the machine was set at zero;
- (3) The number registered on the protective counter or other device of the machine; and
- (4) The number on the seal with which the machine is sealed.

(e) No superintendent nor custodian nor other employee of the superintendent shall, in any way, prevent free access to and examination of all voting machines which are to be used at the primary or election by any of the duly appointed representatives or candidates aforesaid; and the superintendent and his or her employees shall afford to each such representative or candidate every facility for the examination of all registering counters, protective counters, and public counters of each and every voting machine.

(f) In every primary or election, the superintendent shall furnish, at the expense of the

~~county or~~ municipality, all ballot labels, forms of certificates, and other papers and supplies which are required under this chapter and which are not furnished by the Secretary of State, all of which shall be in the form and according to the specifications prescribed from time to time by the Secretary of State. In ~~the case of~~ a municipal primary, ballot labels and other materials necessary for the preparation of the voting machines shall be furnished free of charge to the municipal superintendent by the political party conducting such primary."

#### **SECTION 43.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-330, relating to public exhibition of and instruction on sample voting machine, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) During ~~the 30 days next preceding a general primary or election or during the ten days next preceding a special primary or election, other than in the case of municipal primaries and elections, and during~~ the five days preceding a municipal general primary or election or during the three days preceding a municipal special primary or election, the superintendent shall place on public exhibition, in such public places and at such times as he or she may deem most suitable for the information and instruction of the electors, one or more voting machines containing the ballot labels and showing the offices and questions to be voted upon, the names and arrangements of parties and bodies, and, so far as practicable, the names and arrangements of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine which is to be assigned for use in a primary or election shall be used for such public exhibition and instruction after having been prepared and sealed for the primary or election."

#### **SECTION 44.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-331, relating to designation and compensation of custodians of voting machines and keys, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The ~~superintendent, or in the case of municipal primaries or elections, the~~ governing authority, shall designate a person or persons who shall have the custody of the voting machines of the ~~county or~~ municipality and the keys therefor when the machines are not in use at a primary or election and shall provide for his or her compensation and for the safe storage and care of the machines and keys."

#### **SECTION 45.**

Said chapter is further amended by striking Code Section 21-2-333, relating to responsibility of county or municipal governing authority to provide for payment for voting machines, and inserting in lieu thereof a new Code Section 21-2-333 to read as follows:

"21-2-333.

The governing authority of any ~~county or~~ municipality which adopts voting machines in a manner provided for by this article shall, upon the purchase of voting machines, provide for their payment by the ~~county or~~ municipality. Bonds or other evidence of indebtedness may be issued in accordance with the provisions of law relating to the increase of indebtedness of ~~counties or~~ municipalities to meet all or any part of the cost of the voting machines."

#### **SECTION 46.**

Said chapter is further amended by striking subsections (b) and (d) of Code Section 21-2-367, relating to installation of optical scanning voting systems, and inserting in lieu thereof new subsections (b) and (d) to read as follows:

- "(b) In each precinct in which optical scanning voting systems are used, the county or municipal governing authority, as appropriate, shall provide at least one voting booth or enclosure for each 200 electors therein, or fraction thereof."
- "(d) The county or municipal governing authority, as appropriate, shall provide optical scanning voting systems in good working order and of sufficient capacity to accommodate the names of a reasonable number of candidates for all party offices and nominations and public offices which, under the provisions of existing laws and party rules, are likely to be voted for at any future primary or election."

#### **SECTION 47.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-369, relating to printing of optical scanning ballots, and inserting in lieu thereof a new subsection (b) to read as follows:

- "(b) The arrangement of offices, names of candidates, and questions upon the ballots shall conform as nearly as practicable to this chapter for the arrangement of same on paper ballots; provided, however, that such form may be varied in order to present a clear presentation of candidates and questions to the electors and that the ballots shall not be required to have a name stub."

#### **SECTION 48.**

Said chapter is further amended by striking subsection (b) of Code Section 21-2-374, relating to proper programming of optical scanning systems, and inserting in lieu thereof a new subsection (b) to read as follows:

- "(b) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have the optical scanning tabulators tested to ascertain that they will correctly count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, candidates, news media, and the public shall be permitted to observe such tests. The test shall be conducted by processing a preaudited

group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and shall include for each office one or more ballots which are improperly marked and one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the optical scanning tabulator to reject such votes. The optical scanning tabulator shall not be approved unless it produces an errorless count. If any error is detected, the cause therefor shall be ascertained and corrected; and an errorless count shall be made before the tabulator is approved. The superintendent shall cause the pretested tabulators to be placed at the various polling places to be used in the primary or election. The superintendent shall require that each optical scanning tabulator be thoroughly tested and inspected prior to each primary and election in which it is used and shall keep such tested material as certification of an errorless count on each tabulator. In counties using central count optical scanning tabulators, the same test shall be repeated immediately before the start of the official count of the ballots and at the conclusion of such count. Precinct tabulators shall produce a zero tape prior to any ballots being inserted on the day of any primary or election."

#### **SECTION 49.**

Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-379.6, relating to maintenance of DRE voting systems and supplies, and inserting in lieu thereof new subsections (b) and (c) to read as follows:

(b) The superintendent may appoint, with the approval of the county or municipal governing authority, as appropriate, a custodian of the DRE units, and deputy custodians as may be necessary, whose duty shall be to prepare the units to be used in the county or municipality at the primaries and elections to be held therein. Each custodian and deputy custodian shall receive from the county or municipality such compensation as shall be fixed by the governing authority of the county or municipality. Such custodian shall, under the direction of the superintendent, have charge of and represent the superintendent during the preparation of the units as required by this chapter. The custodian and deputy custodians shall serve at the pleasure of the superintendent. Each custodian shall take an oath of office prepared by the Secretary of State before each primary or election which shall be filed with the superintendent.

(c) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have each DRE unit tested to ascertain that it will correctly count the votes cast for all offices and on all questions in a manner that the State Election Board shall prescribe by rule or regulation. On or before the third day preceding a primary runoff or election runoff, including special primary runoffs and special election runoffs, the superintendent shall test a number of DRE units at random to ascertain that the units will correctly count the votes cast for all offices. If the total number of DRE units in the county or municipality is 30 units or less, all of the units shall be tested. If the total number of DRE units in the county or municipality is more than 30 but not more than 100, then at least one-half of the units shall be tested at random. If there are more than 100 DRE units in the

county or municipality, the superintendent shall test at least 15 percent of the units at random. In no event shall the superintendent test less than one DRE unit per precinct. All memory cards to be used in the runoff shall be tested. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, news media, and the public shall be permitted to observe such tests."

#### SECTION 50.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-380, relating to definition of absentee elector, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) An elector who requests an absentee ballot by mail or who, during the period of Monday through Friday of the week immediately preceding the date of a primary, election, or run-off primary or election, casts an absentee ballot in person at the registrar's office or absentee ballot clerk's office during the period of Monday through Friday of the week immediately preceding the date of a primary, election, or run-off primary or election shall not be required to provide a reason as identified in subsection (a) of this Code section in order to cast an absentee ballot in such primary, election, or run-off primary or election."

#### SECTION 51.

Said chapter is further amended by striking Code Section 21-2-381, relating to making of application for absentee ballot, and inserting in lieu thereof a new Code Section 21-2-381 to read as follows:

"21-2-381.

(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's or absentee ballot clerk's office, an application for an official ballot of the elector's precinct to be voted at such primary, election, or runoff.

(B) In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over.

(C) The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary,

election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot, if applicable; and the name and relationship of the person requesting the ballot if other than the elector.

(D) Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out-of-county or out-of-municipality address.

(E) Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true.

(F) If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness.

(G) One timely and proper application for an absentee ballot for use in a primary or election shall be sufficient to require the mailing of the absentee ballot for such primary or election as well as for any runoffs resulting therefrom and for all primaries and elections for federal offices and any runoffs therefrom, including presidential preference primaries, held during the period beginning upon the receipt of such absentee ballot application and extending through the second regularly scheduled general election in which federal candidates are on the ballot occurring thereafter to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen.

(H) Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State State Election Board may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Except as otherwise provided in this paragraph, a separate and distinct application for an absentee ballot shall always be required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary.

(2) A properly executed registration card submitted under the provisions of subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or election in which the registrant is entitled to vote, shall be considered to be an application for an absentee ballot under this Code section, or for a special absentee ballot under Code Section 21-2-381.1, as appropriate.

(3) All applications for an official absentee ballot that are distributed by a person, entity, or organization shall list thereon all of the legally acceptable categories of absentee electors contained in Code Section 21-2-380 and shall require the elector to

select the category which qualifies the elector to vote by absentee ballot, if applicable.  
~~No application for an official absentee ballot that is physically attached to a publication that advocates for or against a particular candidate, issue, political party, or political body shall be distributed by any person, entity, or organization. Such applications, if properly completed by the elector or other authorized person and returned to the registrar or absentee ballot clerk, as appropriate, shall be processed by the registrar or absentee ballot clerk and, if the elector is found to be qualified, an absentee ballot shall be mailed or delivered in the office of the registrar or absentee ballot clerk to such elector.~~

(b)(1) Upon receipt of a timely application, a registrar or absentee ballot clerk shall enter thereon the date received and shall determine if the applicant is eligible to vote in the primary or election involved. In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417.

(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and shall either mail the ballot as provided in this Code section or issue the ballot to the elector to be voted within the confines of the registrar's or absentee ballot clerk's office or deliver the ballot in person to the elector if such elector is confined to a hospital.

(3) If found ineligible, the clerk or the board of registrars shall deny the application by writing the reason for rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of ineligibility, a copy of which notification should be retained on file in the office of the board of registrars or absentee ballot clerk for at least one year.

(4) If the registrar or clerk is unable to determine the identity of the elector from information given on the application, the registrar or clerk should promptly write to request additional information.

(5) In the case of an unregistered applicant who is eligible to register to vote, the clerk or the board shall immediately mail a blank registration card as provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by absentee ballot in such primary or election, if the registration card, properly completed, is returned to the clerk or the board on or before the last day for registering to vote in such primary or election. If the closing date for registration in the primary or election concerned has not passed, the clerk or registrar shall also mail a ballot to the applicant, as soon as it is prepared and available; and the ballot shall be cast in such primary or election if returned to the clerk or board not later than the close of the polls on the day of the primary or election concerned.

(c) In those counties or municipalities in which the absentee ballot clerk or board of registrars provides application forms for absentee ballots, the clerk or board shall provide such quantity of the application form to the dean of each college or university located in that county as said dean determines necessary for the students of such college or university.

(d)(1) A citizen of the United States permanently residing outside the United States is

entitled to make application for an absentee ballot from Georgia and to vote by absentee ballot in any election for presidential electors and United States senator or representative in Congress:

- (A) If such citizen was last domiciled in Georgia immediately before his or her departure from the United States; and
- (B) If such citizen could have met all qualifications, except any qualification relating to minimum voting age, to vote in federal elections even though, while residing outside the United States, he or she does not have a place of abode or other address in Georgia.

(2) An individual is entitled to make application for an absentee ballot under paragraph (1) of this subsection even if such individual's intent to return to Georgia may be uncertain, as long as:

- (A) He or she has complied with all applicable Georgia qualifications and requirements which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for and voting by absentee ballots;
  - (B) He or she does not maintain a domicile, is not registered to vote, and is not voting in any other state or election district of a state or territory or in any territory or possession of the United States; and
  - (C) He or she has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States or, in lieu thereof, an alternative form of identification consistent with 42 U.S.C. Section 1973ff and applicable state requirements, if a citizen does not possess a valid passport or card of identity and registration.
- (e) The Secretary of State State Election Board is authorized to promulgate reasonable rules and regulations for the implementation of paragraph (1) of subsection (a) of this Code section. Said rules and regulations may include provisions for the limitation of opportunities for fraudulent application, including, but not limited to, comparison of voter registration records with death certificates."

## SECTION 52.

Said chapter is further amended by adding a new Code Section 21-2-381.2 to read as follows:

"21-2-381.2.

(a) The Secretary of State shall design a state write-in absentee ballot for federal offices and state offices that are voted upon on a state-wide basis for use in a primary runoff or election runoff by an eligible absentee elector who lives outside the county or municipality in which the election is held and who is:

- (1) A member of the armed forces of the United States, a member of the merchant marine of the United States, a member of the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration, or a spouse or dependent of such member residing with or accompanying said member; or
  - (2) A citizen of the United States residing outside the United States.
- (b) Such state write-in absentee ballot shall be automatically included with any

absentee ballot sent to such eligible absentee electors for any general primary or general election. No special request for such state write-in absentee ballot shall be required.

(c) The state write-in absentee ballot shall contain instructions for completing and returning such ballot.

(d) The Secretary of State shall establish a website which such eligible absentee electors may access to determine if there is a primary runoff or election runoff for a federal office or a state office that is voted upon on a state-wide basis. The address of such website shall be included in the instructions for voting such state write-in absentee ballot.

(e) The State Election Board may provide by rule or regulation for additional means of transmitting the state write-in absentee ballot to eligible absentee electors including, but not limited to, the use of facsimile transmissions and portable document format electronic versions.

(f) The registrars shall send a regular absentee ballot to such eligible absentee electors in accordance with Code Section 21-2-381. In the event that both the regular absentee ballot and the state write-in absentee ballot are received by the registrars within the time period for receiving absentee ballots, the regular absentee ballot shall be counted and the state write-in absentee ballot shall be kept unopened in the same manner as absentee ballots that are returned too late to be counted. Ballots for primary runoffs and election runoffs that are postmarked by the date of the primary runoff or election runoff, if proper in all other respects, shall be counted if received by the registrars within the three day period following such primary runoff or election runoff."

### SECTION 53.

Said chapter is further amended by striking subsections (a), (c), and (d) of Code Section 21-2-384, relating to preparation and delivery of absentee ballot supplies, and inserting in lieu thereof new subsections (a), (c), and (d) to read as follows:

"(a)(1) The superintendent shall, as soon as practicable prior to each primary or election, but must, at least 45 days prior to any general primary or general election other than a municipal general primary or general election, and at least 21 days prior to any municipal general primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election. Envelopes and other supplies as required by this article may be ordered by the superintendent, the board of registrars, or the absentee ballot clerk for use in the primary or election.

(2) The board of registrars or absentee ballot clerk shall, within two days after the receipt of such ballots and supplies, mail or issue official absentee ballots to all eligible applicants; and, as additional applicants are determined to be eligible, the board or clerk shall mail or issue official absentee ballots to such additional applicants immediately upon determining their eligibility; provided, however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk on the day prior to a primary or election and provided, further, that no absentee ballot shall be issued on the day prior to a primary or election.

(3) The date a ballot is voted in the registrars' or absentee ballot clerk's office or the date a ballot is mailed to an elector and the date it is returned shall be entered on the application record therefor.

(4) The delivery of an absentee ballot to a person confined in a hospital may be made by the registrar or clerk on the day of a primary or election or during a five-day period immediately preceding the day of such primary or election.

(5) In the event an absentee ballot which has been mailed by the board of registrars or absentee ballot clerk is not received by the applicant, the applicant may notify the board of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot has not been received. The board of registrars or absentee ballot clerk shall then issue a second absentee ballot to the applicant and cancel the original ballot issued. The affidavit shall be attached to the original application. A second application for an absentee ballot shall not be required."

"(c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is \_\_\_\_\_ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

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Elector's Residence  
Address

Elector's Place of Birth

---

Month and Day of  
Elector's Birth

---

Signature or Mark of Elector

Oath of Person Assisting Elector (if any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me; that I am satisfied that such elector presently

possesses the disability noted below; and that by reason of such disability such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-2-409.

This, the \_\_\_\_\_ day of \_\_\_\_\_.

---

Signature of Person Assisting  
Elector -- Relationship

Reason for assistance (Check appropriate square):

- ( ) Elector is unable to read the English language.  
( ) Elector has following physical disability \_\_\_\_\_.

The forms upon which such oaths are printed shall contain the following information:

Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary or election.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568, 21-2-573, or 21-2-579, shall be guilty of a misdemeanor.

- (2) In the case of absent uniformed services or overseas voters, if the ~~President~~ ~~presidential~~ designee under Section 705(b) of the federal Help America Vote Act promulgates a standard oath for use by such voters, the Secretary of State shall be required to use such oath on absentee ballot materials for such voters and such oath shall be accepted in lieu of the oath set forth in paragraph (1) of this subsection.
- (d) Each board of registrars or absentee ballot clerk shall maintain for public inspection a master list, arranged by precincts, setting forth the name and residence of every elector to whom an official absentee ballot has been sent. Absentee electors whose names appear on the master list may be challenged by any elector prior to ~~12:00 Noon~~ ~~5:00 P.M.~~ on the day ~~of~~ before the primary or election."

#### SECTION 54.

Said chapter is further amended by striking paragraph (1) of subsection (a) and subsection (e) of Code Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots, and inserting in lieu thereof a new paragraph (1) and subsection (e) to read as follows:

"(a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely and unopened all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection.

(B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark

on the absentee elector's application for absentee ballot or a facsimile of said signature or mark taken from said application, and shall, if the information and signature appear to be valid, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

(C) If the elector has failed to sign the oath, or if the signature does not appear to be valid, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least one year.

(D) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state by absentee ballot shall include with his or her application for an absentee ballot or in the outer oath envelope of his or her absentee ballot either one of the forms of identification listed in subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not provide any of the forms of identification listed in this subparagraph with his or her application for an absentee ballot or with the absentee ballot, such absentee ballot shall be deemed to be a provisional ballot and such ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subparagraph within the time period for verifying provisional ballots pursuant to Code Section 21-2-419.

(E) Three copies of the numbered list of voters shall also be prepared for such rejected absentee electors, giving the name of the elector and the reason for the rejection in each case. Three copies of the numbered list of certified absentee voters and three copies of the numbered list of rejected absentee voters for each precinct shall be turned over to the poll manager in charge of counting the absentee ballots and shall be distributed as required by law for numbered lists of voters.

(F) All absentee ballots returned to the board or absentee ballot clerk after the closing of the polls on the day of the primary or election shall be safely kept unopened by the board or absentee ballot clerk and then transferred to the appropriate clerk for storage for the period of time required for the preservation of ballots used at the primary or election and shall then, without being opened, be destroyed in like manner as the used ballots of the primary or election. The board of registrars or absentee ballot clerk shall promptly notify the elector by first-class mail that the elector's ballot was returned too late to be counted and that the elector will not receive credit for voting in the primary or election. All such late absentee ballots shall be delivered to the appropriate clerk and stored as provided in Code Section 21-2-390.

(G) Notwithstanding any provision of this chapter to the contrary, until the United States Department of Defense notifies the Secretary of State that the Department of Defense has implemented a system of expedited absentee voting for those electors covered by this subparagraph, absentee ballots cast in a primary, election, or runoff by eligible absentee electors who reside outside the county or municipality in which the primary runoff or election runoff is held and are members of the armed forces of the United States, members of the merchant marine of the United States, spouses or dependents of members of the armed forces or merchant marine residing with or accompanying such members, or overseas citizens that are postmarked by the date of such primary, election, or runoff and are received within the three day period following such primary, election, or runoff, if proper in all other respects, shall be valid ballots and shall be counted and included in the certified election results."

"(e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall open the envelopes and write 'Challenged,' the elector's name, and the alleged cause of challenge on the back of the ballot, without disclosing the markings on the face thereof, and shall deposit the ballot in the box; and it shall be counted as other challenged ballots are counted. ~~In the case of absentee votes cast on direct recording electronic voting systems, the ballots shall be coded in such a way that the ballot of a challenged voter can be separated from other valid ballots at the time of tabulation and the challenged ballots shall be counted or rejected in accordance with Code Section 21-2-230. Where direct recording electronic voting systems are used for absentee balloting and a challenge to an elector's right to vote is made prior to the time that the elector votes, the elector shall vote on a paper or optical scanning ballot and such ballot shall be handled as provided in this subsection.~~ The board of registrars or absentee ballot clerk shall promptly notify the elector of such challenge."

#### **SECTION 55.**

Said chapter is further amended by striking Code Section 21-2-387, relating to procedure as to ballots of deceased electors, and inserting in lieu thereof a new Code Section 21-2-387 to read as follows:

"21-2-387.

~~Whenever it shall be made to appear by due proof to the managers that an absentee elector who has marked and forwarded or delivered his or her ballot as provided in this article has died prior to the opening of the polls on the day of the primary or election, the ballot of such deceased elector shall be returned by the managers in the same manner as provided for rejected ballots Reserved."~~

#### **SECTION 56.**

Said chapter is further amended by striking subsection (a) of Code Section 21-2-400, relating to duty of superintendent to obtain cards of instruction, blank forms of oaths, and other forms and supplies, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Prior to each primary and election, the superintendent shall obtain from the Secretary of State a sufficient number of cards of instruction for guidance of electors. Such cards of instruction shall include such portions of this chapter as deemed necessary by the Secretary of State and shall be printed for the type of voting equipment or ballots used in the county or municipality. The superintendent shall also obtain from the Secretary of State a sufficient number of blank forms of oaths of poll officers, voter's certificates, voting rights posters, notices of penalties, oaths of assisted electors, numbered list of voters, tally sheets, return sheets, and such other forms and supplies required by this chapter, in each precinct of the county or municipality."

#### **SECTION 57.**

Said chapter is further amended by striking subsections (a) and (b) of Code Section 21-2-408, relating to poll watchers, and inserting in lieu thereof new subsections (a) and (b) to read as follows:

"(a)(1) In a primary or run-off primary, each candidate entitled to have his or her name placed on the primary or run-off primary ballot may submit the name of one poll watcher for each precinct in which he or she wishes to have an observer to the chairperson or secretary of the appropriate party executive committee at least 21 days prior to such primary or 14 days prior to such run-off primary. The appropriate party executive committee shall designate at least seven days prior to such primary or run-off primary no more than two poll watchers for each precinct, such poll watchers to be selected by the committee from the list submitted by party candidates. Official poll watchers shall be given a letter signed by the party chairperson and secretary, if designated by a political party, containing the following information: name of official poll watcher, address, precinct in which he or she shall serve, and name and date of primary or run-off primary. At least three days prior to the primary, a copy of the letter shall be delivered to the superintendent of the county or municipality in which the poll watcher is to serve.

(2) In a primary or run-off primary, each candidate entitled to have his or her name placed on the primary or run-off primary ballot may submit the name of one poll watcher for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380 in which he or she wishes to have an observer to the chairperson or secretary of the appropriate party executive committee at least 21 days prior to the beginning of the advance voting period for a primary or 14 days prior to such period in a run-off primary. The appropriate party executive committee shall designate at least seven days prior to such advance voting period for a primary or run-off primary no more than two poll watchers for each advance voting location, such poll watchers to be selected by the committee from the list submitted by party candidates. Official poll watchers shall be given a letter signed by the party chairperson and secretary, if designated by a political party, containing the following information: name of official poll watcher, address, precinct in which he or she shall serve, and name and date of primary or run-off primary. At least three days prior to the beginning of the advance voting period, a copy of the letter shall be delivered to

the superintendent and the chief registrar of the county or municipality in which the poll watcher is to serve.

(b)(1) In an election or run-off election, each political party and political body shall each be entitled to designate, at least seven days prior to such election or run-off election, no more than two official poll watchers in each precinct to be selected by the appropriate party or body executive committee. Each independent candidate shall be entitled to designate one poll watcher in each precinct. In addition, candidates running in a nonpartisan election shall be entitled to designate one poll watcher in each precinct. Each poll watcher shall be given a letter signed by the appropriate political party or body chairperson and secretary, if a party or body designates same, or by the independent or nonpartisan candidate, if named by the independent or nonpartisan candidate. Such letter shall contain the following information: name of official poll watcher, address, precinct in which he or she shall serve, and date of election or run-off election. At least three days prior to the election, a copy of the letter shall be delivered to the superintendent of the county or municipality in which the poll watcher is to serve.

(2) In an election or run-off election, each political party and political body, which body is registered pursuant to Code Section 21-2-110 and has nominated a candidate for state-wide office, shall additionally be entitled to designate, at least 14 days prior to such election or run-off election, no more than five 25 official state-wide poll watchers to be selected by the appropriate party or body executive committee. Each independent candidate shall also be entitled to designate five no more than 25 official state-wide poll watchers. In addition, candidates running in a state-wide nonpartisan election shall be entitled to designate five no more than 25 official state-wide poll watchers. All such designations of state-wide poll watchers shall be in writing and made and submitted to the State Election Board. A state-wide poll watcher shall have the same powers and duties as poll watchers and shall be entitled to watch the polls in any precinct in the state but shall otherwise be subject to all limitations and prohibitions placed on poll watchers; provided, however, that no more than two state-wide poll watchers of a political party or body, of an independent candidate, or of a nonpartisan candidate shall be in the same polling place simultaneously. Each state-wide poll watcher shall be given a letter signed by the chairperson of the State Election Board. Such letter shall contain the following information: name of official state-wide poll watcher, address, a statement that such poll watcher is a state-wide poll watcher, and date of election or run-off election. At least three days prior to the election, a copy of the letter shall be delivered to the superintendent of each county in which the poll watcher might serve.

(3)(A) In an election or run-off election, each political party and political body shall each be entitled to designate, at least seven days prior to the beginning of the advance voting period for such election or run-off election, no more than two official poll watchers for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380 to be selected by the appropriate party or body executive committee. Each independent candidate shall

be entitled to designate one poll watcher for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380. In addition, candidates running in a nonpartisan election shall be entitled to designate one poll watcher for each location at which advance voting is conducted pursuant to subsection (b) of Code Section 21-2-380. Each poll watcher shall be given a letter signed by the appropriate political party or body chairperson and secretary, if a party or body designates same, or by the independent or nonpartisan candidate, if named by the independent or nonpartisan candidate. Such letter shall contain the following information: name of official poll watcher, address, precinct in which he or she shall serve, and date of election or run-off election. At least three days prior to the beginning of the advance voting period for such election, a copy of the letter shall be delivered to the superintendent and the chief registrar of the county or municipality in which the poll watcher is to serve.

(B) In an election or run-off election, each political party and political body, which body is registered pursuant to Code Section 21-2-110 and has nominated a candidate for state-wide office, shall additionally be entitled to designate, at least 14 days prior to the beginning of the advance voting period for such election or run-off election, no more than 25 official state-wide poll watchers for such advance voting period to be selected by the appropriate party or body executive committee. Each independent candidate shall also be entitled to designate no more than 25 official state-wide poll watchers for such advance voting period. In addition, candidates running in a state-wide nonpartisan election shall be entitled to designate no more than 25 official state-wide poll watchers for such advance voting period. All such designations of state-wide poll watchers shall be in writing and made and submitted to the State Election Board. A state-wide poll watcher shall have the same powers and duties as poll watchers and shall be entitled to watch any advance voting location in the state but shall otherwise be subject to all limitations and prohibitions placed on poll watchers; provided, however, that no more than two state-wide poll watchers of a political party or body, of an independent candidate, or of a nonpartisan candidate shall be in an advance voting location simultaneously. Each state-wide poll watcher shall be given a letter signed by the chairperson of the State Election Board. Such letter shall contain the following information: name of official state-wide poll watcher, address, a statement that such poll watcher is a state-wide poll watcher for advance voting, and date of election or run-off election. At least three days prior to the beginning of the advance voting period for such election, a copy of the letter shall be delivered to the superintendent and chief registrar of each county in which the poll watcher might serve."

## **SECTION 58.**

Said chapter is further amended by striking subsections (c) and (d) of Code Section 21-2-414, relating to restrictions on campaign activities and public opinion polling within the vicinity of a polling place, and inserting in lieu thereof new subsections (c), (d), and (d.1) to read as follows:

- "(c) No person shall solicit votes in any manner or by any means or method, nor shall any person distribute any campaign literature, newspaper, booklet, pamphlet, card, sign, or any other written or printed matter of any kind, nor shall any person conduct any exit poll or public opinion poll with voters within a room under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are being cast on any day or within 150 feet of any elector waiting to cast an absentee ballot pursuant to subsection (b) of Code Section 21-2-380. No campaign literature, booklet, pamphlet, card, sign, or other written or printed matter shall be displayed in any building containing a room under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are cast during the period when absentee ballots are available for voting. These restrictions shall not apply to conduct occurring in private offices or areas which cannot be seen or heard by such electors.
- (d) No person shall solicit signatures for any petition within a room under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are being cast on any day.
- (d.1) Rooms under the control or supervision of the registrars or absentee ballot clerk in which absentee ballots are cast shall be considered polling places."

#### SECTION 59.

Said chapter is further amended by striking Code Section 21-2-417, relating to form of proper identification at polls, and inserting in lieu thereof a new Code Section 21-2-417 to read as follows:

"21-2-417.

- (a) ~~Each Except as provided in subsection (c) of this Code section, each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place.~~ Proper identification shall consist of any one of the following:
- (1) A valid Georgia driver's license which was properly issued by the appropriate state agency;
  - (2) A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
  - (3) A valid United States passport;
  - (4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;
  - (5) ~~A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;~~
  - (6) ~~A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional~~

~~school located within the State of Georgia;~~

~~(7) A valid Georgia license to carry a pistol or revolver;~~

~~(8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;~~

~~(9)(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector; or~~

~~(10)(6) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector.~~

~~(11) A valid social security card;~~

~~(12) Certified naturalization documentation;~~

~~(13) A certified copy of court records showing adoption, name, or sex change;~~

~~(14) A current utility bill, or a legible copy thereof, showing the name and address of the elector;~~

~~(15) A bank statement, or a legible copy thereof, showing the name and address of the elector;~~

~~(16) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector; or~~

~~(17) A government document, or a legible copy thereof, showing the name and address of the elector.~~

(b) If Except as provided in subsection (c) of this Code section, if an elector is unable to produce any of the items of identification listed in subsection (a) of this Code section, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay; provided, however, that an elector who registered for the first time in this state by mail and did not provide one of the forms of identification set forth in subsection (a) of this Code section at the time of registration and who is voting for the first time may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in subsection (a) of this Code section within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

(c) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state shall present to the poll workers either one of the forms of identification listed in subsection (a) of this Code section or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not have any of the forms of identification listed in this subsection, such elector may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's

voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subsection within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement."

#### **SECTION 60.**

Said chapter is further amended by striking Code Section 21-2-418, relating to provisional ballots, and inserting in lieu thereof a new Code Section 21-2-418 to read as follows:

"21-2-418.

- (a) If a person presents himself or herself at a polling place, absentee polling place, or registration office for the purpose of casting a ballot in a primary or election believing that he or she has timely registered to vote in such primary or election and the person's name does not appear on the list of registered electors ~~and it cannot be immediately determined that the person did timely register to vote in such primary or election~~, the person shall be entitled to cast a provisional ballot as provided in this Code section.
- (b) Such person voting a provisional ballot shall complete an official voter registration form and a provisional ballot voting certificate which shall include information about the place, manner, and approximate date on which the person registered to vote. The person shall swear or affirm in writing that he or she previously registered to vote in such primary or election, is eligible to vote in such primary or election, has not voted previously in such primary or election, and meets the criteria for registering to vote in such primary or election. The form of the provisional ballot voting certificate shall be prescribed by the Secretary of State. The person shall also present the identification required by Code Section 21-2-417.
- (c) When the person has provided the information as required by this Code section, the person shall be issued a provisional ballot and allowed to cast such ballot as any other duly registered elector subject to the provisions of Code Section 21-2-419.
- (d) Notwithstanding any provision of this chapter to the contrary, in primaries and elections in which there is a federal candidate on the ballot, in the event that the time for closing the polls at a polling place or places is extended by court order, all electors who vote during such extended time period shall vote by provisional ballot only. Such ballots shall be separated and held apart from other provisional ballots cast by electors during normal poll hours. Primaries and elections in which there is no federal candidate on the ballot shall not be subject to the provisions of this subsection.
- (e) The registrars shall establish a free access system, such as a toll-free telephone number or Internet website, by which any elector who casts a provisional ballot in a primary or election, or runoff of either, in which federal candidates are on the ballot may ascertain whether such ballot was counted and, if such ballot was not counted, the reason why such ballot was not counted. The registrars shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by such free access system.

Access to such information about an individual provisional ballot shall be restricted to the elector who cast such ballot.

(f) At the time an elector casts a provisional ballot, the poll officers shall give the elector written information that informs the elector of the existence of the free access system required by subsection (e) of this Code section by which the elector will be able to ascertain if his or her ballot was counted and, if such ballot was not counted, the reason why such ballot was not counted.

(g) Failure to establish such free access system shall subject the registrars and the county by which the registrars are employed to sanctions by the State Election Board.

(h) Notwithstanding any other provision of this chapter to the contrary, in the event that the voting machines or DRE units at a polling place malfunction and cannot be used to cast ballots or some other emergency situation exists which prevents the use of such equipment to cast votes, provisional ballots may be used by the electors at the polling place to cast their ballots. In such event, the ballots cast by electors whose names appear on the electors list for such polling place shall not be considered provisional ballots and shall not require verification as provided by Code Section 21-2-419; provided, however, that persons whose names do not appear on the electors list for such polling place shall vote provisional ballots which shall be subject to verification under Code Section 21-2-419."

#### SECTION 61.

Said chapter is further amended by striking Code Section 21-2-430, relating to opening of ballot boxes and posting of instruction cards and notices of penalties, and inserting in lieu thereof a new Code Section 21-2-430 to read as follows:

"21-2-430.

In precincts in which ballots are used, the poll officers shall, after taking the oath, publicly open the ballot boxes which have been furnished to them and shall, prior to opening of the polls, totally destroy any ballots and other papers which they may find therein which are not intended for use in such primary or election. When the polling place is opened, the ballot box shall be securely locked and shall not be opened until the close of the polls, as provided in Code Section 21-2-436. At the opening of the polls, the seals of the packages furnished by the superintendent shall be publicly broken and such packages shall be opened by the chief manager. The cards of instruction shall be immediately posted in each voting compartment. ~~Not less than three such cards and notices of penalties One card of instruction, one notice of penalties, and one voting rights poster~~ shall be immediately posted in or about the voting room outside the enclosed space; and such ~~cards~~ card of instruction, and notices notice of penalties, and voting rights poster shall be given to any elector at his or her request so long as there are any on hand."

#### SECTION 62.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-450, relating to opening of the polls, and inserting in lieu thereof a new subsection (a) to read

as follows:

"(a)(1) In the precincts in which voting machines are used, the seals of the package furnished by the superintendent shall be publicly broken at the opening of the polls and such package shall be opened by the chief manager. ~~Not less than three cards of instruction and notices of penalties, One card of instructions, one notice of penalties, one voting rights poster,~~ and not less than two diagrams of the face of the machine shall be immediately posted in or about the voting room outside the enclosed space; and such cards, ~~and notices of penalties, and voting rights posters~~ shall be given to any elector at his or her request, so long as there are any on hand.

(2) The managers, before opening the envelope containing the keys which unlock the operating mechanism and registering counters or counter compartment of the voting machine, shall examine the number of the seal on the machine and the number registered on the protective counter or device and shall see whether they are the same as the numbers written on the envelope containing the keys. If either number shall be found not to agree, the envelope shall remain unopened until the poll officers shall have notified the proper custodian of voting machines; or the superintendent and until the custodian or some other person authorized by the superintendent shall have presented himself or herself at the polling place for the purpose of reexamining the machine and shall have certified that it is properly arranged. But, if the numbers on the seal and the protective counter or device shall both be found to agree with the numbers on the envelope, the envelope shall be opened, and where the voting machine provided is not equipped with a mechanism for printing paper proof sheets, the poll officers shall examine the registering counters and, for that purpose, shall open the doors concealing such counter, if the construction of the voting machine shall so require; and, before the polls are opened, each manager shall carefully examine every counter and shall see that it registers zero. When the voting machine provided is equipped with a mechanism for printing paper proof sheets and requires the simultaneous use of three keys to unlock the registering counters or counter compartment, the chief manager shall deliver one of the two keys to an assistant manager, to be retained by him or her, and shall then print at least two proof sheets, one of which each manager shall carefully examine to ascertain whether every counter registers zero and shall then preserve such proof sheets to be signed by them and returned to the superintendent, with the duplicate return sheet, and shall sign and post the other proof sheet upon the wall of the polling place, where it shall remain until the polls are closed. The key delivered by the chief manager to such assistant manager, as provided in this subsection, shall be retained by him or her until the polls have been closed; and the voting and counting mechanism of the machine shall have been locked and sealed against voting and shall then be returned to the chief manager, for return by him or her to the superintendent, as provided in this part."

### SECTION 63.

Said chapter is further amended by striking Code Section 21-2-501, relating to number of votes required for election, and inserting in lieu thereof a new Code Section 21-2-501 to

read as follows:

"21-2-501.

(a) Except as otherwise provided in this Code section, no candidate shall be nominated for public office in any primary or special primary or elected to public office in any election or special election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office. In instances where no candidate receives a majority of the votes cast, a run-off primary, special primary runoff, run-off election, or special election runoff between the candidates receiving the two highest numbers of votes shall be held. Unless such date is postponed by a court order, such run-off primary; or special primary runoff, ~~or special election runoff~~ shall be held on the twenty-first day after the day of holding the preceding primary or special primary or special election, provided that, unless postponed by court order, a runoff in the case of a ~~special primary an election~~ or special election shall be held ~~no sooner than the fourteenth day and no later than the twenty first on the twenty-eighth~~ day after the day of holding the preceding ~~special primary election~~ or special election, ~~which run off day shall be determined by the Secretary of State in a runoff to fill a federal or state office or by the superintendent in a runoff to fill a county or militia district office.~~ If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in the runoff. The candidate receiving the highest number of the votes cast in such run-off primary, special primary runoff, run-off election, or special election runoff to fill the nomination or public office sought shall be declared the winner. The name of a write-in candidate eligible for election in a runoff shall be printed on the election or special election run-off ballot in the independent column. The run-off primary, special primary runoff, run-off election, or special election runoff shall be a continuation of the primary, special primary, election, or special election for the particular office concerned. Only the electors who were duly registered to vote and not subsequently deemed disqualified to vote in the primary, special primary, election, or special election for candidates for that particular office shall be entitled to vote therein, and only those votes cast for the persons designated as candidates in such run-off primary, special primary runoff, run-off election, or special election runoff shall be counted in the tabulation and canvass of the votes cast. No elector shall vote in a run-off primary or special primary runoff in violation of Code Section 21-2-224.

(b) For the purposes of this subsection ~~and notwithstanding the provisions of paragraph (22) of Code Section 21-2-2~~, the word 'plurality' shall mean the receiving by one candidate alone of the highest number of votes cast. If the municipal charter or ordinances of a municipality as now existing or as amended subsequent to September 1, 1968, provide that a candidate may be nominated or elected by a plurality of the votes cast to fill such nomination or public office, such provision shall prevail. Otherwise, no municipal candidate shall be nominated for public office in any primary or elected to public office in any election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office.

(c) In instances in which no municipal candidate receives a majority of the votes cast

and the municipal charter or ordinances do not provide for nomination or election by a plurality vote, a run-off primary or election shall be held between the candidates receiving the two highest numbers of votes. Such runoff shall be held on the ~~twenty-first twenty-eighth~~ day after the day of holding the first primary or election, unless such run-off date is postponed by court order. Only the electors entitled to vote in the first primary or election shall be entitled to vote in any run-off primary or election resulting therefrom; provided, however, that no elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off primary or election shall be a continuation of the first primary or election, and only those votes cast for the candidates receiving the two highest numbers of votes in the first primary or election shall be counted. No write-in votes may be cast in such a primary, run-off primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in such runoff. The municipal candidate receiving the highest number of the votes cast in such run-off primary or ~~run-off~~ election to fill the nomination or public office sought shall be declared the winner.

(d) The name of a municipal write-in candidate eligible for election in a municipal runoff shall be printed on the municipal run-off election ballot in the independent column.

(e) In all cities having a population in excess of 100,000 according to the United States decennial census of 1980 or any future such census, in order for a municipal candidate to be nominated for public office in any primary or elected to public office in any municipal election, he or she must receive a majority of the votes cast.

(f) Except for presidential electors, to be elected to public office in a general election, a candidate must receive a plurality majority of the votes cast in an election to fill such public office. To be elected to the office of presidential electors, no slate of candidates shall be required to receive a plurality majority of the votes cast, but that slate of candidates shall be elected to such office which receives the highest number of votes cast.

(g) ~~In the event that no candidate receives a plurality of the votes cast in a general election, a runoff of the general election between the candidates receiving the two highest numbers of votes shall be held. If more than one candidate in a general election receives a plurality of the votes cast, the candidate receiving the highest number of votes cast shall be declared the winner. Unless such date is postponed by a court order, such runoff shall be held on the twenty first day after the day of holding the preceding general election. If any candidate eligible to be in such runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in the runoff. The candidate receiving the highest number of the votes cast in such runoff to fill the public office such candidate seeks shall be declared the winner. The name of a write in candidate eligible for election in a runoff shall be printed on the run off election ballot in the independent column. The run off election of a general election shall be a continuation of the general election for the particular office concerned. Only the electors who were duly registered to vote and not~~

~~subsequently deemed disqualified to vote for that particular office in such general election shall be entitled to vote therein, and only those votes cast for the persons designated as candidates in such runoff shall be counted in the tabulation and canvass of the votes cast."~~

#### **SECTION 64.**

Said chapter is further amended by striking subsections (b) and (e) of Code Section 21-2-540, relating to conduct of special elections generally, and inserting in lieu thereof new subsections (b) and (e) to read as follows:

"(b) At least 29 days shall intervene between the call of a special primary and the holding of same, and at least 29 days shall intervene between the call of a special election and the holding of same. The period during which candidates may qualify to run in a special primary or a special election shall remain open for a minimum of two and one-half days. ~~Municipal special Special~~ elections which are to be held in conjunction with a state-wide general primary or state-wide general election shall be called at least 60 days prior to the date of such state-wide general primary or state-wide general election; provided, however, that this requirement shall not apply to special elections held on the same date as such state-wide general primary or state-wide general election but conducted completely separate and apart from such state-wide general primary or state-wide general election using different ballots or voting equipment, facilities, poll workers, and paperwork."

"(e) Candidates in special elections for partisan offices shall ~~not~~ be listed on the ballot according to party affiliation ~~unless a candidate has been nominated in a special primary, in which event such a candidate shall have his or her name placed in a column under the name of his or her party. The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot.~~"

#### **SECTION 65.**

Said chapter is further amended by adding a new Code Section 21-2-603 to read as follows:

"21-2-603.

A person commits the offense of conspiracy to commit election fraud when he or she conspires or agrees with another to commit a violation of this chapter. The crime shall be complete when the conspiracy or agreement is effected and an overt act in furtherance thereof has been committed, regardless of whether the violation of this chapter is consummated. A person convicted of the offense of conspiracy to commit election fraud involving a violation of this chapter which is a felony shall be punished by imprisonment for not less than one year nor more than one-half the maximum period of time for which he or she could have been sentenced if he or she had been convicted of the crime conspired to have been committed, by one-half the maximum fine to which he or she could have been subjected if he or she had been convicted of such crime, or both. A person convicted of the offense of conspiracy to commit election fraud

involving a violation of this chapter which is a misdemeanor shall be punished as for a misdemeanor."

#### **SECTION 66.**

Code Section 40-5-103 of the O.C.G.A., relating to fee for identification cards, is amended by adding a new subsection (d) to read as follows:

"(d) The department shall not be authorized to collect a fee for an identification card from any person:

(1) Who swears under oath that he or she is indigent and cannot pay the fee for an identification card, that he or she desires an identification card in order to vote in a primary or election in Georgia, and that he or she does not have any other form of identification that is acceptable under Code Section 21-2-417 for identification at the polls in order to vote; and

(2) Who produces evidence that he or she is registered to vote in Georgia.

This subsection shall not apply to a person who has been issued a driver's license in this state."

#### **SECTION 67.**

In the event any Code section, subsection, paragraph, subparagraph, item, sentence, clause, phrase, or word of this Act is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Act, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional were not originally a part of this Act. The General Assembly declares that it would have enacted the remaining parts of this Act if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional.

#### **SECTION 68.**

Except for Section 13, this Act shall become effective on July 1, 2005. Section 13 shall become effective on January 1, 2006.

#### **SECTION 69.**

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

Senator Johnson of the 1st moved the previous question.

On the motion, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	E Stoner

Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	N Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 33, nays 19, the motion prevailed; and the previous question was ordered.

Senator Wiles of the 37th moved that the Senate adopt the Conference Committee Report on HB 244.

On the motion, a roll call was taken, and the vote was as follows:

N Adelman	N Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	E Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	N Me V Bremen	N Thomas,R
Y Chapman	N Miles	N Thompson,C
Y Douglas	E Moody	Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
N Golden	N Powell	Walker
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	N Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 31, nays 20; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 244.

The following bill was taken up to consider the Conference Committee Report thereto:

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on SB 227 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SB 227 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Cagle of the 49th  
/s/ Senator Goggans of the 7th  
/s/ Senator Rogers of the 21st

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative O`Neal of the 146th  
/s/ Representative Cummings of the 16th  
/s/ Representative Rice of the 51st

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 227

A BILL TO BE ENTITLED  
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for

procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new article at the end of Chapter 82, relating to bonds, to be designated Article 11, to read as follows:

"ARTICLE 11

36-82-250.

As used in this article, the term:

(1) 'Counterparty' means the party entering into a qualified interest rate management agreement with the local governmental entity. A counterparty must be a bank, insurance company, or other financial institution duly qualified to do business in the state that either:

(A) Has, or whose obligations are guaranteed by an entity that has, at the time of entering into a qualified interest rate management agreement and for the entire term thereof, a long-term unsecured debt rating or financial strength rating in one of the top two ratings categories, without regard to any refinement or gradation of rating category by numerical modifier or otherwise, assigned by any two of the following: Moody's Investors Service, Inc., Standard & Poors Ratings Service, a division of The McGraw-Hill Companies, Inc., Fitch, Inc., or such other nationally recognized ratings service approved by the governing body of the local governmental entity; or  
(B) Has collateralized its obligations under a qualified interest rate management agreement in a manner approved by the local governmental entity.

(2) 'Debt' shall include all debt and revenue obligations that a local governmental entity is authorized to incur by law, including without limitation general obligation debt in the form of bonds or other obligations, revenue bonds and other forms of revenue obligations, and all other debt or revenue undertakings, including, but not limited to, bonds, notes, warrants, certificates or other evidences of indebtedness, or other obligations for borrowed money issued or to be issued by any local governmental entity. 'Debt' includes any financing lease or installment purchase contracts of any local public authorities.

(3) 'Independent financial adviser' means a person or entity experienced in the financial aspects and risks of qualified interest rate management agreements that is retained by the local governmental entity to render advice with respect to a qualified interest rate management agreement. The independent financial adviser may not be the counterparty or an affiliate or agent of the counterparty on a qualified interest rate management agreement with respect to which the independent financial adviser is

advising the local governmental entity.

(4) 'Interest rate management plan' means a written plan prepared or reviewed by an independent financial adviser with respect to qualified interest rate management agreements of the local governmental entity, which plan has been approved by the governing body of the local governmental entity.

(5) 'Lease or installment purchase contract' means multiyear lease, purchase, installment purchase, or lease purchase contracts within the meaning of Code Sections 20-2-506 and 36-60-13 or substantially similar other or successor Code sections.

(6) 'Local governmental entity' means any governmental body as defined in paragraph (2) of Code Section 36-82-61, as amended; provided, however, that such term shall only include authorities which are local public authorities included in the definition thereof set forth in subparagraphs (C) and (D) of paragraph (2) of Code Section 36-82-61, as amended.

(7) 'Qualified interest rate management agreement' means an agreement, including a confirmation evidencing a transaction effected under a master agreement entered into by the local governmental entity in accordance with, and fulfilling the requirements of, Code Section 36-82-253, which agreement in the judgment of the local governmental entity is designed to manage interest rate risk or interest cost of the local governmental entity on any debt or lease or installment purchase contract the local governmental entity is authorized to incur, including, but not limited to, interest rate swaps or exchange agreements, interest rate caps, collars, corridors, ceiling, floor, and lock agreements, forward agreements, swaptions, warrants, and other interest rate agreements which, in the judgment of the local governmental entity, will assist the local governmental entity in managing its interest rate risk or interest cost.

#### 36-82-251.

With respect to all or any portion of any debt or lease or installment purchase contract, either issued or anticipated to be issued by the local governmental entity, the local governmental entity may enter into, terminate, amend, or otherwise modify a qualified interest rate management agreement under such terms and conditions as the local governmental entity may determine, including, without limitation, provisions permitting the local governmental entity to pay to or receive from any counterparty any loss of benefits under such agreement upon early termination thereof or default under such agreement.

#### 36-82-252.

(a) Prior to executing and delivering a qualified interest rate management agreement, the local governmental entity shall have adopted an interest rate management plan that includes:

- (1) An analysis of the interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks to the local governmental entity entering into qualified interest rate management agreements;
- (2) The local governmental entity's procedure for approving and executing qualified

interest rate management agreements;

- (3) The local governmental entity's plan to monitor interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks;
  - (4) The local governmental entity's procedure for maintaining current records of all qualified interest rate management agreements that have been approved and executed; and
  - (5) Such other provisions as may from time to time be required by the governing body of the local governmental entity, including but not limited to additional provisions due to changes in market conditions for qualified interest rate management agreements.
- (b) The local governmental entity shall conduct an annual review of its interest rate management plan as to the adequacy of the procedures set forth in such plan for the analysis and monitoring requirements set forth in subsection (a) of this Code section. A report summarizing the results of such review shall be submitted annually to the governing body of the local governmental entity. The requirements of this subsection shall not be construed as to require the review of any existing interest rate management plan by an independent financial adviser.

36-82-253.

- (a) Each qualified interest rate management agreement shall meet the following requirements:
- (1) Subject to subsection (b) of this Code section, the maximum term, including any renewal periods, of any qualified interest rate management agreement may not exceed ten years unless such longer term has been approved by the governing body of the local governmental entity; provided, however, that in no case may the term of the qualified interest rate management agreement exceed the latest maturity date of the bonds, notes, or debt or lease or installment purchase contract referenced in the qualified interest rate management agreement;
  - (2) The local governmental entity shall enter into a qualified interest rate management agreement only with a counterparty meeting the requirements set forth in paragraph (1) of Code Section 36-82-250;
  - (3) Prior to the execution and delivery by the local governmental entity of any qualified interest rate management agreement, an interest rate management plan meeting the requirements of Code Section 36-82-252 must have been approved by the governing body of the local governmental entity and the governing body of the local governmental entity shall have been provided evidence that such qualified interest rate management agreement is in compliance with the existing interest rate management plan;
  - (4) Any qualified interest rate management agreement shall be payable only in the currency of the United States of America; and
  - (5) Unless otherwise approved by the governing body of the local governmental entity, the notional amount of any qualified interest rate management agreement shall not exceed the outstanding principal amount of the debt or the aggregate payments

due under any lease or installment purchase contract to which such agreement relates.

(b) A qualified interest rate management agreement may renew from calendar year to calendar year and may provide for the payment of any fee related to a termination or a nonrenewal, so long as the following requirements are satisfied:

- (1) Such qualified interest rate management agreement shall terminate absolutely at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed;
- (2) Any such qualified interest rate management agreement may provide for automatic renewal unless positive action is taken by the local governmental entity to terminate such contract, or may provide for termination or renewal in some other manner not prohibited by law, which method of renewal or termination, in either case, shall be specified in the qualified interest rate management agreement; and
- (3) Such qualified interest rate management agreement shall include a statement of the total obligation of the local governmental entity for the calendar year of execution and, if renewed, for the calendar year of renewal.

A qualified interest rate management agreement meeting the requirements of this subsection may also provide that the local governmental entity's obligations will terminate immediately and absolutely at such time as appropriated and other funds encumbered for payment by the local governmental entity pursuant to the terms of such qualified interest rate management agreement are no longer available to satisfy such obligations. The total obligation of the local governmental entity for the calendar year payable pursuant to a qualified interest rate management agreement may be stated in contingent but objective terms with respect to variable rate payments or termination payments, but in that event a qualified interest rate management agreement must provide that it will terminate immediately and absolutely at such time as appropriated and other funds encumbered for its payment are no longer available to satisfy the obligations of the local governmental entity under such agreement. A qualified interest rate management agreement executed under this subsection shall not be deemed to create a debt of the local governmental entity or otherwise obligate the payment of any sum beyond the calendar year of execution or, in the event of a renewal, beyond the calendar year of such renewal.

- (c)(1) Any qualified interest rate management agreement of a local governmental entity may provide that it is an unconditional, limited recourse obligation of such local governmental entity payable from a specified revenue source.
- (2) A local governmental entity may, in any qualified interest rate management agreement that constitutes a limited recourse obligation of the local governmental entity, pledge to the punctual payment of amounts due under the qualified interest rate management agreement revenues from a specified revenue source, which shall not include any taxes, including, without limitation, collateral derived from such revenue source or proceeds of the debt, including debt for future delivery, to which such qualified interest rate management agreement relates.
- (d) A qualified interest rate management agreement that constitutes a limited recourse obligation shall not be payable from or charged upon any funds other than the revenue

identified as the source of payment thereof, nor shall the local governmental entity entering into the same be subject to any pecuniary liability thereon. No counterparty under any such qualified interest rate management agreement shall ever have the right to compel any exercise of the taxing power of the state or the local governmental entity to pay any amount due under any such qualified interest rate management agreement, nor to enforce payment thereof against any property of the state or local governmental entity, other than the specified revenue source; nor shall any such qualified interest rate management agreement constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the state or local governmental entity, other than the specified revenue source. Every such qualified interest rate management agreement shall contain a recital setting forth the substance of this subsection.

(e) Any local governmental entity may enter into credit enhancement or liquidity agreements in connection with any qualified interest rate management agreement containing such terms and conditions as the governing body determines are necessary or desirable, provided that any such agreement has the same source of payment as the related qualified interest rate management agreement.

36-82-254.

The local governmental entity that has entered into a qualified interest rate management agreement shall include in its annual financial statements information with respect to each qualified interest rate management agreement it has authorized or entered into, including any information required pursuant to any statement issued by the Governmental Accounting Standards Board.

36-82-255.

When entering into any qualified interest rate management agreement authorized under this article, the agreement shall be governed by the laws of the State of Georgia, and jurisdiction over the local governmental entity in any matter concerning a qualified interest rate management agreement shall lie exclusively in the courts of the State of Georgia or in the applicable federal court having jurisdiction and located within the State of Georgia.

36-82-256.

Any contract which has been duly authorized and executed by a local governmental entity before the effective date of this article shall not be rendered invalid or improper by the provisions of this article; provided, however, that this article shall apply to any renewal of such a contract after its effective date unless the contract permitted the renewal and set the terms of the renewal contract before January 1, 2005, in which case this article shall not apply to any such renewals."

**SECTION 2.**

Chapter 17 of Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new article at the end of Chapter 17, relating to state

debt, investment, and depositories, to be designated Article 5, to read as follows:

"ARTICLE 5

50-17-100.

As used in this article, the term:

- (1) 'Commission' means the Georgia State Financing and Investment Commission as defined in paragraph (1) of Code Section 50-17-21, as amended.
- (2) 'Counterparty' means the party entering into a qualified interest rate management agreement with the state party. A counterparty must be a bank, insurance company, or other financial institution duly qualified to do business in the state that either:
  - (A) Has, or whose obligations are guaranteed by an entity that has, at the time of entering into a qualified interest rate management agreement and for the entire term thereof, a long-term unsecured debt rating or financial strength rating in one of the top two ratings categories, without regard to any refinement or gradation of rating category by numerical modifier or otherwise, assigned by any two of the following: Moody's Investors Service, Inc., Standard & Poors Ratings Service, a division of The McGraw-Hill Companies, Inc., Fitch, Inc., or such other nationally recognized ratings service approved by the commission; or
  - (B) Has collateralized its obligations under a qualified interest rate management agreement in a manner approved by the commission.
- (3) 'Debt' shall include all debt and revenue obligations that a state party is authorized to incur by law, including without limitation general obligation debt in the form of bonds or other obligations, guaranteed revenue debt in the form of bonds or other obligations, revenue bonds and other forms of revenue obligations, and all other debt or revenue undertakings, including, but not limited to, bonds, notes, warrants, certificates or other evidences of indebtedness, or other obligations for borrowed money issued or to be issued by any state party. 'Debt' includes any financing lease or installment purchase contracts of any state authority.
- (4) 'Independent financial adviser' means a person or entity experienced in the financial aspects and risks of qualified interest rate management agreements that is retained by the state party to render advice with respect to a qualified interest rate management agreement. The independent financial adviser may not be the counterparty or an affiliate or agent of the counterparty on a qualified interest rate management agreement with respect to which the independent financial adviser is advising the state party.
- (5) 'Interest rate management plan' means a written plan prepared or reviewed by an independent financial adviser with respect to qualified interest rate management agreements of the state party.
- (6) 'Lease or installment purchase contract' means multiyear lease, purchase, installment purchase, or lease purchase contracts within the meaning of Code Sections 50-5-64, 50-5-65, and 50-5-77 or substantially similar other or successor Code sections.

- (7) 'State party' means the state and any state authority.
- (8) 'Qualified interest rate management agreement' means an agreement, including a confirmation evidencing a transaction effected under a master agreement, entered into by the state party in accordance with, and fulfilling the requirements of, Code Section 50-17-101 which agreement in the judgment of the state party is designed to manage interest rate risk or interest cost of the state party on any debt or lease or installment purchase contract the state party is authorized to incur, including, but not limited to, interest rate swaps or exchange agreements, interest rate caps, collars, corridors, ceiling, floor, and lock agreements, forward agreements, swaptions, warrants, and other interest rate agreements which, in the judgment of the state party, will assist the state party in managing the interest rate risk or interest cost of the state or state authority.
- (9) 'State authority' means any state authority as defined in paragraph (9) of Code Section 50-17-21, as amended.

50-17-101.

- (a) The commission is authorized to and shall establish guidelines, rules, or regulations with respect to the procedures for approving interest rate management plans and with respect to any requirements for qualified interest rate management agreements. Such guidelines, rules, and regulations shall apply to the interest rate management plans and qualified interest rate management agreements of any state party. Such guidelines, rules, and regulations shall not constitute a rule within the meaning of Chapter 13 of this title, the 'Georgia Administrative Procedure Act,' including, without limitation, the term 'rule' as defined in paragraph (6) of Code Section 50-13-2 and used in Code Section 50-13-4.
- (b) With respect to all or any portion of any debt or any lease or installment purchase contract, either issued or anticipated to be issued by the state party, the state party may enter into, terminate, amend, or otherwise modify a qualified interest rate management agreement under such terms and conditions as the state party may determine, including, without limitation, provisions permitting the state party to pay to or receive from any counterparty any loss of benefits under such agreement upon early termination thereof or default under such agreement.
- (c) Payments received by a state party pursuant to the terms of a qualified interest rate management agreement shall not be deposited into the state general fund but shall be subject to disposition by the state party and applied in accord with the goals of managing interest rate risk and interest cost as set forth in the qualified interest rate management agreement, any authorizing document for the debt or the lease or installment purchase contract to which such qualified interest rate management agreement relates, or such state party's interest rate management plan.
- (d)(1) With respect to any qualified interest rate management agreement related to all or any portion of debt of a state party, the obligations of the state party contained in such qualified interest rate management agreement may be incurred as related or additional obligations of such debt and approved in the same manner as required for

authorizing, approving, and issuing such debt to the extent not otherwise prohibited, limited, or impractical and consistent with any tax-exempt status of the related debt. If this power is exercised with respect to state debt, the obligations to pay a counterparty shall be subordinate to the obligations to pay holders of general obligation debt, guaranteed revenue debt, and all payments required under contracts entitled to the protection of the second paragraph of Paragraph I(a), Section VI, Article IX of the Constitution of 1976.

(2) When the obligations of the state party are not incurred as related or additional obligations pursuant to paragraph (1) of this subsection and the qualified interest rate management agreement relates to debt of a state authority, the qualified interest rate management agreement shall be on such terms and conditions as the state party and counterparty agree consistent with provisions of this article.

(3) When the obligations of the state party are not incurred as related or additional obligations pursuant to paragraph (1) of this subsection and the qualified interest rate management agreement relates to debt of the state or to a lease or installment purchase contract, the obligations of the state party contained in such qualified interest rate management agreement may renew from fiscal year to fiscal year and may provide for the payment of any fee related to a termination or a nonrenewal, so long as the following requirements are satisfied:

(A) Such qualified interest rate management agreement shall terminate absolutely at the close of the fiscal year in which it was executed and at the close of each succeeding fiscal year for which it may be renewed;

(B) Any renewal of such qualified interest rate management agreement shall require positive action taken by the state party or in such other manner not otherwise prohibited by law which method of renewal and termination, in either case, shall be specified in the qualified interest rate management agreement; and

(C) Such qualified interest rate management agreement shall include a statement of the total obligation of the state party for the fiscal year of execution and, if renewed, for the fiscal year of renewal.

A qualified interest rate management agreement meeting the requirements of this paragraph may also provide that the state's obligations will terminate immediately and absolutely at such time as appropriated and other funds encumbered for payment by the state pursuant to the terms of such qualified interest rate management agreement are no longer available to satisfy such obligations. The total obligation of the state for the fiscal year payable pursuant to a qualified interest rate management agreement may be stated in contingent but objective terms with respect to variable rate payments or termination payments, but in that event a qualified interest rate management agreement must provide that it will terminate immediately and absolutely at such time as appropriated and other funds encumbered for its payment are no longer available to satisfy the obligations of the state under such agreement. A qualified interest rate management agreement executed under this paragraph shall not be deemed to create a debt of the state or otherwise obligate the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal

year of such renewal. When a qualified interest rate management agreement is executed under this paragraph or paragraph (1) of this subsection, the obligation of the state may be treated as an operating expense of the commission within the meaning of Paragraph VII of Section IV of Article VII of the Constitution and within the meaning of paragraph (2) of subsection (g) of Code Section 50-17-22 and of subsection (b) of Code Section 50-17-27.

(e)(1) The obligations of a state party to pay a counterparty under a qualified interest rate management agreement with respect to debt may be paid from any lawful source, to the extent not otherwise prohibited, limited, or impractical and consistent with any tax exempt status of the related debt and in compliance with the Budget Act, including without limitation, as to the state, proceeds of general obligation debt, earnings on investments of proceeds of general obligation debt, appropriations of state and federal funds, and agency funds; and, as to any state authority, any funds of such state authority to the extent not otherwise prohibited, limited, or impractical and consistent with any tax exempt status of the related debt.

(2) The obligations of a state party to pay a counterparty under a qualified interest rate management agreement with respect to a lease or installment purchase contract may be paid from any lawful source, to the extent not otherwise prohibited, limited, or impractical and consistent with any tax-exempt status of the related lease or installment purchase agreement and in compliance with the Budget Act, including without limitation appropriations of state and federal funds and agency funds.

(f)(1) With respect to obligations of a state authority to pay a counterparty, any qualified interest rate management agreement of a state authority may provide that it is an unconditional, limited recourse obligation of such state authority payable from a specified revenue source.

(2) A state authority may, in any qualified interest rate management agreement that constitutes a limited recourse obligation of the state authority, pledge to the punctual payment of amounts due under the qualified interest rate management agreement revenues from a specified revenue source, which shall not include any taxes, including without limitation collateral derived from such revenue source or proceeds of the debt, including debt for future delivery, to which such qualified interest rate management agreement relates.

(3) A qualified interest rate management agreement that constitutes a limited recourse obligation shall not be payable from or charged upon any funds other than the revenue identified as the source of payment thereof, nor shall the state authority entering into the same be subject to any pecuniary liability thereon. No counterparty under any such qualified interest rate management agreement shall ever have the right to compel any exercise of the taxing power of the state or the state authority to pay any amount due under any such qualified interest rate management agreement, nor to enforce payment thereof against any property of the state or state authority, other than the specified revenue source; nor shall any such qualified interest rate management agreement constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the state or state authority, other than the specified revenue source. Every

such qualified interest rate management agreement shall contain a recital setting forth the substance of this paragraph.

(g)(1) The commission shall act for the state with respect to debt of the state and a qualified interest rate management agreement. However, upon authorization of the Governor, the Office of Treasury and Fiscal Services shall act as fiscal agent or provide other administrative services.

(2) A state authority shall act for itself with respect to an interest rate management plan, a qualified interest rate management agreement, and an independent financial advisor regarding the debt of the state authority subject, however, to the guidelines, rules, and regulations of the commission under subsection (a) of this Code section. Further, the interest rate management plan, a qualified interest rate management agreement, and retention of an independent financial advisor will be treated as financial advisory matters within the exclusive authority and jurisdiction of the commission under paragraph (1) of subsection (f) of Code Section 50-17-22 and will require specific commission approval, unless the commission otherwise directs in either the specific case or in general terms. Upon authorization of the Governor, the Office of Treasury and Fiscal Services shall act as fiscal agent or provide other administrative services for a qualified interest rate management agreement of the state authority.

(3) The agency responsible for payment shall act for the state with respect to a lease or installment purchase contract but only under the supervision and approval of the commission. Upon authorization of the Governor, the Office of Treasury and Fiscal Services shall act as fiscal agent or provide other administrative services.

#### 50-17-102.

(a) Prior to executing and delivering a qualified interest rate management agreement, the state party shall have adopted an interest rate management plan that includes:

(1) An analysis of the interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks to the state party entering into qualified interest rate management agreements;

(2) The state party's procedure for approving and executing qualified interest rate management agreements;

(3) The state party's plan to monitor interest rate risk, basis risk, termination risk, credit risk, market-access risk, and other risks; and

(4) Such other provisions as may from time to time be required by the commission, including but not limited to additional provisions due to changes in market conditions for qualified interest rate management agreements.

Any interest rate management plan adopted by the state shall be approved by the commission or by a designated officer of the commission and shall have been reviewed by an independent financial adviser approved by the commission.

(b) The state party shall conduct an annual review of its interest rate management plan as to the adequacy of the procedures set forth in such plan for the analysis and monitoring requirements set forth in subsection (a) of this Code section. A report

summarizing the results of such review shall be submitted annually to the commission and, with respect to any interest rate management plan of a state authority, to the governing body of such state authority. The requirements of this subsection shall not be construed as to require the review of any existing interest rate management plan by an independent financial adviser.

50-17-103.

- (a) Each qualified interest rate management agreement shall meet the following requirements:
  - (1) The maximum term, including any renewal periods, of any qualified interest rate management agreement of the state may not exceed ten years unless such longer term has been approved by the commission. In addition to approval of the commission required by paragraph (2) of subsection (g) of Code Section 50-17-101, the maximum term, including any renewal periods, of any qualified interest rate management agreement of a state authority may not exceed ten years unless such longer term has been approved by the governing body of the state authority. The foregoing provisions of this paragraph notwithstanding, in no case may the term of the qualified interest rate management agreement exceed the latest maturity date of the bonds, notes, debt, or lease or installment purchase contract referenced in the qualified interest rate management agreement.
  - (2) The state party shall enter into a qualified interest rate management agreement only with a counterparty meeting the requirements set forth in paragraph (2) of Code Section 50-17-100.
  - (3) Prior to the execution and delivery by the state of any qualified interest rate management agreement, an interest rate management plan meeting the requirements of Code Section 50-17-102 must have been submitted to the commission and the commission shall have been provided evidence that such qualified interest rate management agreement is in compliance with the existing interest rate management plan. Prior to the execution and delivery by a state authority of any qualified interest rate management agreement, an interest rate management plan meeting the requirements of Code Section 50-17-102 must have been submitted to the governing body of the state authority and the governing body of the state authority shall have been provided evidence that such qualified interest rate management agreement is in compliance with the existing interest rate management plan.
  - (4) Any qualified interest rate management agreement shall be payable only in the currency of the United States of America.
  - (5) The notional amount of any qualified interest rate management agreement shall not exceed the outstanding principal amount of the debt or the aggregate payments due under any lease or installment purchase contract to which such agreement relates unless otherwise approved in writing by the commission for any qualified interest rate management agreement executed by the state or by the governing body of the state authority for any qualified interest rate management agreement executed by a state authority, subject to the approval of the commission required by paragraph (2) of

subsection (g) of Code Section 50-17-101.

(b) Any state party may enter into credit enhancement or liquidity agreements in connection with any qualified interest rate management agreement containing such terms and conditions as the state party determines are necessary or desirable, provided that any such agreement has the same source of payment as the related qualified interest rate management agreement.

**50-17-104.**

The state party that has entered into a qualified interest rate management agreement shall include in its annual financial statements information with respect to each qualified interest rate management agreement it has authorized or entered into, including any information required by any accounting or regulatory standard to which the state party is subject.

**50-17-105.**

When entering into any qualified interest rate management agreement authorized under this article, the agreement shall be governed by the laws of the State of Georgia, and jurisdiction over the state party in any matter concerning a qualified interest rate management agreement shall lie exclusively in the courts of the State of Georgia or in the applicable federal court having jurisdiction and located within the State of Georgia."

**SECTION 3.**

Said title is further amended by striking paragraph (2) of subsection (g) of Code Section 50-17-22, relating to the Georgia State Financing and Investment Commission, and inserting in its place a new paragraph (2) to read as follows:

"(2) The executive secretary shall prepare, under the direction and supervision of the commission, any budgets, requests, estimates, records, or other documents deemed necessary or efficient for compliance with Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' to provide for the payment of personnel services, operating expense, and administration and otherwise carry out this article, provided that it is expressly declared by the General Assembly that this subsection is only intended to provide that the, The commission shall may but need not receive an appropriation for personnel, and administrative services, and other operating expenses of the commission. The commission may but need not receive an appropriation for the costs of issuance, validation, and delivery of obligations to be incurred, including, but not limited to, trustee's fees, paying agent fees, printing fees, bond counsel fees, district attorney fees, clerk of the superior court fees, architect fees, and engineering fees, which costs and fees are dependent on the principal amount of the obligations incurred and are determined to be appropriate costs of the project or projects for which such obligations are incurred and are authorized to be paid from bond proceeds. The commission may but need not receive an appropriation for expenditures made for fees and expenses incurred in safeguarding and protecting public health, life, and property in connection with projects for which general obligation debt has been

incurred."

#### **SECTION 4.**

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

#### **SECTION 5.**

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

Senator Cagle of the 49th moved that the Senate adopt the Conference Committee Report on SB 227.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Butler	Y Johnson	E Stoner
Y Cagle	N Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 43, nays 6; the motion prevailed, and the Senate adopted the Conference Committee Report on SB 227.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public

accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 374 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 374 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Cagle of the 49th  
/s/ Senator Balfour of the 9th  
/s/ Senator Schaefer of the 50th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Geisinger of the 48th  
/s/ Representative O'Neal of the 146th  
/s/ Representative Scott of the 2nd

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 374

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide that certain counties may levy and collect such a tax at the rate of 5 percent; to provide that funds shall be expended in a certain way; to provide for requirements and limitations with respect thereto; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and

municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, is amended by striking subparagraph (a)(1)(D) and inserting in its place a new subparagraph (D) to read as follows:

"(D) Except as provided in paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), and (5.2), and (5.3) of this subsection, no tax levied pursuant to this Code section shall be levied or collected at a rate exceeding 3 percent of the charge to the public for the furnishings."

## SECTION 2.

Said Code section is further amended by striking paragraph (2) of subsection (a) and inserting in its place a new paragraph (2) to read as follows:

"(2) A county or municipality levying a tax as provided in paragraph (1) of this subsection shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of promoting tourism, conventions, and trade shows a percentage of the total taxes collected under this Code section which is not less than the percentage of such tax collections expended for such purposes during the immediately preceding fiscal year. In addition, if during such immediately preceding fiscal year any portion of such tax receipts was expended for such purposes through a grant to or a contract or contracts with the state, a department of state government, a state authority, or a private sector nonprofit organization, then in each fiscal year beginning on or after July 1, 1987, at least the same percentage shall be expended through a contract or contracts with one or more such entities for the purpose of promoting tourism, conventions, and trade shows. The expenditure requirements of this paragraph shall cease to apply to a county or municipality which levies a tax at a rate in excess of 3 percent, as authorized under paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), and (5.2), and (5.3) of this subsection; and in such case the expenditure requirements of such paragraph of this subsection pursuant to which such tax is levied shall apply instead."

## SECTION 3.

Said Code section is further amended by striking paragraph (4) of subsection (a) and inserting in its place a new paragraph (4) to read as follows:

"(4) Notwithstanding any other provision of this subsection, a county (within the territorial limits of the special district located within the county) or municipality may levy a tax under this Code section at a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph (4)) an amount equal to at least 43 1/3 percent of the total taxes collected at the rate of 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (C) supporting a facility owned or operated by a local authority or local government for convention and trade show purposes or any other similar or

related purposes, if a written agreement to provide such support was in effect on January 1, 1987, and if such facility is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes if construction of such facility is funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state funds; (E) supporting a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such facility was substantially completed and in operation prior to December 31, 1993; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for purposes (C) and (D) may be so expended in any otherwise lawful manner. In addition to the amounts required to be expended above, a county or municipality levying a tax pursuant to this paragraph (4) shall further expend (in each fiscal year during which the tax is collected under this paragraph (4)) an amount equal to at least 1 percent of the total taxes collected at the rate of 6 percent for the purpose of supporting a museum of aviation and aviation hall of fame or an amount equal to at least 16 2/3 percent of the total taxes collected at the rate of 6 percent for the purpose of construction or expansion of either: (A) a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (B) a facility owned or operated by a local authority or local government for convention and trade show purposes or any other similar or related purposes, if such support is provided to a governmental entity with which the county or municipality levying the tax had in effect on January 1, 1987, a contractual agreement concerning governmental support of a convention and trade show facility; (C) a facility owned or operated for convention and trade show purposes, visitor welcome center purposes, or any other similar or related purposes by a convention and visitors bureau authority created by local Act of the General Assembly for a municipality; (D) a facility owned or operated for convention and trade show purposes or any other similar or related purposes by a coliseum and exhibit hall authority created by local Act of the General Assembly for a county and one or more municipalities therein; (E) a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such facility was substantially completed and in operation prior to

December 31, 1993; (F) a system of bicycle or pedestrian trails or walkways or both connecting a historic district within the levying county or municipality and surrounding areas (and with respect to this purpose (F) construction and expansion shall include acquisition and development), if not later than December 1, 1993, the county or municipality has adopted ordinances, resolutions, or contracts which: (i) designate such historic district; (ii) obligate the county or municipality to provide funds to promote tourism to a historic district owners and business association which qualifies as a private sector nonprofit organization under subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal Revenue Code; (iii) provide a 'comprehensive plan' as provided for in Chapters 70 and 71 of Title 36; (iv) provide a transportation plan as a component of such comprehensive plan; and (v) provide a recreation plan which is designed to identify recreation needs through the year 2000 and which includes provisions for such system of trails or walkways or both; provided that the authority to expend funds for such system of trails or walkways or both shall expire when all capital costs of the initial acquisition, construction, and development of such system as identified in the relevant plan have been paid and in no event later than July 1, 2002. Amounts so expended to meet such 16 2/3 percent expenditure requirement shall not be subject to the foregoing provisions of this paragraph requiring expenditure through a contract or contracts with certain entities; or (G) a system of bicycle or pedestrian greenways, trails, walkways, or any combination thereof connecting a downtown historic or business district within the levying county or municipality and surrounding areas (and with respect to this purpose (G) construction and expansion shall include acquisition and development), if not later than December 1, 2000, the county or municipality has adopted ordinances, resolutions, or contracts which: (i) designate such historic or downtown business district; (ii) obligate the county or municipality to provide funds to promote tourism to a downtown business district owners and business association or chamber of commerce which qualify as private sector nonprofit organizations under subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal Revenue Code; (iii) provide a 'comprehensive plan' as provided for in Chapters 70 and 71 of Title 36; (iv) provide a transportation plan as a component of such comprehensive plan; and (v) provide a recreation plan as a component of such comprehensive plan which includes provisions for such system of trails or walkways or both; provided that the authority to expend funds for such system of trails or walkways or both shall expire when all capital costs of the initial acquisition, construction, and development of such system as identified in the relevant plan have been paid and in no event later than July 1, ~~2005~~ 2025. Amounts so expended to meet such 16 2/3 percent expenditure requirement shall not be subject to the foregoing provisions of this paragraph requiring expenditure through a contract or contracts with certain entities."

#### SECTION 4.

Said Code section is further amended in subsection (a) by adding a new paragraph immediately following paragraph (5.2), to be designated paragraph (5.3), to read as

follows:

"(5.3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, a county (within the territorial limits of the special district located within the county) and municipalities within such a county in which a convention and visitor's bureau authority has been created by local Act of the General Assembly which was in existence on July 1, 2005, and which authority is established specifically by such local Act as a permissible, but not exclusive, entity for the transfer of hotel and motel tax funds by the taxing entities of the county for which such authority was created may levy a tax under this Code section at a rate of 5 percent.

(B) The provisions of paragraph (2) of this subsection relating to expenditures shall apply to this paragraph; provided, however, that a county or municipality levying a tax pursuant to this paragraph shall be authorized, but not required, to expend funds through a convention and visitor's bureau authority created by local Act of the General Assembly."

#### **SECTION 5.**

Said Code section is further amended by striking paragraph (6) of subsection (a) and inserting in its place a new paragraph (6) to read as follows:

"(6) At no time shall a county or municipality levy a tax under more than one paragraph of this subsection. Following the termination of a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection, any county or municipality which has levied a tax pursuant to paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection shall be authorized to levy a tax in the manner and at the rate authorized by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection."

#### **SECTION 6.**

Said Code section is further amended by striking paragraphs (9) and (10) of subsection (a) and inserting in their places new paragraphs (9) and (10) to read as follows:

"(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or (5.2), or (5.3)~~ of this subsection shall prior to the imposition of the tax (if the tax is imposed on or after July 1, 1990) and prior to each fiscal year thereafter in which the tax is imposed adopt a budget plan specifying how the expenditure requirements of this Code section will be met. Prior to the adoption of such budget plan, the county or municipality shall obtain from the authorized entity with which it proposes to contract to meet the expenditure requirements of this Code section a budget for expenditures to be made by such organization; and such budget shall be made a part of the county or municipal budget plan.

(B)(i) The determination as to whether a county or municipality has complied

with the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2), or (5.3) of this subsection shall be made for each fiscal year beginning on or after July 1, 1987, as of the end of each fiscal year, shall be prominently reflected in the audit required under Code Section 36-81-7, and shall disclose:

- (I) The amount of funds expended or contractually committed for expenditure as provided in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2), or (5.3) of this subsection, whichever is applicable, during the fiscal year;
  - (II) The amount of tax receipts under this Code section during such fiscal year; and
  - (III) Expenditures as a percentage of tax receipts.
- (ii) A county or municipality contractually expending funds to meet the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2), or (5.3) of this subsection shall require the contracting party to provide audit verification that the contracting party makes use of such funds in conformity with the requirements of this subsection. If the audit required by Code Section 36-81-7 identifies noncompliance with the applicable expenditure requirements of this Code section, such noncompliance shall be reported in accordance with paragraph (2) of subsection (c) of Code Section 36-81-7. The state auditor shall report all instances of noncompliance with this subparagraph noted in the audit report to the Department of Community Affairs upon completion of the report review required by paragraph (2) of subsection (d) of Code Section 36-81-7. The state auditor shall furnish a copy of all documents submitted by the local government or the local government's auditor pertaining to noncompliance with this subparagraph to the Department of Revenue. The Department of Community Affairs shall submit a copy of such documents to the performance review board.
- (10) Nothing in this article shall be construed to limit the power of a county or municipality to expend more than the required amounts, or all, of the total taxes collected under this Code section for the purposes described in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2), or (5.3) of this subsection."

## SECTION 7.

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

## SECTION 8.

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

Senator Schaefer of the 50th moved that the Senate adopt the Conference Committee Report on HB 374.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	N Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 50, nays 1; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 374.

Senator Balfour of the 9th asked unanimous consent that the following bill, having been placed on the Table on March 29, 2005, be taken from the Table:

HB 669. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Code Section 50-14-1 of the Official Code of Georgia Annotated, relating to open meetings requirements, so as to revise a definition; to provide that certain associations of school districts in this state are subject to the open meetings statute; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Moody of the 56th.

The consent was granted, and HB 669 was taken from the Table.

Senator Tolleson of the 20th asked unanimous consent that Senator Staton of the 18th be excused. The consent was granted, and Senator Staton was excused.

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Senator Douglas of the 17th asked unanimous consent that Senator Chance of the 16th be excused. The consent was granted, and Senator Chance was excused.

The following resolution was taken up to consider the Conference Committee Report thereto:

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on SR 88 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SR 88 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Fort of the 39th  
/s/ Senator Tate of the 38th  
/s/ Senator Grant of the 25th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Hill of the 21st  
/s/ Representative Keown of the 173rd  
/s/ Representative Holt of the 112th

COMMITTEE OF CONFERENCE SUBSTITUTE TO SR 88

A RESOLUTION

Creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; creating the Joint Commission for Recognition of Public Servants; and for other purposes.

WHEREAS, Henry McNeal Turner was born near Abbeville, South Carolina, in 1834 and was ordained to preach in 1853; and

WHEREAS, during the Civil War, he became the first African American to hold the position of chaplain in the U.S. Army, and after the war he was active in Georgia state politics and he served in the General Assembly; and

WHEREAS, when African Americans were expelled from the General Assembly in 1868, he delivered a rousing oratory in protest of their treatment; and

WHEREAS, he became the 12th A.M.E. Bishop in 1880, and for 12 years he served as chancellor of Morris Brown College, now Morris Brown University, and he donated land in Atlanta for the construction of a school for African American children; and

WHEREAS, it is only right that this great man in Georgia history be recognized.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

- (a) There is created the Henry McNeal Turner Tribute Commission to be composed of 11 members selected as follows:
  - (1) Two members appointed by the Governor, with a chairperson and vice chairperson to be designated by the Governor from among these members;
  - (2) Two members appointed by the President of the Senate;
  - (3) One member appointed by the Georgia Senate Committee on Assignments and one member each to be appointed by the Georgia Senate Majority and Minority Leaders; and
  - (4) Two members appointed by the Speaker of the Georgia House of Representatives and one member each to be appointed by the Majority and Minority Leaders of the Georgia House of Representatives.
- (b) Membership on the commission shall not constitute the holding of a public office and the members of the commission shall serve without compensation.
- (c) The commission shall exist for an indefinite term as may be necessary to complete its work and shall be dissolved by resolution of the commission upon completion of its work.

**SECTION 2.**

The commission is authorized to:

- (1) Provide for the commissioning of a statue of Henry McNeal Turner, the same to be accomplished solely through voluntary contributions to the commission or such fund or funds as it may establish or designate for such purpose;
- (2) Provide for the selection and design of an appropriate placement for such statue on or adjacent to the grounds of the Georgia state capitol building, provided that the site selected and the design of the placement shall be approved by the State Properties Commission;
- (3) Solicit and accept gifts, donations, and grants in furtherance of its purposes; and
- (4) Work cooperatively with any private group, organization, association, or corporation having the same general purpose as the commission.

**SECTION 3.**

Upon completion of the commission's work, the Governor shall be authorized to accept and provide for the dedication of a statue of Henry McNeal Turner to be placed on or adjacent to the grounds of the state capitol building.

**SECTION 4.**

The effectiveness of the provisions of Sections 1, 2, and 3 of this resolution shall be contingent upon the positive findings relative thereto of the Joint Commission for the Recognition of Public Servants as created under Section 5 of this resolution.

**SECTION 5.**

(a) The General Assembly finds that:

- (1) Over the years the General Assembly has recognized distinguished and deserving public servants through various means, including the commissioning and placement of statues and paintings; and
  - (2) To date there has not been a consensus as to the best way to honor such persons, and the result has been inconsistent and diverse honors and memorials; and
  - (3) The public would be well served if a commission were established to oversee the process of honoring our state's leaders and heroes in a predictable and dignified way so the public, and in particular our youth, can both remember those so honored and learn and take inspiration from their achievements, contributions, and sacrifices; and
- (b) There is created the Joint Commission for the Recognition of Public Servants to be composed of eight members as follows: one member appointed by the Governor, whose appointee shall be the chairperson; the director of the Georgia Capitol Museum; the director of the Georgia Building Authority; and the director of the Georgia Council for the Arts; additionally, two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the Senate Committee on Assignments, with one member from each designated as co-vice chairperson. The commission shall undertake a study of the need for a permanent commission to establish methods for honoring distinguished and deserving public servants and shall make recommendations to that end. The commission may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The legislative members of the commission shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than six days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the House of Representatives and Senate. The commission shall make a report of its findings and recommendations, with suggestions for proposed legislation, if any, to the Governor, the Speaker of the House of Representatives, and the Senate Committee on Assignments on or before December 1, 2005. The commission shall stand abolished on December 1, 2005.

Senator Fort of the 39th moved that the Senate adopt the Conference Committee Report on SR 88.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	E Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	E Staton
Y Bulloch	Y Hudgens	Stephens
Y Butler	Y Johnson	E Stoner
Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
E Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 46, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on SR 88.

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

Mr. President:

The House insists on its position in disagreeing to the Senate amendment, and has appointed a Committee of Conference to confer with a like committee on the part of the Senate on the following Bill of the House:

HB 538. By Representatives O'Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of

the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Speaker has appointed on the part of the House, Representatives O'Neal of the 146th, Talton of the 145th and Williams of the 4th.

The Calendar was resumed.

HB 669. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Code Section 50-14-1 of the Official Code of Georgia Annotated, relating to open meetings requirements, so as to revise a definition; to provide that certain associations of school districts in this state are subject to the open meetings statute; to repeal conflicting laws; and for other purposes.

Senate Sponsor: Senator Moody of the 56th.

Senators Thompson of the 33rd, Meyer von Bremen of the 12th and Reed of the 35th offered the following amendment:

Amend HB 669 by adding a new subsection (D) to read as follows;

All meetings of the General Assembly, and renumbering the remaining language accordingly.

Senator Thompson of the 33rd asked unanimous consent that his amendment be withdrawn. The consent was granted, and the amendment was withdrawn.

Senators Balfour of the 9th, Williams of the 19th and Adelman of the 42nd offered the following substitute to HB 669:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Part 1A of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to the telephone system for the physically impaired, so as to provide for the establishment of a state-wide telecommunication system capable of providing audible universal information access services to blind and print disabled citizens; to

authorize the Public Service Commission to contract for the administration and operation of such system; to provide for the use of a portion of the monthly maintenance surcharge to be used to fund such system; to provide for immunity for the commission and for the providers of such system; to establish criteria for the selection of a service provider; to provide for eligibility guidelines and funding for the audible universal information access service; to set a date for the beginning operation of such system; 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 1A of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to the telephone system for the physically impaired, is amended by striking Code Section 46-5-30, relating to establishment, administration, and operation of state-wide dual party relay service, and inserting in its place the following:

"46-5-30.

- (a) The General Assembly finds and declares that it is in the public interest to provide basic telecommunication services to all citizens of this state who, because of physical impairments, particularly hearing and speech impairments, cannot otherwise communicate over the telephone. It is further in the public interest to take advantage of innovative technological uses of basic telecommunications services to allow for universal access to information by blind and otherwise print disabled citizens of this state.
- (b) The commission shall establish, implement, administer, and promote a state-wide single provider dual party relay service operating seven days per week, 24 hours per day, and contract for the administration and operation of such relay service. The commission shall also establish, implement, administer, and promote a state-wide audible universal information access service operating seven days per week and 24 hours per day and shall contract for the administration and operation of such information access service. The commission shall also further establish, implement, administer, and promote a telecommunications equipment distribution program and contract for the administration and operation of such program.
- (c) The commission shall require all local exchange telephone companies in this state, except those operated by telephone membership corporations, to impose a monthly maintenance surcharge on all residential and business local exchange access facilities. For the purpose of this subsection, 'exchange access facility' means the access from a particular telephone subscriber's premise to the telephone system of a local exchange telephone company. 'Exchange access facility' includes local exchange company provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the commission. The amount of the surcharge shall be determined by the commission based upon the amount of funding necessary to accomplish the purposes of this Code section and provide the services on an ongoing basis; however, in no case shall the

amount exceed 20¢ per month. A maximum of \$0.05 of this monthly surcharge per access line shall be utilized for a telecommunications equipment distribution program and a maximum of \$0.01 of this monthly surcharge per access line shall be utilized to fund an audible universal information access service. If the projected cost of the operation of the relay service exceeds a monthly surcharge of \$0.15 at any time, funding for the telecommunications equipment distribution program and the audible universal information access service will be reduced by the amount required to fully fund the relay service, under the existing cap of \$0.20 for the period of time necessary. No additional fees other than the surcharge authorized by this subsection shall be imposed on any user of such relay or information access service. The local exchange companies shall collect the surcharge from their customers and transfer the moneys collected to a special fund to be held separate from all other funds. The fund shall be used solely for the administration and operation of the relay service, the information access service, and the telecommunications equipment distribution program and shall not be imposed, collected, or expended for any other purpose.

(d) The dual party relay system shall protect the privacy of persons to whom relay services are provided and shall require all operators to maintain the confidentiality of all telephone messages. The confidentiality and privacy of persons to whom relay services are provided will be protected by means of the following:

- (1) The relay center shall not maintain any form of permanent copies of messages relayed by their operators or allow the content of telephone messages to be communicated to, or accessible to, nonstaff members;
  - (2) Persons using the relay services shall not be required to provide any personal identifying information until the party they are calling is on the line, and shall only be required to identify themselves to the extent necessary to fulfill the purpose of their call;
  - (3) Relay operators shall not leave messages with third parties unless instructed to do so by the person making the call;
  - (4) Relay operators shall not intentionally alter a relayed conversation; and
  - (5) Relay operators shall not refuse calls or limit the length of calls.
- (e) Neither the commission nor the provider providers of the dual party relay system service or the audible universal information access service nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees of the providers of the dual party relay system service or the audible universal information access service shall be liable for any claims, actions, damages, or causes of action arising out of or resulting from the establishment, participation in, or operation of the dual party relay system service or the audible universal information access service.
- (f) The commission shall select the telecommunications carrier which will provide the relay system service and award the contract for this service to the offerer whose proposal is the most advantageous to the state, considering price, the interests of the hearing impaired and speech impaired community in having access to a high quality and technologically advanced telecommunication system, and all other factors listed in the commission's request for proposals.

(f.1) The commission shall select the service provider which will provide and manage the audible universal information access service and shall award the contract for this service to the offerer whose proposal is the most advantageous to the state, considering price, the interests of the blind and print disabled community in having access to a high quality and technologically advanced interactive audible universal information access system, the maintenance of such system, the training provided on the use of such service, outreach efforts, and all other factors listed in the commission's request for proposals.

(g) The commission shall select a distribution agency to manage the telecommunications equipment distribution program and award the contract for this service to the offerer whose proposal is the most advantageous to the state, considering price, the interests of the hearing impaired and speech impaired community in obtaining appropriate and effective telecommunications equipment, the training of recipients on the use of telecommunication devices, outreach efforts, and all other factors listed in the commission's request for proposals.

(h) The commission shall establish guidelines for eligibility for participation in the distribution program, taking into consideration a person's certified medical need and prohibiting distribution of telecommunications equipment to any person whose income exceeds 200 percent of the federal poverty level. The commission shall utilize appropriate external expertise, as necessary, to establish these guidelines, including contracting with public agencies or private entities. Funding for any such contracts will be covered by the \$0.05 portion of the monthly surcharge utilized for the telecommunications equipment distribution program.

(i) The commission shall establish eligibility guidelines for participation in the audible universal information access service, taking into account a person's certified medical need. The commission shall utilize appropriate external expertise, as necessary, to establish these guidelines, including contracting with public agencies or private entities. Funding for such contracts will be covered by the \$0.01 portion of the monthly surcharge utilized for the audible universal information access service.

~~(j)~~(j) The commission shall establish a telecommunications equipment distribution program advisory committee to provide input on program operation and the types of equipment to be, and being, distributed by the program. The commission shall select the equipment to be distributed by the program and shall incorporate this selection into the commission's request for proposals for a distribution agency.

~~(k)~~(k) The commission shall provide that the dual party telephone relay telephone system shall be operational no later than July 1, 1991, and that the telecommunications equipment distribution program shall be operational no later than March 31, 2003, and the audible universal information access service shall be operational no later than July 1, 2006."

## SECTION 2.

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

On the adoption of the substitute, the yeas were 45, nays 0, and the Balfour et al. substitute was adopted.

Senator Balfour of the 9th asked unanimous consent to suspend Senate Rule 7-1.6(b), in order to allow the bill to be continued upon its passage.

The consent was granted and Senate Rule 7-1.6(b) was suspended.

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

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

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 52, nays 0.

HB 669, having received the requisite constitutional majority, was passed by substitute.

The following bill was taken up to consider House action thereto:

HB 538. By Representatives O`Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official

Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Cagle of the 49th asked unanimous consent that the Senate adhere to its amendment to HB 538 and that a Conference Committee be appointed.

The consent was granted, and the President appointed as a Conference Committee the following Senators: Cagle of the 49th, Chance of the 16th and Hill of the 4th.

The following bill was taken up to consider House action thereto:

SB 13. By Senators Rogers of the 21st, Seabaugh of the 28th, Mullis of the 53rd, Hill of the 32nd and Moody of the 56th:

A BILL to be entitled an Act to amend Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or deceptive practices in consumer transactions, so as to provide a short title; to provide for definitions; to provide that the terms of gift certificates, store gift cards, and general use prepaid cards shall be disclosed at the time of purchase and through certain notifications; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or deceptive practices in consumer transactions, so as to provide a short title; to provide for definitions; to provide that the terms of gift certificates, store gift cards, and general use gift cards shall be disclosed at the time of purchase and through certain notifications; to provide for related matters; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

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

**SECTION 1.**

This Act shall be known and may be cited as the "Gift Card Integrity Act of 2005."

## **SECTION 2.**

Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or deceptive practices in consumer transactions, is amended by striking the word "or" at the end of paragraph (31) of subsection (b), striking the period and inserting ";" or" at the end of paragraph (32) of subsection (b), and adding a new paragraph (33) to subsection (b) to read as follows:

"(33)(A) For any person, firm, partnership, association, or corporation to issue a gift certificate, store gift card, or general use gift card without:

(i) Including the terms of the gift certificate, store gift card, or general use gift card in the packaging which accompanies the certificate or card at the time of purchase, as well as making such terms available upon request; and

(ii) Conspicuously printing the expiration date, if applicable, on the certificate or card and conspicuously printing the amount of any dormancy or nonuse fees on:

(I) The certificate or card; or

(II) A sticker affixed to the certificate or card.

A gift certificate, store gift card, or general use gift card shall be valid in accordance with its terms in exchange for merchandise or services.

(B) As used in this paragraph, the term:

(i) 'General use gift card' means a plastic card or other electronic payment device which is usable at multiple, unaffiliated merchants or service providers; is issued in an amount which amount may or may not be, at the option of the issuer, increased in value or reloaded if requested by the holder; is purchased or loaded on a prepaid basis by a consumer; and is honored upon presentation by merchants for goods or services.

(ii) 'Gift certificate' means a written promise that is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; is issued in a specified amount and cannot be increased in value on the face thereof; is purchased on a prepaid basis by a consumer in exchange for payment; and is honored upon presentation for goods or services by such single merchant or affiliated group of merchants that share the same name, mark, or logo.

(iii) 'Store gift card' means a plastic card or other electronic payment device which is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; is issued in a specified amount and may or may not be increased in value or reloaded; is purchased on a prepaid basis by a consumer in exchange for payment; and is honored upon presentation for goods or services by such single merchant or affiliated group of merchants that share the same name, mark, or logo."

## **SECTION 3.**

This Act shall become effective on October 1, 2005, and shall apply to any gift certificates, store gift cards, or general use gift cards sold on or after such date.

**SECTION 4.**

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

Senator Rogers of the 21st moved that the Senate agree to the House substitute to SB 13.

On the motion, a roll call was taken and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	N Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
N Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	N Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 47, nays 5; the motion prevailed, and the Senate agreed to the House substitute to SB 13.

The following bill was taken up to consider the Conference Committee Report thereto:

SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

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The Conference Committee Report was as follows:

The Committee of Conference on SB 230 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SB 230 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Hamrick of the 30th  
/s/ Senator Mullis of the 53rd  
/s/ Senator Grant of the 25th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Mumford of the 95th  
/s/ Representative Ralston of the 7th  
/s/ Representative Keen of the 179th

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 230

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide legislative findings; to provide definitions; to require information brokers to give notice to consumers of certain security breaches; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, is amended by adding a new Article 34 to read as follows:

"ARTICLE 34

10-1-910.

The General Assembly finds and declares as follows:

- (1) The privacy and financial security of individuals is increasingly at risk due to the ever more widespread collection of personal information by both the private and public sectors;
- (2) Credit card transactions, magazine subscriptions, real estate records, automobile registrations, consumer surveys, warranty registrations, credit reports, and Internet websites are all sources of personal information and form the source material for identity thieves;

- (3) Identity theft is one of the fastest growing crimes committed in this state. Criminals who steal personal information such as social security numbers use the information to open credit card accounts, write bad checks, buy cars, purchase property, and commit other financial crimes with other people's identities;
- (4) Implementation of technology security plans and security software as part of an information security policy may provide protection to consumers and the general public from identity thieves;
- (5) Information brokers should clearly define the standards for authorized users of its data so that a breach by an unauthorized user is easily identifiable;
- (6) Identity theft is costly to the marketplace and to consumers; and
- (7) Victims of identity theft must act quickly to minimize the damage; therefore, expeditious notification of unauthorized acquisition and possible misuse of a person's personal information is imperative.

10-1-911.

As used in this article, the term:

- (1) 'Breach of the security of the system' means unauthorized acquisition of an individual's computerized data that compromises the security, confidentiality, or integrity of personal information of such individual maintained by an information broker. Good faith acquisition of personal information by an employee or agent of an information broker for the purposes of such information broker is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.
- (2) 'Information broker' means any person or entity who, for monetary fees or dues, engages in whole or in part in the business of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring, or communicating information concerning individuals for the primary purpose of furnishing personal information to nonaffiliated third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes.
- (3) 'Notice' means:
  - (A) Written notice;
  - (B) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code; or
  - (C) Substitute notice, if the information broker demonstrates that the cost of providing notice would exceed \$250,000.00, that the affected class of individuals to be notified exceeds 500,000, or that the information broker does not have sufficient contact information to provide written or electronic notice to such individuals. Substitute notice shall consist of all of the following:
    - (i) E-mail notice, if the information broker has an e-mail address for the individuals to be notified;
    - (ii) Conspicuous posting of the notice on the information broker's website page, if

the information broker maintains one; and  
(iii) Notification to major state-wide media.

Notwithstanding any provision of this paragraph to the contrary, an information broker that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this article shall be deemed to be in compliance with the notification requirements of this article if it notifies the individuals who are the subjects of the notice in accordance with its policies in the event of a breach of the security of the system.

(4) 'Person' means any individual, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other entity. The term 'person' as used in this article shall not be construed to require duplicative reporting by any individual, corporation, trust, estate, cooperative, association, or other entity involved in the same transaction.

(5) 'Personal information' means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:

(A) Social security number;

(B) Driver's license number or state identification card number;

(C) Account number, credit card number, or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes, or passwords;

(D) Account passwords or personal identification numbers or other access codes; or

(E) Any of the items contained in subparagraphs (A) through (D) of this paragraph when not in connection with the individual's first name or first initial and last name, if the information compromised would be sufficient to perform or attempt to perform identity theft against the person whose information was compromised.

The term 'personal information' does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

#### 10-1-912.

(a) Any information broker that maintains computerized data that includes personal information of individuals shall give notice of any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The notice shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (c) of this Code section, or with any measures necessary to determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.

(b) Any person or business that maintains computerized data on behalf of an information broker that includes personal information of individuals that the person or

business does not own shall notify the information broker of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this Code section may be delayed if a law enforcement agency determines that the notification will compromise a criminal investigation. The notification required by this Code section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) In the event that an information broker discovers circumstances requiring notification pursuant to this Code section of more than 10,000 residents of this state at one time, the information broker shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. Section 1681a, of the timing, distribution, and content of the notices."

## SECTION 2.

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

## SECTION 3.

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

Senator Hamrick of the 30th moved that the Senate adopt the Conference Committee Report on SB 230.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams

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Y Heath  
Y Henson

Y Seay  
Y Shafer,D

Y Zamarripa

On the motion, the yeas were 49, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on SB 230.

His Excellency, Governor Sonny Perdue addressed the Senate extemporaneously.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 106 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 106 be adopted.

Respectfully submitted,

FOR THE HOUSE  
OF REPRESENTATIVES:  
FOR THE SENATE:

/s/ Senator Hamrick of the 30th  
/s/ Senator Mullis of the 53rd  
/s/ Senator Hill of the 4th

/s/ Representative Barnard of the 166th  
/s/ Representative Cole of the 125th  
/s/ Representative Cox of the 102nd

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 106

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to general provisions for penal institutions, so as to change certain provisions relating to the state sexual offender registry; to change provisions relating to registration requirements for offenders changing residency to this state; to change and add certain definitions; 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 1 of Title 42 of the Official Code of Georgia Annotated, relating to general provisions for penal institutions, is amended by striking in its entirety Code Section 42-1-12, relating to the state sexual offender registry, and inserting in lieu thereof the following:

"42-1-12.

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

(.1) 'Address' means the street or route address of the person's residence. For purposes of this Code section, the term does not mean a post office box.

(1) 'Appropriate state official' means:

(A) With respect to an offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to an offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee; ~~and~~

(C) With respect to an offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; ~~and~~

(D) With respect to an offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(2) 'Board' means the Sexual Offender Registration Review Board.

(2.1) 'Change in enrollment status' or 'change in employment status' means the commencement or termination of enrollment or employment.

(2.2) 'Change in vocation status' means the commencement or termination of a vocation.

(3) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant being adjudicated guilty. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section upon the defendant's discharge.

(4)(A) 'Criminal offense against a victim who is a minor' with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of

the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution; or
- (vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) 'Criminal offense against a victim who is a minor' with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution;
- (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;
- (viii) Creating, publishing, selling, distributing, or possessing any material depicting a minor or a portion of a minor's body engaged in sexually explicit conduct;
- (ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct;
- (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors engaged in sexually explicit conduct; or
- (xi) Any conduct which, by its nature, is a sexual offense against a minor.

(C) For purposes of this paragraph, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(D) ~~For purposes of this paragraph, 'criminal offense against a victim who is a minor' shall not include conduct which, by its nature, is a sexual offense against a victim who is 13 years of age or older when the defendant enters a first offender plea pursuant to Article 3 of Chapter 8 of this title.~~

(4.1) 'Institution of higher education' means a community college, state university, state college, or independent postsecondary institution.

(5) 'Mental abnormality' means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the

person a menace to the health and safety of other persons.

(5.1) 'Minor' means any person under the age of 18 years and any person that the offender believed at the time of the offense was under the age of 18 years if such person was the victim of an offense.

(6) 'Predatory' means an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) 'Sexually violent offense' means a conviction for violation of Code Section 16-6-1, relating to rape; Code Section 16-6-2, relating to aggravated sodomy; Code Section 16-6-4, relating to aggravated child molestation; ~~or~~ Code Section 16-6-22.2, relating to aggravated sexual battery; or ~~an offense that has as its element engaging in physical contact with another person with intent to commit such an offense~~ Code Section 16-5-21, relating to aggravated assault with intent to rape; or a conviction in a federal court, military court, tribal court, or court of another state or territory for any offense which under the laws of this state would be classified as a violation of a Code section listed in this paragraph.

(8) 'Sexually violent predator' means a person who has been convicted on or after July 1, 1996, of a sexually violent offense and who suffers from a mental abnormality or personality disorder or attitude that places the person at risk of perpetrating any future predatory sexually violent offenses.

(9) 'Vocation' means any sort of full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.

(b)(1)(A)(i) On and after July 1, 1996, a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense shall register as a sex offender within ten days after his or her release from prison or placement on parole, supervised release, or probation his or her name and current address; place of employment and vocation, if any; the crime of which convicted; school name and address, if any; and the date released from prison or placed on parole, supervised release, or probation with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside for the time period specified in subsection (g) of this Code section.

(ii) A person who has previously been convicted of a criminal offense against a victim who is a minor or who has previously been convicted of a sexually violent offense and who is released from prison or placed on parole, supervised release, or probation on or after July 1, 1996, shall register within ten days after such release or placement his or her name and current address; place of employment and vocation, if any; the crime of which convicted; school name and address, if any; and the date released from prison or placed on parole, supervised release, or probation with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside for the time period specified in subsection (g) of this Code section.

(iii) On and after July 1, 1999, any resident of Georgia who is convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a sexually violent offense or a criminal offense against a victim who is a minor shall register within ten days after his or her release from prison or placement on parole, supervised release, or probation. The information such an offender is required to register shall include his or her name and current address; place of employment and vocation, if any; the crime of which convicted; school name and address, if any; and the date released from prison or placed on parole, supervised release, or probation. Such an offender shall register with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside for the time period specified in subsection (g) of this Code section.

(B) A person who is a sexually violent predator shall register within ten days after his or her release from prison or placement on parole, supervised release, or probation the information required under subparagraph (A) of this paragraph with the appropriate sheriff's office as specified in subsection (c) of this Code section in the county where such person will reside. The sheriff may prepare a list of such sexual predators providing each person's name, address, and photograph. The sheriff shall update the list periodically and may post such list in a prominent and visible location in the sheriff's office and each city hall or primary administration building of every incorporated municipality within the county. Such list shall also be made available upon request to any public or private elementary, secondary, or postsecondary school or educational institution located in the county.

(2)(A) Upon a determination that an offender is guilty of a sexually violent offense, the court may request a report from the Sexual Offender Registration Review Board as to the likelihood that the offender suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense. The report shall be requested as a matter of course for any offender with a history of sexually violent offenses. The court shall provide the Sexual Offender Registration Review Board with any information available to assist the board in rendering an opinion. The board shall have 60 days from receipt of the court's request to respond with its report. After receiving a recommendation from the Sexual Offender Registration Review Board that a convicted sexually violent offender be classified as a sexually violent predator, the sentencing court shall so inform the offender and shall set a date to conduct a hearing affording the offender the opportunity to present testimony or evidence relevant to the recommended classification. After the hearing and within 60 days of receiving the report, the court shall issue a ruling as to whether or not the offender shall be classified as a sexually violent predator. If the court determines the offender to be a sexually violent predator, such fact shall be communicated in writing to the appropriate state official and to the Georgia Bureau of Investigation.

(B) The Sexual Offender Registration Review Board shall be composed of three professionals licensed under Title 43 and knowledgeable in the field of the behavior

and treatment of sexual offenders; at least one representative from a victims' rights advocacy group or agency; and at least two representatives from law enforcement, each of whom is either employed by a law enforcement agency as a certified peace officer under Title 35 or retired from such employment. The members of such board shall be appointed by the commissioner of human resources for terms of four years. Members of the board shall take office on the first day of September immediately following the expired term of that office and shall serve for a term of four years and until the appointment of their respective successors. No member shall serve on the board more than two consecutive terms. Vacancies occurring on the board, other than those caused by expiration of a term of office, shall be filled in the same manner as the original appointment to the position vacated for the remainder of the unexpired term and until a successor is appointed. Members shall be entitled to an expense allowance and travel cost reimbursement the same as members of certain other boards and commissions as provided in Code Section 45-7-21.

(C) The Sexual Offender Registration Review Board shall be attached to the Department of Human Resources for administrative purposes and provided there is adequate funding provided shall:

- (i) Exercise its quasi-judicial, rule-making, or policy-making functions independently of the department and without approval or control of the department;
- (ii) Prepare its budget, if any, and submit its budgetary requests, if any, through the department; and
- (iii) Hire its own personnel if authorized by the Constitution of this state or by statute or if the General Assembly provides or authorizes the expenditure of funds therefor.

(3)(A) If a person who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate state official shall:

- (i) Inform the person of the duty to register and obtain the information required under subparagraph (A) of paragraph (1) of this subsection for such registration;
- (ii) Inform the person that, if the person changes residence address, employment address, vocation address, school name, school address, or enrollment status, the person shall give the new information to the sheriff or sheriffs with whom the person last registered and the sheriff or sheriffs of the county to which the person is changing residence address, employment address, vocation address, school name, school address, or enrollment status, not later than ten days after the change of information. Following such notification, the sheriff's office shall notify immediately the Georgia Bureau of Investigation through the Criminal Justice Information System (CJIS) of each change of information;
- (iii) Inform the person that the person must register in any state where the person is employed or carries on a vocation or is a student;
- (iv) Inform the person that, if the person changes residence to another state, the person shall register the new address with the sheriff or sheriffs with whom the

person last registered, and that the person shall also register with a designated law enforcement agency in the new state not later than ten days after establishing residence in the new state;

(v) Obtain fingerprints and a photograph of the person if such fingerprints and photograph have not already been obtained in connection with the offense that triggered the initial registration; and

(vi) Require the person to read and sign a form stating that the duty of the person to register under this Code section has been explained. A copy of this form and any other registration information furnished by the Department of Corrections shall be forwarded to the Georgia Bureau of Investigation.

(B) In addition to the requirements of subparagraph (A) of this paragraph, for a person required to register under subparagraph (B) of paragraph (1) of this subsection, the appropriate state official shall obtain the name of the person; descriptive physical and behavioral information to assist law enforcement personnel in identifying the person; known current or proposed residence addresses of the person; place of employment, if any; offense history of the person; and documentation of any treatment received for any mental abnormality or personality disorder of the person; provided, however, that the appropriate state official shall not be required to obtain any information already on the Criminal Justice Information System of the Georgia Crime Information Center.

(C) The Georgia Crime Information Center shall create the Criminal Justice Information System network transaction screens by which appropriate state officials shall enter original data required by this Code section including residence address, school name, school address, enrollment status, and employment and vocation address and status. Screens shall also be created for sheriffs' offices for the entry of record confirmation data; employment; changes of residence, school, or employment; or other pertinent data and to assist in offender identification.

(D) Any person changing residence from another state or territory of the United States to Georgia ~~who is required to register under federal law or the laws of another state, territory, or tribal authority or who has been convicted of an offense in another state, territory, or tribal authority which would require registration under this Code section if committed in this state shall comply with the registration requirements of this Code section. Such person shall register the new address, employment, and vocation information with the appropriate sheriff of the county as specified in subsection (c) of this Code section not later than ten days after the date of establishing residency in this state. Upon the person's registration with the sheriff of the county of new residence, the sheriff or his or her designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or his or her designee shall obtain any needed information concerning the registrant, including fingerprints and a photograph of the person if such fingerprints and photograph have not previously been obtained within the State of Georgia. In addition, the sheriff or his or her designee shall inform the person of the duty to report any change of address as otherwise required in this Code section. The~~

~~Georgia Bureau of Investigation shall forward such information in the manner described in subsection (c) of this Code section. shall be subject to the following registration requirements:~~

- (i) Any person changing residence from another state or territory of the United States to Georgia who is required to register under federal law or the laws of another state, territory, or tribal authority shall comply with the registration requirements of this Code section and register in this state regardless of when the conviction occurred.
- (ii) Any person changing residence from another state or territory of the United States to Georgia who has been convicted of an offense in another state, territory, or tribal authority which would require registration under this Code section if committed in this state shall comply with the registration requirements of this Code section regardless of when the conviction occurred.
- (iii) Any person who is subject to the registration requirements of this Code section shall register the new address, employment, and vocation information with the appropriate sheriff of the county as specified in subsection (c) of this Code section not later than ten days after the date of establishing residency in this state.
- (iv) Upon the person's registration with the sheriff of the county of new residence, the sheriff or the sheriff's designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or the sheriff's designee shall obtain any needed information concerning the registrant, including fingerprints and a photograph of the person if such fingerprints and photograph have not previously been obtained within the State of Georgia. In addition, the sheriff or the sheriff's designee shall inform the person of the duty to report any change of address as otherwise required in this Code section. The Georgia Bureau of Investigation shall forward such information in the manner described in subsection (c) of this Code section.
- (v) Any person who is subject to the registration requirements of this Code section shall be required to register in Georgia for the remaining period of time established by the state of last registration, or for the period of time as set forth in subsection (g) of this Code section, whichever is longer.
- (vi) Any person who is designated in another state as a sexually violent predator and changes residency to Georgia shall also be designated as a sexually violent predator in this state and subject to subsection (g) of this Code section.

(E) The following persons are also required to register:

- (i) Any nonresident who enters this state for the purpose of employment for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year and who is required to register under federal law, military law, tribal law, or the laws of another state or territory, which, based on an act, would require registration under this Code section; or
- (ii) Any nonresident who enters this state for the purpose of attending school as a full-time or part-time student and who is required to register under federal law, military law, tribal law, or the laws of another state or territory, which, based on

an act, would require registration under this Code section.

Any person required to register by this subparagraph shall not later than ten days after the person enters the state register with the sheriff of the county of his or her temporary address, with the sheriff of the county of his or her employment, and with the sheriff of the county in which the person is attending school. The information registered shall include the person's temporary address, permanent address in the person's state of residence, employment and vocation address and status, and school name, school address, and enrollment status. Upon the person's registration, the sheriff or the sheriff's designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or the sheriff's designee shall obtain the fingerprints and photograph of the person, if the person's fingerprints and photograph have not previously been obtained in Georgia. The sheriff or the sheriff's designee shall inform the person of his or her duty to report any change in temporary residence, permanent residence, employment and vocation address and status, school name, school address, or enrollment status.

(4) A person who is required to register under any provision of this Code section shall:

(A) Report in person within ten days of release from prison, placement on probation, parole, or supervised release to the appropriate sheriff's office of the county or counties where the person resides, is employed, or attends school. A person who is so required to register must provide his or her street address to the sheriff of the person's county of residence;

(B) Report in person within ten days to the appropriate sheriff or sheriffs if the person changes residence address, employment address, vocation address, school name, school address, or enrollment status;

(C) In the event of a move to a new state, advise the sheriff of the county where the person last registered of his or her impending move within ten days of moving. He or she shall also report to the designated law enforcement agency in the new state of residence within ten days of arrival at the new residence;

(D) Read and sign the offender registration notification form at the time of registration; and

(E) Report in person to the sheriff of the person's county of residence within ten days of the anniversary date of the original registration with the offender's verification form from the Georgia Bureau of Investigation.

(c)(1) The appropriate state official shall, within three days after receipt of information described in paragraph (3) of subsection (b) of this Code section, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the Criminal Justice Information System by the appropriate state official or sheriff, the Georgia Crime Information Center, where appropriate, shall immediately notify the sheriff of the person's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the person attends school. The Georgia Bureau of Investigation shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation. It shall be

the duty of the sheriff of each county within this state to maintain a register of the names and addresses of all registered offenders within the sheriff's jurisdiction whose names have been provided by the Georgia Bureau of Investigation to the sheriff under this Code section. The Georgia Bureau of Investigation shall establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation and shall perform mail out and verification duties on a quarterly basis. The Georgia Bureau of Investigation shall send each month Criminal Justice Information System network messages to sheriffs listing offenders due for verification. The bureau shall also create a photo image file from original entries and provide such entries to sheriffs to assist in offender identification and verification.

(2) Any person who is required to register under this Code section and who is enrolled, employed, or carries on a vocation at an institution of higher education in this state shall provide the name, address, and county of each institution including each campus attended and the person's position or enrollment status, as well as any change in enrollment, employment, or vocation status. The requirements of this paragraph shall be accomplished in a manner specified in subparagraphs (b)(1)(A), (b)(1)(B), (b)(3)(A), (b)(3)(D), and (b)(3)(E) of this Code section.

(3) The Georgia Bureau of Investigation shall establish operating policies and procedures in order to provide prompt notice of offender registration and any change in status information contained in paragraph (2) of this subsection to any law enforcement agency having jurisdiction where an institution of higher education is located and to include notification to the campus police if appropriate for the institution of higher education. The law enforcement agency or agencies having jurisdiction where an institution of higher education is located shall provide a statement advising the campus community where law enforcement agency information may be obtained as provided by the state under 20 U.S.C. Section 1092 (f)(1) and 42 U.S.C. Section 1407 (j), concerning registered sex offenders. This information may be obtained at the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or via the Georgia Bureau of Investigation's Internet website.

(c.1)(1) On an annual basis, the Department of Education shall obtain from the Georgia Bureau of Investigation a complete list of the names and addresses of all registered sexual offenders and shall send such list, accompanied by a hold harmless provision, to each public elementary and secondary school in this state. In addition, the Department of Education shall provide information to each public elementary and secondary school in this state on how to access and retrieve from the Georgia Bureau of Investigation's Internet website a list of the names and addresses of all registered sexual offenders. The Department of Education shall make such information available to any private school upon request.

(2) The Office of School Readiness shall provide, on a one-time basis, information to all child care programs regulated pursuant to Code Section 20-1A-5 on how to access and retrieve from the Georgia Bureau of Investigation's Internet website a list of the names and addresses of all registered sexual offenders and shall include, on a

continuing basis, such information with each application for licensure.

(3) The Department of Human Resources shall provide, on a one-time basis, information to all day-care, group day-care, and family day-care programs regulated on how to access and retrieve from the Georgia Bureau of Investigation's Internet website a list of the names and addresses of all registered sexual offenders. On and after October 1, 2004, the Department of Early Care and Learning shall include, on a continuing basis, such information with each application for licensure, commissioning, or registration for early care and education programs.

(d)(1) For a person required to register under subparagraph (b)(1)(A) of this Code section, on each anniversary of the person's initial registration date during the period in which the person is required to register under this Code section, the following applies:

- (A) The Georgia Bureau of Investigation shall mail a nonforwardable verification form to the last reported address of the person;
- (B) Upon receipt of the verification form the person shall be required to report in person to the sheriff of the person's county of residence within ten days of the anniversary date;
- (C) The verification form stating that the person still resides at the address last reported to the Georgia Bureau of Investigation shall be signed by the person and retained by the sheriff;
- (D) The person shall report to the sheriff of the person's county of residence to be photographed every year within ten days of the anniversary date of the original registration; and
- (E) If the person fails to respond directly to the sheriff within ten days after receipt of the form, the person shall be in violation of this Code section.

(2) The provisions of paragraph (1) of this subsection shall be applied to a person required to register under subparagraph (b)(1)(B) of this Code section, except that such person must verify the registration every 90 days after the date of the initial release on probation by the court or the initial release by the Department of Corrections or commencement of parole.

(e) A change of address by a person required to register under this Code section reported to the Georgia Bureau of Investigation shall be immediately reported to the sheriff of the county where the person resides as set forth in subparagraph (b)(3)(E) of this Code section. The Georgia Bureau of Investigation shall, if the person changes residence to another state, notify the law enforcement agency with which the person must register in the new state.

(f) A person who has been convicted of an offense which requires registration under this Code section shall register the new address with a designated law enforcement agency in another state to which the person moves not later than ten days after such person establishes residence in the new state if the new state has a registration requirement.

(g) A person required to register under subparagraph (b)(1)(A) of this Code section shall continue to comply with this Code section, except during ensuing periods of

incarceration, during which time all registration requirements shall be stayed. Upon release from incarceration, the person shall report to the sheriff of the person's county of residence within ten days from the date of release from incarceration, until:

- (1) Ten years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or
- (2) For the life of that person if that person:
  - (A) Has one or more prior convictions for an offense described in subparagraph (a)(4)(A) and paragraph (7) of subsection (a) of this Code section;
  - (B) Has been convicted of an aggravated offense described in paragraph (7) of subsection (a) of this Code section; or
  - (C) Has been determined to be a sexually violent predator pursuant to subparagraph (b)(2)(A) of this Code section.
- (h) Any person who is required to register under this Code section and who fails to comply with the requirements of this Code section or who provides false information shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years; provided, however, that upon the conviction of the second or subsequent offense under this subsection, the defendant shall be punished by imprisonment for not less than one nor more than three years or by a fine in an amount of up to \$100,000.00, or both.
- (i) The information collected under the state registration program shall be treated as private data except that:
  - (1) Such information may be disclosed to law enforcement agencies for law enforcement purposes;
  - (2) Such information may be disclosed to government agencies conducting confidential background checks;
  - (3) The Georgia Bureau of Investigation or any sheriff maintaining records required under this Code section shall release relevant information collected under this Code section that is necessary to protect the public concerning those persons required to register under this Code section, except that the identity of a victim of an offense that requires registration under this Code section shall not be released. In addition to any other notice that may be necessary to protect the public, nothing in this Code section shall prevent any sheriff from posting this information in any public building in addition to those locations enumerated in subparagraph (b)(1)(B) of this Code section; and
  - (4) It shall be the responsibility of the sheriff maintaining records required under this Code section to enforce the criminal provisions of this Code section. The sheriff may request the assistance of the Georgia Bureau of Investigation upon his or her discretion.
- (j) Law enforcement agencies, employees of law enforcement agencies, members of the Sexual Offender Registration Review Board, and state officials shall be immune from liability for good faith conduct under this Code section.
- (k) The provisions of this Code section shall be in addition to and not in lieu of the provisions of Code Section 42-9-44.1, relating to conditions for parole of sexual

offenders.

- (l) The Board of Public Safety is authorized to promulgate rules and regulations necessary for the Georgia Bureau of Investigation and the Georgia Crime Information Center to implement and carry out the provisions of this Code section.
- (m) No cause of action shall arise against any real estate broker or any affiliated licensee of the broker or any person or entity or its employees which own property or any person or entity or its employees who provide property management services as defined in paragraph (7) of Code Section 43-40-1 for the failure to disclose in any real estate transaction any information which is provided or maintained or required to be provided or maintained in accordance with this Code section. No cause of action shall arise against any real estate broker or any affiliated licensee of the broker or any person or entity or its employees which own property or any person or entity or its employees who provide property management services as defined in paragraph (7) of Code Section 43-40-1 for revealing any information provided or maintained or required to be provided or maintained in accordance with this Code section.
- (n) Within ten days of the filing of a defendant's discharge and exoneration of guilt pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of discharge and exoneration to the Georgia Bureau of Investigation and any sheriff maintaining records required under this Code section."

## SECTION 2.

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

Senator Hill of the 32nd moved that the Senate adopt the Conference Committee Report on HB 106.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker

Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 51, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 106.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 509 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 509 be adopted.

Respectfully submitted,

FOR THE SENATE:

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Senator Hill of the 4th  
 /s/ Senator Williams of the 19th  
 /s/ Senator Kemp of the 46th

/s/ Representative Harbin of the 118th  
 /s/ Representative Golick of the 34th  
 /s/ Representative Graves of the 12th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 509

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, is amended by striking Code Section 45-12-71, relating to definitions regarding budgetary and financial affairs, and inserting in its place a new Code Section 45-12-71 to read as follows:

"45-12-71.

As used in this part, the term:

- (1) 'Annual operating budget' means the operating budget for each budget unit which details the appropriations passed by the General Assembly for that budget unit.
- (2) 'Appropriation' means an authorization by the General Assembly to a budget unit to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure described in this part.
- (3) 'Appropriation Act' means an Act of the General Assembly which authorizes the expenditure of state money.
- (4) 'Budget' means the complete financial plan for the fiscal year as proposed in the budget report and modified and adopted by appropriation and revenue Acts.
- (5) 'Budget allotment' means a process of authorizing the withdrawal of state funds from the treasury based on a determination that the budget allotment request is consistent with an approved work program.
- (6) 'Budget class' means one of the kinds of expenditures denoting a class of service or commodities purchased or properties acquired as specified in the classification of expenditures provided for in this part for use in expenditure accounting, in the making of budget estimates, and in the budget reports and budgets.
- (7) 'Budget estimate' means the statement with accompanying explanations, as provided in this part, in which a budget unit states its financial requirements and requests appropriations.
- (8) 'Budget message' means the required statement by the Governor to the General Assembly after its convening which gives a summary description of the Governor's proposed financial policies and plans contained in the budget report, together with recommendations for additional revenues, if any.

(9) 'Budget report' means and 'program budget report' mean recommendations of the Governor to the General Assembly as to financial plans and expenditures to be authorized; and agency program information, with the accompanying statements and explanations provided for in this part.

(10) 'Budget unit' means a department, institution, agency, or other unit of organization for which separate appropriations are made.

(11) 'Core businesses' means broad policy areas that a budget unit was created to address. These are fundamental activities or groups of activities critical to the organization's overall mission.

(12) 'Outcome measure' means quantitative and qualitative indicators by which the performance of a program can be assessed against adopted goals and objectives.

(13) 'Program' means a discrete set of activities undertaken to carry out an agency's core businesses.

(12)(14) 'Strategic planning' means the process through which a preferred future direction and organizational mission are established and periodically updated in light of changing trends and issues and goals, objectives, and strategies are adopted and implemented to guide an organization toward that preferred future direction."

## SECTION 2.

Said chapter is further amended by striking paragraph (2) of Code Section 45-12-73, relating to powers and duties of the Office of Planning and Budget, and inserting in its place a new paragraph (2) to read as follows:

"(2) Develop and implement ~~an outcome-based~~ a program budgeting system that relates funding to achievement of established goals and objectives, measures agency performance against attainment of planned outcomes, and provides for program evaluations for policy and funding determinations. Program evaluations may include cost benefit analyses, decision analyses, statistical analyses, comparisons with similar programs in other jurisdictions, relevant historical trends, and demographic factors and other useful techniques;".

## SECTION 3.

Said chapter is further amended by striking subsection (a) of Code Section 45-12-78, relating to submission of annual budget estimates by heads of budget units, and inserting in its place a new subsection (a) to read as follows:

"(a) ~~Not later than September 1 of each year, the~~ The head of each budget unit, other than the General Assembly and the judiciary, shall annually submit to the Office of Planning and Budget estimates of the financial requirements of the budget unit for the next fiscal year, by the date set by the director of the Office of Planning and Budget, which shall be no earlier than August 1 of each year, on the forms and in the manner prescribed by the Office of Planning and Budget, with such explanatory data as is required by the Office of Planning and Budget. Such submission shall utilize such budget classes and be within such expenditure parameters as may be established by the

Governor. The head of a budget unit also may submit such additional data as is helpful. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted."

#### SECTION 4.

Said chapter is further amended by striking Code Section 45-12-86, relating to required reserve of certain specified appropriations, and inserting in its place a new Code Section 45-12-86 to read as follows:

"45-12-86.

- (a) The Governor, during the first six months of a fiscal year period in which the current revenue estimate on which appropriations are based is expected to exceed actual revenues, is authorized to require state agencies to reserve such appropriations as specified by the Governor for budget reductions to be recommended to the General Assembly at its next regular session.
- (b) The Governor, during any fiscal year by which the current revenue estimate or which appropriations are based is expected to exceed actual revenues, is authorized to withhold a percentage of agency allotment requests as necessary to maintain spending within actual revenues."

#### SECTION 5.

Said chapter is further amended by striking Code Section 45-12-93, relating to the revenue shortfall reserve, and inserting in its place a new Code Section 45-12-93 to read as follows:

"45-12-93.

- (a) ~~As of June 30 of each fiscal year, the state auditor shall reserve from the state surplus an amount equal to not less than 3 nor more than 5 percent, as directed by the director of the budget, of the net revenue collections of such fiscal year, to the extent that such surplus is available therefor. This reserve shall be entitled the revenue shortfall reserve and shall be in lieu of the working reserve for high income and low-income periods; provided, however, that the director of the budget may, with regard to all or any part of the fourth and fifth percentile so reserved, direct the return of the same to the general fund of the state treasury for appropriation according to law.~~
- (b) ~~As of June 30 of each fiscal year, the state auditor shall reserve from the state surplus an amount equal to 1 percent of the net revenue collections of such fiscal year, to the extent that such surplus is available therefor. This amount shall be reserved before the amount shall be reserved for the revenue shortfall reserve as provided in subsection (a) of this Code section. This reserve shall be entitled the midyear adjustment reserve and shall be available for appropriation by the General Assembly of Georgia for such purposes as it may select.~~
- (c) ~~Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$5 million for State Fiscal Year 1983 from the revenue shortfall reserve.~~

- (d) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$12,500,000.00 for State Fiscal Year 1985 from the revenue shortfall reserve, for the purpose of financing the construction of water and sewer projects, through loans to local governments by the Georgia Development Authority.
- (e) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$208,632,306 for State Fiscal Year 2004 from the revenue shortfall reserve.
- (f) Any other provision of law notwithstanding, the General Assembly of Georgia is authorized to appropriate \$7 million for State Fiscal Year 2005 from the revenue shortfall reserve.
- (a) There shall be a reserve of state funds known as the 'Revenue Shortfall Reserve.'
- (b) The amount of all surplus in state funds existing as of the end of each fiscal year shall be reserved and added to the Revenue Shortfall Reserve. Funds in the Revenue Shortfall Reserve shall carry forward from fiscal year to fiscal year, without reverting to the general fund at the end of a fiscal year. The Revenue Shortfall Reserve shall be maintained, accumulated, appropriated, and otherwise disbursed only as provided in this Code section.
- (c) For each existing fiscal year, the General Assembly may appropriate from the Revenue Shortfall Reserve an amount up to 1 percent of the net revenue collections of the preceding fiscal year for funding increased K-12 needs.
- (d) The Governor may release for appropriation by the General Assembly a stated amount from funds in the Revenue Shortfall Reserve that are in excess of 4 percent of the net revenue of the preceding fiscal year.
- (e) As of the end of each fiscal year, an amount shall be released from the Revenue Shortfall Reserve to the general fund to cover any deficit by which total expenditures and contractual obligations of state funds authorized by appropriation exceed net revenue and other amounts in state funds made available for appropriation.
- (f) The combined Revenue Shortfall Reserve and the Midyear Adjustment Reserve existing on the effective date of this subsection shall become the Revenue Shortfall Reserve provided for in this Code section.
- (g) Any other provision of law notwithstanding, the General Assembly is authorized to appropriate \$ 7 million for State Fiscal Year 2005 from the Revenue Shortfall Reserve.
- (h) The Revenue Shortfall Reserve shall not exceed 10 percent of the previous fiscal year's net revenue for any given fiscal year."

## SECTION 6.

Said chapter is further amended by striking subsection (d) of Code Section 45-12-173, relating to promotion of state development, and inserting in its place a new subsection (d) to read as follows:

- "(d) The Governor shall prepare and submit to the General Assembly a development program for the consideration and review of the General Assembly. A program budget report shall satisfy this requirement. The development program shall be submitted within five days after the organization of the General Assembly for review with the

budget document."

#### **SECTION 7.**

Said chapter is further amended by striking subsection (b) of Code Section 45-12-177, relating to review and establishment of certain goals and policies, and inserting in its place a new subsection (b) to read as follows:

"(b) The Governor, through the Office of Planning and Budget, shall prepare an annual policy document to reflect the state strategic plan and address state-wide goals, objectives, and opportunities. A program budget report shall satisfy this requirement. Such policy document shall be transmitted to the General Assembly at the beginning of each legislative session beginning with the ~~1994~~ 2006 session."

#### **SECTION 8.**

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

#### **SECTION 9.**

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

Senator Hill of the 4th moved that the Senate adopt the Conference Committee Report on HB 509.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 51, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 509.

The following bill was taken up to consider House action thereto:

SB 110. By Senators Unterman of the 45th, Thomas of the 54th and Smith of the 52nd:

A BILL to be entitled an Act to amend Title 43 of the O.C.G.A., relating to regulation of professions and businesses, so as to add a new Chapter 24A regulating the practice of massage therapy; to provide a short title; to provide legislative findings and intent; to provide for certain definitions; to create the Georgia Board of Massage Therapy; to provide for membership on the board; to provide for meetings of the board; to provide for powers of the board; to provide for licensure of massage therapists; to provide for provisional permits; to provide for applications under oath; to provide for licensing examinations; to provide for requirements relating to a license; to provide for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

The House substitute was as follows:

**A BILL TO BE ENTITLED  
AN ACT**

To amend Title 43 of the Official Code of Georgia Annotated, relating to regulation of professions and businesses, so as to add a new Chapter 24A regulating the practice of massage therapy; to provide a short title; to provide legislative findings and intent; to provide for certain definitions; to create the Georgia Board of Massage Therapy; to provide for membership on the board; to provide for meetings of the board; to provide for powers of the board; to provide for licensure of massage therapists; to provide for provisional permits; to provide for applications under oath; to provide for licensing examinations; to provide for requirements relating to a license; to provide for violations; to prohibit the unauthorized practice of massage therapy; to provide for disciplinary actions; to provide for administrative procedures; to provide for exceptions; to provide for continuing education requirements; to provide for cumulative remedies; to provide for other jurisdictions; to provide for taxation; 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 43 of the Official Code of Georgia Annotated, relating to regulation of professions and businesses, is amended by adding a new Chapter 24A to read as follows:

## "CHAPTER 24A

### 43-24A-1.

This chapter shall be known and may be cited as the 'Georgia Massage Therapy Practice Act.'

### 43-24A-2.

The General Assembly acknowledges that the practice of massage therapy affects the public health, safety, and welfare. Massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and function of the tissue being treated and the total function of the body. Massage is therapeutic and regulations are necessary to protect the public from unqualified practitioners. It is in the interest of the public to set standards of qualifications, education, training, and experience for those who seek to practice massage therapy; to promote high standards of professional performance for those licensed to practice massage therapy; and to protect the public from unprofessional conduct by persons licensed to practice massage therapy.

### 43-24A-3.

As used in this chapter, the term:

- (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any card, sign, or other device or causing or permitting any sign or marking on or in any building or structure, or in any newspaper, magazine, or directory, or announcement on radio, or announcement or display on television, computer network, or electronic or telephonic medium.
- (2) 'Applicant' means any person seeking a license under this chapter.
- (3) 'Board' means the Georgia Board of Massage Therapy established by this chapter.
- (4) 'Board recognized massage program' means an educational program which meets the standards for training and curriculum as set out by the board in its rules which are consistent with the Nonpublic Postsecondary Education Commission as provided in Code Section 20-3-250.4.
- (5) 'License' means a valid and current certificate of registration issued by the board.
- (6) 'Licensee' means any person holding a license.
- (7) 'Massage therapist' means a person who administers massage or massage therapy for compensation.
- (8) 'Massage therapy' means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the body in which the primary intent is to enhance or restore health and well-being. The term includes complementary methods, including without limitation the external application of water, superficial heat, superficial cold, lubricants, salt scrubs, or other topical preparations and the use of commercially available electromechanical devices which do not require the use of transcutaneous electrodes and which mimic or enhance the actions possible by the hands; the term also includes determining whether massage therapy is appropriate or contraindicated, or whether referral to another health care provider is appropriate.

Massage therapy shall not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal modalities.

(9) 'Person' means a natural person only.

(10) 'Provisionally permitted massage therapist' means a person issued a provisional permit under this chapter.

43-24A-4.

(a) There is created the Georgia Board of Massage Therapy which shall consist of five members. The board shall be assigned to the Secretary of State's office for administrative purposes and shall be under the jurisdiction of the division director and shall operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable.

(b) The Governor shall appoint, subject to confirmation by the Senate, all members of the board for initial terms of office beginning July 1, 2005. The Governor shall appoint two initial members of the board to serve for terms of two years and three initial members of the board, including the public member, to serve for terms of four years. After the initial terms specified in this subsection, members of the board shall take office on the first day of July immediately following the expired term of that office and shall serve for a term of four years and until their successors are appointed and qualified. Any person appointed to the board when the Senate is not in session may serve on the board without Senate confirmation until the Senate acts on that appointment. No member shall serve on the board for more than two full consecutive terms. Any vacancy due to death, resignation, removal, or otherwise shall be filled for the remainder of the unexpired term in the same manner as regular appointments.

(c) All members of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(d) An appointee to the board shall qualify by taking an oath of office within 15 days from the date of his or her appointment. On presentation of the oath, the Secretary of State shall issue a commission to each appointee as evidence of his or her authority to act as a member of the board.

43-24A-5.

(a)(1) There shall be four professional members of the board who shall:

(A) Be citizens of the United States and residents of this state for at least three years prior to the date of appointment;

(B) Have been engaged in massage therapy practice for compensation for at least five years immediately preceding their appointment; and

(C) Be eligible for licensure under this chapter. Effective July 1, 2006, and thereafter, all professional members of the board shall be licensed under this chapter.

(2) No more than one professional member of the board may be an owner of or affiliated with any massage school.

(b) There shall be one consumer member of the board who shall be appointed by the

Governor from the public at large, shall be a citizen of the United States and resident of this state, and shall be a person to whom neither this state nor any other state or jurisdiction or organization has ever issued a certificate, registration, license, or permit to engage in the practice of massage therapy nor be an owner of or affiliated with any massage school.

(c) The Governor, after notice and opportunity for hearing, may remove any member of the board for incompetence, neglect of duty, unprofessional conduct, conviction of a felony, failure to meet the qualifications of this chapter, or committing any act prohibited by this chapter.

43-24A-6.

The board shall meet at least once each year at a time fixed by the board. At its annual meeting, the board shall elect from its members a chairperson, vice chairperson, and any other officers as deemed necessary who shall hold office for a term of one year. Additionally, the board may appoint such committees as it considers necessary to fulfill its duties. In addition to its annual meeting, the board may hold additional meetings at the call of the chairperson or at the request of any two members of the board or as approved by the division director.

43-24A-7.

(a) The board shall have the power to:

- (1) Examine and determine the qualifications and fitness of applicants for licenses to practice massage therapy in this state;
- (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage therapy in this state or otherwise discipline licensed massage therapists;
- (3) Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining persons licensed under this chapter;
- (4) Hold hearings on all matters properly brought before the board and, in conjunction therewith, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may designate one or more of its members as its hearing officer;
- (5) Adopt, revise, and enforce rules concerning advertising by licensees including, but not limited to, rules to prohibit false, misleading, or deceptive practices;
- (6) Adopt an official seal; and
- (7) Bring proceedings to the courts for the enforcement of this chapter or any rules and regulations promulgated pursuant to this chapter.

(b) In addition to the enumerated powers in subsection (a) of this Code section, the board has the authority to conduct its business pursuant to the provisions of Code Section 43-1-19 which is incorporated herein and made a part of this chapter by specific reference.

43-24A-8.

(a) No person may practice massage therapy in this state who is not a licensed massage

therapist or the holder of a valid provisional permit issued by the division director pursuant to this chapter.

(b) Prior to July 1, 2007, any applicant for a license as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

(1) The applicant is at least 18 years of age;

(2) The applicant is of good moral character. For purposes of this paragraph, 'good moral character' means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;

(3) The applicant agrees to provide the board with any and all information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check; and

(4) The applicant has met at least one of the following requirements:

(A) He or she has completed successfully a board recognized educational program with a minimum of 500 hours of course and clinical work;

(B) He or she has passed satisfactorily the National Certification Examination for Therapeutic Massage and Bodywork, an equivalent test approved by the board, or an examination administered by another state or jurisdiction whose license requirements meet or exceed those of this state;

(C) He or she meets the qualifications necessary to sit for the National Certification Examination for Therapeutic Massage and Bodywork or has substantially similar qualifications as determined by the board;

(D) He or she holds a license as a massage therapist in another state or jurisdiction whose license requirements meet or exceed the licensing requirements of this state;

(E) He or she has practiced massage therapy for at least ten hours per week on average for at least ten years prior to the date of application and has completed at least 100 hours of formal training in massage therapy as determined by the board;

(F) He or she has practiced massage therapy for at least five years prior to the date of application and has completed a minimum of 200 hours of formal training in massage therapy as determined by the board;

(G) He or she has, to the satisfaction of the board, training in another state or jurisdiction that meets or exceeds the requirements for licensing in this state;

(H) He or she has been a member, as a massage therapist, for a period of one year prior to his or her application for licensure of a professional massage therapy association established before 2002 which holds its members to a published code of ethics; or

(I) He or she has been legally practicing massage therapy in this state for compensation prior to July 1, 2005.

(c) On and after July 1, 2007, any applicant for a license as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

(1) The applicant is at least 18 years of age;

- (2) The applicant has a high school diploma or its recognized equivalent;
- (3) The applicant is a citizen of the United States or a permanent resident of the United States;
- (4) The applicant is of good moral character. For purposes of this paragraph, 'good moral character' means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;
- (5) The applicant agrees to provide the board with any and all information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check;
- (6) The applicant has completed successfully a board recognized educational program consisting of a minimum of 500 hours of course and clinical work; and
- (7) The applicant has passed satisfactorily the National Certification Examination for Therapeutic Massage and Bodywork, an equivalent test approved by the board, or an examination administered by another state or jurisdiction whose license requirements meet or exceed those of this state.

43-24A-9.

- (a) A provisional permit to practice as a provisionally permitted massage therapist may be issued for a two-year period by the board to the following applicants:
  - (1) An applicant licensed in another state with like or similar requirements for licensure; or
  - (2) An applicant who is not the holder of any massage therapy license.
- (b) Such permit shall authorize the applicant to work under the supervision of a licensed massage therapist as provided by the board.
- (c) The applicant, by submitting an application for a provisional permit, agrees to provide the board with any and all information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check.
- (d) Such provisional permit shall have the same force and effect as a permanent license until the time of its expiration.
- (e) The provisional permit shall expire on the same date as a permanent license that is issued to persons who have passed the examination.

43-24A-10.

The board may require that all applications be made under oath.

43-24A-11.

- (a) Examinations shall be administered to qualified applicants at least twice each calendar year.
- (b) Applicants may obtain their examination scores in accordance with such rules and regulations as the board may establish.

## 43-24A-12.

(a) Any applicant for a license by reciprocity as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

- (1) The applicant is at least 18 years of age;
- (2) The applicant is of good moral character. For purposes of this paragraph, 'good moral character' means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;
- (3) The applicant agrees to provide the board with any and all information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check; and
- (4) The applicant is currently licensed as a massage therapist in another jurisdiction, state, or territory of the United States or foreign country which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter.

## 43-24A-13.

(a) Any applicant for a license by endorsement as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

- (1) The applicant is at least 18 years of age;
- (2) The applicant is of good moral character. For purposes of this paragraph, 'good moral character' means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;
- (3) The applicant agrees to provide the board with any and all information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check; and
- (4) The applicant either:
  - (A) Is currently licensed as a massage therapist in another jurisdiction, state, or territory of the United States or foreign country which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter; or
  - (B) Has current certification by the National Certification Board for Therapeutic Massage and Bodywork or an equivalent certification approved by the National Commission for Certifying Agencies.

## 43-24A-14.

- (a) The licensee shall display the license certificate or a photocopy thereof in an appropriate and public manner at each location at which he or she practices.
- (b) All licenses shall expire biennially unless renewed. All applications for renewal of a license shall be filed with the division director prior to the expiration date,

accompanied by the biennial renewal fee prescribed by the board and certifying that all current requirements of continuing education as determined by the board have been fulfilled. The board shall provide for penalty fees for late registration. The failure to renew a license by the end of an established penalty period shall have the same effect as a revocation of said license, subject to reinstatement only after application and payment of the prescribed reinstatement fee within the time period established by the division director, provided that the applicant meets such requirements as the board may establish by rule.

- (c) The licensee shall inform the board of any change of address within 30 days.
- (d) Each person licensed under this chapter is responsible for renewing his or her license before the expiration date.
- (e) Under procedures and conditions established by the board, a licensee may request that his or her license be declared inactive. The licensee may apply for active status at any time and upon meeting the conditions set forth by the board shall be declared active.

#### 43-24A-15.

- (a) It is a violation of this chapter for any person to advertise massage therapy services unless such services are provided by a person who holds a valid license under this chapter.
- (b) It shall be a violation of this chapter for any person to advertise:
  - (1) As a massage therapist unless the person holds a valid license under this chapter in the classification so advertised; or
  - (2) Massage therapy services combined with escort or dating services or adult entertainment.
- (c) It shall be unlawful for a person or business entity or its employees, agents, or representatives to practice massage therapy or to use in connection with its name or business activity the terms 'massage,' 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,' 'L.M.T.,' or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless such massage therapy is provided by a massage therapist licensed and practicing in accordance with this chapter.

#### 43-24A-16.

The practice of massage therapy is declared to be an activity affecting the public interest and involving the health, safety, and welfare of the public. Such practice by a person who is not licensed to practice in this state is declared to be a public nuisance, harmful to the public health, safety, and welfare. Any citizen of this state, the board, or the appropriate prosecuting attorney where such practice is carried on by such unlicensed person may, on behalf of the public, bring an action to restrain and enjoin such unlicensed practice in the superior court of the county where such unlicensed person resides or works. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law or to allege

or prove any special injury.

43-24A-17.

The board shall take disciplinary action in accordance with the provisions of Chapter 1 of this title.

43-24A-18.

Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

43-24A-19.

Nothing in this chapter shall be construed to affect, restrict, or prevent the practice, services, or activities of:

- (1) A person licensed, registered, or certified under any other chapter or article under Title 43 while engaged in the professional or trade practices properly conducted under authority of such other licensing laws, provided that such person shall not use the title of massage therapist;
- (2) A person pursuing a course of study leading to a degree or certificate as a massage therapist in an educational program recognized by the board, if such person is designated by title indicating student status and is fulfilling uncompensated work experiences required for the attainment of the degree or certificate;
- (3) A nonresident person rendering massage therapy up to 60 days during a 12 month period for treatment of a temporary sojourner only, provided that such nonresident massage therapist holds a license, registration, or certification from another state, jurisdiction, or country if the requirements as determined by the board for licensure are substantially equal to the requirements contained in this chapter or provided that such nonresident massage therapist is currently nationally certified in therapeutic massage and bodywork;
- (4) A person duly licensed, registered, or certified in another jurisdiction, state, territory, or a foreign country when incidentally in this state to provide service as part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event with which he or she comes into the state;
- (5) A person who restricts his or her practice to the manipulation of the soft tissue of the human body to hands, feet, or ears who does not have the client disrobe and does not hold himself or herself out as a massage therapist;
- (6) A person who uses touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged within the scope of practice of a profession with established standards and ethics, provided that his or her services are not designated or implied to be massage or massage therapy;
- (7) A person who uses touch and movement education to effect change in the structure of the body while engaged in the practice of structural integration, provided that he or she is a member of, or whose training would qualify for membership in, the

International Association of Structural Integrators and provided that his or her services are not designated or implied to be massage or massage therapy;

- (8) A person who uses touch to affect the energy systems, polarity, acupoints, or Qi meridians, also known as channels of energy, of the human body while engaged within the scope of practice of a profession with established standards and ethics, provided that his or her services are not designated or implied to be massage or massage therapy; or
- (9) A person who was engaged in massage therapy practice prior to July 1, 2005; provided, however, the prohibition of subsection (c) of Code Section 43-24A-15 shall apply to such a person on and after July 1, 2007.

**43-24A-20.**

The board shall establish continuing education requirements not to exceed 25 hours per biennium. The board shall by rule establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the criteria for continuing education courses.

**43-24A-21.**

As cumulative to any other remedy or criminal prosecution, the board may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this chapter or the lawful rules or orders of the board.

**43-24A-22.**

This chapter shall not be construed to prohibit a county or municipality from enacting any regulation of persons not licensed pursuant to this chapter. No provision of any ordinance enacted by a municipality, county, or other jurisdiction that is in effect before July 1, 2005, and that relates to the practice of massage therapy or requires licensure of a massage therapist may be enforced against a person who is issued a license by the board under this chapter.

**43-24A-23.**

Notwithstanding any provision of law to the contrary, the act of a duly licensed massage therapist in performing a massage shall be deemed to be the act of a health care professional and shall not be subject to the collection of any form of state or local taxation regulations not also imposed on other professional health care activities.

**43-24A-24.**

- (a) Any person who practices massage therapy without a valid license in violation of this chapter, upon conviction thereof, shall be punished as provided in this Code section.
- (b) Each act of unlawful practice under this Code section shall constitute a distinct and separate offense.

(c) Upon being convicted a first time under this Code section, such person shall be punished by a fine of not more than \$500.00 for each offense. Upon being convicted a second or subsequent time under this Code section, such person shall be punished by a fine of not more than \$1,000.00 for each offense, imprisonment for not more than 12 months, or both."

### SECTION 2.

This Act will become effective when funding is appropriated.

### SECTION 3.

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

Senator Unterman of the 45th moved that the Senate agree to the House substitute to SB 110.

On the motion, a roll call was taken and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 46, nays 1; the motion prevailed, and the Senate agreed to the House substitute to SB 110.

Senator Tolleson of the 20th asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Douglas of the 17th asked unanimous consent that Senator Chance of the 16th be excused. The consent was granted, and Senator Chance was excused.

The following bill was taken up to consider the Conference Committee Report thereto:

SB 203. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to authorize the recovery of attorney's fees and costs from persons who receive indigent defense services; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on SB 203 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SB 203 be adopted.

Respectfully submitted,

FOR THE HOUSE  
OF REPRESENTATIVES:  
FOR THE SENATE:

/s/ Senator Wiles of the 37th                    /s/ Representative Ehrhart of the 36th  
/s/ Senator Meyer von Bremen of the 12th    /s/ Representative Willard of the 49th  
/s/ Senator Weber of the 40th                    /s/ Representative Franklin of the 43rd

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 203

A BILL TO BE ENTITLED  
AN ACT

To amend Title 15 and Title 17 of the Official Code of Georgia Annotated, relating respectively to courts and legal defense for indigents, so as to clarify and change provisions relating to fees and collection of fees for indigent defense services; to provide that local victim assistance funds collected by the courts shall be paid directly to the county governing authority or the district attorney; to provide for certain reports; to provide that the Criminal Justice Coordinating Council shall quarterly prepare and publish a report of all courts that have not filed certain reports; to change certain provisions relating to the procedure for reporting and remittance of certain funds collected by any clerk of court or other officer or agent of any court; to provide for an exception to reporting and remitting requirements for probation supervision fees collected

by private providers of probation services; to change certain provisions relating to the application fees for free legal services and remittance of funds; to clarify remittance of the \$50.00 application fee to certain entities; to change provisions relating to an additional filing fee on civil actions in the probate courts; to change provisions relating to the system of reporting and accounting relating to the Georgia Superior Court Clerks Cooperative Authority; to authorize certain inquiries and audits; to authorize the recovery of attorney's fees and costs under certain circumstances; to provide for definitions; to provide for clarity regarding which entities may be entitled to collect attorney's fees and the mechanism for such collection; to correct a cross-reference relating to circuit public defender office's contracts with local governments; to provide for provisions relating to work release programs in felony sentences; to provide for revocation of work release status; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking Code Section 15-21-132, relating to assessment and collection of local victim assistance funds, and inserting in lieu thereof the following:

**"15-21-132.**

(a) The sums provided for in Code Section 15-21-131 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid over to the Georgia Superior Court Clerks' Cooperative Authority by the end of the month after the collection. The net proceeds shall be distributed by such authority as follows monthly:

(1) If the county where the fine was imposed operates or participates in any victim assistance program certified by the Criminal Justice Coordinating Council, then the moneys shall be paid over to the governing authority of the county for disbursement to those victim assistance programs; or

(2) If the county where the fine was imposed does not operate or participate in any victim assistance program certified by the Criminal Justice Coordinating Council, then the moneys shall be paid over to the district attorney of the judicial circuit in which the county is located for the purpose of defraying the costs of victim assistance activities carried out by the district attorney's office. Such funds shall be paid over in the same manner as other county funds paid for operations of the district attorney's office and shall be in addition to rather than in lieu of any other such funds.

All such funds shall be paid to the recipients by the last day of the month in which the funds are received; provided, however, that the governing authority of the county shall be authorized to hold as reserve funds an amount not to exceed 5 percent of the funds received by the governing authority in the preceding calendar year.

(b) The Georgia Superior Court Clerks' Cooperative Authority The court officer charged with the duty of collecting moneys arising from fines as provided for in Code

Section 15-21-131 shall receive and distribute the funds collected pursuant to this Code section to the county governing authorities authority or district attorney, as appropriate, and shall submit a monthly report of the collection and distribution of such funds to the Georgia Superior Court Clerks' Cooperative Authority, and the Georgia Superior Court Clerks' Cooperative Authority shall submit a financial report to the Criminal Justice Coordinating Council each month stating the amount collected and the amount disbursed to each county governing authority no later than the last day of the month following the month in which the funds were collected.

(c) The county governing authority receiving funds shall submit a financial report to the Criminal Justice Coordinating Council semiannually stating the recipients that directly received funds during such reporting period no later than the last day of the month following the reporting period in which the funds were collected in order to allow coordination of local, state, and federal funding sources for similar services. The Criminal Justice Coordinating Council shall report annually to the General Assembly the county governing authorities that failed to submit semiannual reports during the previous calendar year.

(d) All recipients of funds pursuant to this Code section, except county governing authorities, shall submit an annual report to the Criminal Justice Coordinating Council. Such report shall include, but not be limited to, the total amount of funds received from each county governing authority pursuant to this Code section, the purposes for which the funds were expended, and the total number of victims served in each county for which the funds were received. A copy of each recipient's annual report shall also be submitted to each county governing authority from which funds were received pursuant to this Code section.

(e) The Criminal Justice Coordinating Council shall promulgate rules governing the certification of victim assistance programs. The rules shall provide for the certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.

(f) The Criminal Justice Coordinating Council shall promulgate rules governing the revocation of certification of victim assistance programs. Such rules shall provide for the decertification of programs previously certified by the Criminal Justice Coordinating Council that are no longer in compliance with the rules promulgated by the Criminal Justice Coordinating Council pursuant to this Code section.

(g) Moneys arising from fines imposed pursuant to Code Section 15-21-131 shall not be paid to any victim assistance program that has not been certified by the Criminal Justice Coordinating Council or to any program that has been decertified by such council.

(h) Each calendar quarter, the Criminal Justice Coordinating Council shall prepare and publish, by document and posting on its website, a report that shall list each court which has not filed the reports required by subsection (b) of this Code section."

**SECTION 2.**

Said title is further amended by striking Code Section 15-21A-4, relating to the procedure for reporting and remittance of certain funds collected by any clerk of court or other officer or agent of any court, and inserting in lieu thereof the following:

**"15-21A-4.**

- (a)(1) Each clerk of any court or any other officer or agent of any court receiving any funds subject to required to be remitted to the authority under this chapter on or after July 1, 2004, shall remit all such funds to the authority by the end of the month following the month in which such funds are received. Each clerk of any court or other officer or agent of any court receiving any funds required to be reported to the authority by this chapter or the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7 shall report such funds to the authority no later than 60 days after the last day of the month in which such funds are received.
- (2) The chief judge of superior court for each county shall have the authority to require compliance with paragraph (1) of this subsection by this chapter and with the rules and regulations of the authority promulgated by the authority in accordance with Code Section 15-21A-7 by any clerk, officer, or agent of any court within the county. If any court is more than 60 days delinquent or is habitually delinquent in remitting any funds or reports required under this ~~Code section or Code Section 15-21A-6, chapter or by the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7~~, the authority shall notify the chief judge of superior court of the county in which the court is located.
- (b) The authority shall prescribe uniform procedures and forms for the reporting and remittance of all funds subject to ~~Code Section 15-21A-3 this chapter or the rules and regulations of the authority promulgated in accordance with Code Section 15-21A-7~~; and all clerks or other officers or agents remitting or reporting such funds shall use the prescribed procedures and forms in reporting and remitting funds to the authority.
- (c) The authority shall prescribe uniform rules, procedures, and forms relative to the partial or installment collection and remittance of funds subject to ~~Code Seetion 15-21A-3 reporting or remittance to the authority under this chapter or rules and regulations promulgated by the authority in accordance with Code Section 15-21A-7~~. Any funds held by any court or unit of local government on July 1, 2004, consisting of previously collected partial or installment payments shall be subject to the rules, procedures, and forms so prescribed and shall be remitted to the authority to the extent provided for in such rules and procedures. Funds collected that are partial or installment payments of costs, fees, and surcharges that are required by this chapter to be remitted to the authority shall be remitted to the authority by the end of the month following the month in which they were collected; provided, however, that the authority is authorized to provide by rules and regulations for a longer period of time for remitting such funds not to exceed six months.
- (d) Probation supervision fees collected by private corporations, enterprises, or agencies contracting for probation services in accordance with Article 6 of Chapter 8 of Title 42 shall be subject to requirements for reporting to the authority.

(e) The authority shall remit all funds collected to the designated receiving entities or general fund of the state treasury within 60 days of receiving such funds."

### SECTION 3.

Said title is further amended by striking in its entirety Code Section 15-21A-6, relating to additional filing fees, application fee for legal assistance, and remittance of funds, and inserting in lieu thereof the following:

"15-21A-6.

(a) In addition to all other legal costs there shall be charged to the filing party and collected by the clerk an additional filing fee of \$15.00 in each civil action or case filed in the superior, state, ~~probate~~, recorder's, mayor's, and magistrate courts except that municipalities, counties, and political subdivisions shall be exempt from such fee. Without limiting the generality of the foregoing, such fee shall apply to all adoptions, certiorari, ~~applications by personal representatives for leave to sell or reinvest~~, trade name registrations, applications for change of name, and all other proceedings of a civil nature. Any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned shall be subject to such fee, whether such matter is contested or not.

(b)(1) As used in this subsection, the term 'civil action' means:

(A) With regard to decedents' estates, the following proceedings: petition for letters of administration; petition to probate a will in solemn form; petition for an order declaring no administration necessary; petition to probate a will in solemn form and for letters of administration with will annexed; and petition for year's support;

(B) With regard to a minor guardianship matter as set forth in paragraph (1) of subsection (f) of Code Section 15-9-60, the proceeding by which the jurisdiction of the probate court is first invoked;

(C) With regard to an adult guardianship matter as set forth in paragraph (1) of subsection (g) of Code Section 15-9-60, the proceeding by which the jurisdiction of the probate court is first invoked; and

(D) An application for writ of habeas corpus.

(2) In addition to all other legal costs there shall be charged to the filing party and collected by the clerk an additional fee of \$15.00 in each civil action filed in the probate court. For the purposes of the imposition of the civil filing fee required by this subsection, the probate court shall collect the civil filing fee on each proceeding listed in subparagraph (A) of paragraph (1) of this subsection involving a decedent but once only in a guardianship matter involving the same ward or an application for writ of habeas corpus involving the same applicant.

(c) Any person who applies for or receives legal defense services under Chapter 12 of Title 17 shall pay the entity providing the services a single fee of \$50.00 for the application for, receipt of, or application for and receipt of such services. The application fee may not be imposed if the payment of the fee is waived by the court. The court shall waive the fee if it finds that the applicant is unable to pay the fee or that hardship will result if the fee is charged.

~~(e)~~(d) Each clerk of court, each indigent defense program, or any other officer or agent of any court receiving any funds subject to this Code section shall collect the additional fees provided in this Code section and shall pay such moneys over to the authority by the last day of the month after the month of collection, to be deposited by the authority into the general fund of the state treasury.

~~(e)~~(e) It is the intent of the General Assembly that all funds derived under this Code section shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.

~~(e)~~(f) A public entity other than an entity providing legal defense services under Chapter 12 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a \$50.00 application fee unless waived by the court for inability to pay or hardship. Any such fee shall be retained by the entity providing the services or used as otherwise provided by law and shall not be subject to payment to the authority or deposit into the state treasury.

~~(g) For the purposes of this Code section, a county or municipality that provides indigent defense services or that contracts with a circuit public defender office for the provision of indigent defense services in courts other than the superior and juvenile court is deemed to be the entity providing the legal defense services and is entitled to impose and collect the application fee authorized by subsection (f) of this Code section."~~

#### SECTION 4.

Said title is further amended by striking subsection (b) of Code Section 15-21A-7, relating to the definition of court and the system for reporting and accounting, and inserting in lieu thereof the following:

~~"(b) The authority shall develop promulgate rules and regulations for the administration of this chapter. Such rules and regulations shall include but not be limited to a reporting and accounting system for all court fines and fees and all surcharges on and deductions from any court fines and fees that are authorized to be collected or disbursed in any court. The authority shall develop a system that employs controls necessary to determine the accuracy of the fine and fee collections and disbursement by each clerk of court or other officer or agent of any court receiving any fines and fees. No later than 60 days after the end of the last day of each month, each such clerk of court and, if there is no clerk of court, any court officer, judge, or other agent of the court shall report to the authority on a reporting system prescribed by the authority. Any entity doing business with such clerk or agents any court and all agencies and instrumentalities of the state shall cooperate in providing on a timely basis provide any information or data requested by the authority in a format prescribed by the authority by rule or regulation. The authority is authorized to make inquiries to clerks of court, court officers, judges, or agents of any court and agencies or instrumentalities of the state as well as any other parties for the purpose of determining the accuracy of any fines and fees collected or disbursed by a court and is authorized where it determines appropriate to conduct audits of any parties to assist in ensuring the accuracy of the system developed by the authority."~~

**SECTION 5.**

Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by striking subsection (d) of Code Section 17-12-23, relating to contracts with local governments, and inserting in lieu thereof the following:

"(d) A city, or county, or consolidated government may contract with the circuit public defender office for the provision of criminal defense for indigent persons accused of violating city, or county, or consolidated government ordinances or state laws. If a city, or county, or consolidated government does not contract with the circuit public defender office, the city, or county, or consolidated government shall be subject to all applicable standards adopted by the council for representation of indigent persons in this state."

**SECTION 6.**

Said title is further amended by inserting a new Article 2A of Chapter 12 to read as follows:

**"ARTICLE 2A****17-12-50.**

As used in this article, the term:

- (1) 'Paid in part' means payment by a county or municipality for a part of the cost of the provision of indigent defense services pursuant to a contract with a circuit public defender office as set forth in subsection (d) of Code Section 17-12-23. The term does not include payment by a county or municipality for office space and other supplies as set forth in Code Section 17-12-34.
- (2) 'Public defender' means an attorney employed by a circuit public defender office, an attorney who is a conflict defender, or any other attorney who is paid from public funds to represent an indigent person in a criminal case.

**17-12-51.**

- (a) When a defendant who is represented by a public defender, who is paid in part or in whole by a county, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other expenses of the defense if the payment does not impose a financial hardship upon the defendant or the defendant's dependents or dependents. The defendant shall make the payment through the probation department to the county.
- (b) When a defendant who is represented by a public defender, who is paid in part or in whole by a municipality, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other expenses of the defense if the payment does not impose a financial hardship upon the defendant or the defendant's dependents or dependents. The defendant shall make the payment through the probation department to the municipality.

- (c) If a defendant who is represented by a public defender, who is paid for entirely by the state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted, the court may impose as a condition of probation repayment of all or a portion of the cost for providing legal representation and other costs of the defense if the payment does not impose a financial hardship upon defendant or the defendant's dependent or dependents. The defendant shall make the payment through the probation department to Georgia Public Defender Standards Council for payment to the general fund of the state treasury. It is the intent of the General Assembly that all funds collected under this subsection shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.
- (d) In determining whether or not a payment imposed under this Code section imposes a financial hardship upon a defendant or defendant's dependent or dependents and in determining the amount of the payment to impose, the court shall consider the factors set forth in Code Section 17-14-10. The public defender may provide the court with an estimate of the cost for providing to the defendant the legal representation and other expenses of the defense. If requested by the defendant, the court shall hold a hearing to determine the amount to be paid.
- (e) This Code section shall not apply to a disposition involving a child pursuant to Chapter 11 of Title 15, relating to juvenile proceedings.

17-12-52.

- (a) A county or municipality may recover payment or reimbursement from a person who has received legal assistance from a public defender paid in part or in whole by the county or municipality:
- (1) If the person was not eligible to receive such legal assistance; or
  - (2) If the person has been ordered to pay for the legal representation and other expenses of the defense pursuant to Code Section 17-12-51 and has not paid for the legal services.
- (b) An action shall be brought within four years after the date on which the legal services were received.
- (c) In determining the amount of the payment imposed under this Code section, the court shall consider the factors set forth in Code Section 17-14-10. The public defender may provide the court with an estimate of the cost for providing to the defendant the legal representation and other expenses of the defense.
- (d) This Code section shall not apply to proceedings involving a child pursuant to Chapter 11 of Title 15, relating to juvenile proceedings."

**SECTION 7.**

Said title is further amended in Code Section 17-10-1, relating to fixing of sentence in criminal cases, by adding at its end a new subsection (g) to read as follows:

- "(g)(1)(A) In sentencing a defendant convicted of a felony to probated confinement, the sentencing judge may make the defendant's participation in a work release

program operated by a county a condition of probation, provided that such program is available and the administrator of such program accepts the inmate.

(B) Any defendant accepted into a county work release program shall thereby be transferred into the legal custody of the administrator of said program; likewise, any defendant not accepted shall remain in the legal custody of the Department of Corrections.

(2) Work release status granted by the court may be revoked for cause by the sentencing court in its discretion or may be revoked by the state or local authority operating the work release program for any reason for which work release status would otherwise be revoked.

(3) The provisions of this subsection shall not limit the authority of the commissioner to authorize work release status pursuant to Code Section 42-5-59 or apply to or affect the authority to authorize work release of county prisoners, which shall be as provided for in Code Sections 42-1-4 and 42-1-9 or as otherwise provided by law.

(4) This subsection shall not apply with respect to any violent felony or any offense for which the work release status is specifically prohibited by law, including but not limited to serious violent felonies as specified in Code Section 17-10-6.1."

## **SECTION 8.**

This Act shall become effective on July 1, 2005.

## **SECTION 9.**

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

Senator Wiles of the 37th moved that the Senate adopt the Conference Committee Report on SB 203.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
E Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber

Y Hamrick	E Rogers	Y Whitehead
N Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 48, nays 2; the motion prevailed, and the Senate adopted the Conference Committee Report on SB 203.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 254 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 254 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Hamrick of the 30th  
/s/ Senator Kemp of the 46th  
/s/ Senator Carter of the 13th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Knox of the 24th  
/s/ Representative Willard of the 49th  
/s/ Representative Ehrhart of the 36th

## COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 254

A BILL TO BE ENTITLED  
AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to general provisions relative to courts, so as to establish certain court divisions and create an alternative system for storing copies of records for courts; to authorize the clerk of each superior court, state court, probate court, magistrate court, juvenile court, or municipal court to create and maintain digital copies of records, pleadings, orders, writs, process, or other documents submitted to or issued by the court in any criminal, quasi-criminal, juvenile, or civil proceeding or in any proceeding involving the enforcement of ordinances of local governments; to provide for requirements, practices, and procedures related to the digital storage and retrieval of such records; to provide for the destruction of the original copies of such documents; to provide for the payment of costs and expenses; to provide for exceptions; to provide for the alternative nature of the authority granted by this method of records management; to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain felony and misdemeanor cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to authorize the Family Court Division of the Superior Court of Fulton County in the Atlanta Judicial Circuit as a pilot project of limited duration; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize the Attorney General to appoint attorneys to represent the Department of Human Resources in such court; to authorize the chief judge of the Superior Court to require family court judges to complete a planned program of instruction; to provide for jurisdiction, authority, powers, and duties of the family court division; to provide for expenses; to provide for reports; to provide for automatic repeal; 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 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking Code Section 15-1-10, relating to removal of court records and storage thereof, and inserting in its place the following:

"15-1-10.

- (a) No records or papers of any court shall be removed out of the county, except in cases of invasion whereby the same may be endangered, or by order of the court, or as otherwise provided in this Code section.
- (b) Notwithstanding any other provision of this Code section, such records may be stored in accordance with the provisions of subsection (b) of Code Section 15-6-86 or subsection (c) of this Code section.
- (c) With the prior written consent of the governing authority of the county or municipality and the prior written consent of the chief judge, judge of the probate court, or chief magistrate of the affected court, the clerk of each superior court, state court, probate court, magistrate court, juvenile court, or municipal court in this state is authorized, but not required, to create and maintain digital copies of records, pleadings, orders, writs, process, and other documents submitted to or issued by the court in criminal, quasi-criminal, juvenile, or civil proceedings or in any proceedings involving the enforcement of ordinances of local governments. All digital copies created pursuant to this subsection shall be accurate copies of the original documents and shall be stored and indexed in such manner as to be readily retrievable in the office of the clerk during normal business hours. It shall be the duty of the clerk to provide and maintain software and computers, readers, printers, and other necessary equipment in sufficient numbers to permit the retrieval, duplication, and printing of such digitally stored documents in a timely fashion when copies are requested. A copy of such digitally stored document retrieved by the clerk shall be admissible in all courts in the same manner as the original document. If a backup copy is created pursuant to the process prescribed by subsections (b), (c), and (d) of Code Section 15-6-62, the clerk is authorized to destroy the original document. This subsection shall not apply to documents or records which have been ordered sealed by the court nor to documents which are placed in evidence in a proceeding. The costs of creating and storing digital copies of documents and providing the necessary software and equipment to retrieve and reproduce such documents shall be paid from funds available for the operation of the court. The provisions of this subsection shall constitute an additional and alternative method of records management and shall not supersede or repeal Code Section 15-6-62, 15-6-62.1, 15-6-86, or 15-6-87."

## SECTION 2.

Said title is further amended by adding a new Code section to the end of the chapter to read as follows:

"15-1-15.

- (a)(1) Any court that has jurisdiction over any criminal case which arises from the use, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled substance, dangerous drug, or other drug may establish a drug court division to provide an alternative to the traditional judicial system for disposition of such cases.
- (2) In any case which arises from the use, addiction, dependency, sale, possession, delivery, distribution, purchase, or manufacture of a controlled substance,

noncontrolled substance, dangerous drug, other drug, or is ancillary to such conduct and the defendant meets the eligibility criteria for the drug court division, the court may assign the case to the drug court division:

- (A) Prior to the entry of the sentence, if the prosecuting attorney consents;
  - (B) As part of a sentence in a case; or
  - (C) Upon consideration of a petition to revoke probation.
- (3) Each drug court division shall establish a planning group to develop a work plan. The planning group shall include the judges, prosecuting attorneys, public defenders, probation officers, and persons having expertise in the field of substance abuse. The work plan shall address the operational, coordination, resource, information management, and evaluation needs of the drug court division. The work plan shall include eligibility criteria for the drug court division. The drug court division shall combine judicial supervision, treatment of drug court division participants, and drug testing.
- (4) The Judicial Council of Georgia shall adopt standards for the drug court divisions. Each drug court division shall adopt standards that are consistent with the standards of the Judicial Council of Georgia. The standards are to serve as a flexible framework for developing effective drug court divisions and to provide a structure for conducting research and evaluation for program accountability. The standards are not intended to be a certification or regulatory checklist.
- (5) The court instituting the drug court division may request the prosecuting attorney for the jurisdiction to designate one or more prosecuting attorneys to serve in the drug court division and may request the public defender, if any, to designate one or more assistant public defenders to serve in the drug court division.
- (6) The clerk of the court instituting the drug court division or such clerk's designee shall serve as the clerk of the drug court division.
- (7) The court instituting the drug court division may request probation officers and other employees of the court to perform duties for the drug court division. Such employees shall perform duties as directed by the judges of the drug court division.
- (8) The court instituting the drug court division may enter into agreements with other courts and agencies for the assignment of personnel from other courts and agencies to the drug court division.
- (9) Expenses for salaries, equipment, services, and supplies incurred in implementing this Code section may be paid from state funds, funds of the county or political subdivision implementing such drug court division, federal grant funds, and funds from private donations.
- (b)(1) Each drug court division shall establish criteria which define the successful completion of the drug court division program.
- (2) If the drug court division participant successfully completes the drug court division program prior to the entry of judgment, the case against the drug court division participant may be dismissed by the prosecuting attorney.
- (3) If the drug court division participant successfully completes the drug court division program as part of a sentence imposed by the court, the sentence of the drug

court division participant may be reduced or modified.

(4) Any plea of guilty or nolo contendere entered pursuant to this Code section may not be withdrawn without the consent of the court.

(c) Any statement made by a drug court division participant as part of participation in such court, or any report made by the staff of the court or program connected to the court, regarding a participant's substance usage shall not be admissible as evidence against the participant in any legal proceeding or prosecution; provided, however, if the participant violates the conditions of his or her participation in the program or is terminated from the drug court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise disposing of the participant's case.

(d) Nothing contained in this Code section shall be construed to permit a judge to impose, modify, or reduce a sentence below the minimum sentence required by law.

(e) Notwithstanding any provision of law to the contrary, drug court division staff shall be provided, upon request, with access to all records relevant to the treatment of the drug court division participant from any state or local government agency. All such records and the contents thereof shall be treated as confidential, shall not be disclosed to any person outside of the drug court division, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. Such records and the contents thereof shall be maintained by the drug court division and originating court in a confidential file not available to the public.

(f) Any fees received by a drug court division from a drug court division participant as payment for substance abuse treatment and services shall not be considered as court costs or a fine.

(g) The court may have the authority to accept grants and donations and other proceeds from outside sources for the purpose of supporting the drug court division. Any such grants, donations, or proceeds shall be retained by the drug court division for expenses."

### **SECTION 3.**

Said title is further amended by inserting a new chapter, to be designated as Chapter 11A, to read as follows:

#### **"CHAPTER 11A**

##### **15-11A-1.**

There is hereby authorized a Family Court Division of the Superior Court of Fulton County in the Atlanta Judicial Circuit as a pilot project pursuant to authority granted by Article VI, Section I, Paragraph X of the Georgia Constitution.

##### **15-11A-2.**

The Family Court Division of the Superior Court of Fulton County, sometimes referred to in this chapter as the family court division and the superior court, respectively, shall exist as a pilot project of limited duration until July 1, 2010, and shall have the powers,

rules of practice and procedure, and selection, qualifications, and terms of judges of the superior court and as duly adopted by the superior court for the family court division.

15-11A-3.

- (a) The chief judge of the superior court shall designate one or more judges of the superior court to sit as judges of the family court division for terms of up to three years and shall designate successors for terms of up to three years. In addition, the chief judge of the superior court may designate one or more judges of the superior court to sit as judges of the family court division on a standby basis for terms of up to three years.
- (b) The chief judge of the superior court may require the family court division judges to complete a planned program of instruction in family law, psychology, family dynamics, child development, nonadversarial techniques, and working with diverse populations.

15-11A-4.

- (a) The district attorney of the Atlanta Judicial Circuit is authorized to designate one or more assistant district attorneys to serve in the family court division.
- (b) The public defender of the Atlanta Judicial Circuit is authorized to designate one or more assistant public defenders to serve in the family court division.
- (c) The clerk of the superior court or such clerk's designee shall serve as the clerk of the family court division.
- (d) The chief judge of the Atlanta Judicial Circuit shall designate probation officers and other employees of the Atlanta Judicial Circuit to perform duties for the family court division. Such employees shall perform duties as directed by the judges of the family court division.
- (e) The chief judge of the Atlanta Judicial Circuit may enter into agreements with other courts and agencies for the assignment of personnel from other courts or agencies to the Family Court Division of the Superior Court of Fulton County.
- (f) The Attorney General of Georgia may appoint attorneys to represent the Department of Human Resources in the Family Court Division of the Superior Court of Fulton County.

15-11A-5.

- (a) The family court division shall have the jurisdiction of the superior court and as provided in this Code Section.
- (b) When a petition or case is filed in the superior court relating to divorce or where issues affecting children are involved, including, but not limited to, child support, child custody, visitation, child abuse, child molestation, domestic violence, legitimacy, paternity, adoption, abandonment, or contempt or modification relative to such cases, the chief judge of the superior court or an intake case manager designated by such chief judge may assign the case to the family court division. The Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, and City of Atlanta Municipal

Court are authorized to transfer ancillary cases related to the same family to the family court division. Such ancillary cases shall include but not be limited to any cases involving deprivation, delinquency involving behavioral issues, truancy, unruliness, abandonment, neglect, or termination of parental rights cases pending in the Juvenile Court of Fulton County; cases involving domestic violence, abandonment, or child support enforcement cases pending in the State Court of Fulton County; adult or minor guardianship cases pending in the Probate Court of Fulton County; or domestic violence cases pending in the Magistrate Court of Fulton County or City of Atlanta Municipal Court. In addition, any child support enforcement case from the jurisdiction of the State of Georgia shall be considered an ancillary case subject to transfer to the family court division. Whenever a dispute arises between the family court division and another court in Fulton County as to whether a case is an ancillary case which should be transferred to the family court division, such case may be transferred to the family court division pursuant to an order for transfer issued by the chief judge of the Atlanta Judicial Circuit.

(c) The judges of the family court division shall have the same authority, powers, and duties in the consideration and disposition of cases in the family court division as any judge of the Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, or City of Atlanta Municipal Court.

15-11A-6.

Expenses for salaries, equipment, and supplies incurred in implementing this chapter shall be paid from state funds appropriated for such purpose and from the funds of Fulton County.

15-11A-7.

The Administrative Office of the Courts shall report annually regarding the activities of the Family Court Division of the Superior Court of Fulton County to the chief judge of the Atlanta Judicial Circuit, the Chief Justice of the Georgia Supreme Court, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the Judiciary Committees of the House of Representatives and the Senate. The Administrative Office of the Courts shall prepare for the same judicial officers and elected officials a comprehensive report within 180 days following July 1, 2005, and within 180 days following July 1, 2009.

15-11A-8.

This chapter shall become effective upon signature of the Governor or upon becoming law without his signature.

15-11A-9.

This chapter shall be repealed in its entirety on July 1, 2010."

**SECTION 4.**

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

Senator Hamrick of the 30th moved that the Senate adopt the Conference Committee Report on HB 254.

On the motion, a roll call was taken, and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 50, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 254.

Senator Wiles of the 37th asked unanimous consent to change the Order of Business in order to allow the reading of a committee report and the consideration of local legislation.

The consent was granted and the Order of Business was changed.

The following committee report was read by the Secretary:

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 837      Do Pass  
HB 876      Do Pass

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

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

**SENATE SUPPLEMENTAL LOCAL CONSENT CALENDAR**

Thursday, March 31, 2005  
Thirty-ninth Legislative Day

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

HB 837      Schaefer of the 50th  
**STEPHENS COUNTY**

A BILL to be entitled an Act to create the Stephens County School Building Authority and to provide for the appointment of members of the authority; to confer powers upon the authority; to authorize the issuance of revenue bonds of the authority payable from the revenues, tolls, fees, charges, and earnings of the authority, contract payments to the authority, and other moneys pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, and earnings of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; to make the revenue bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for the validation of bonds; to repeal conflicting laws; and for other purposes.

HB 876      Jones of the 10th  
Douglas of the 17th  
**HENRY COUNTY**

A BILL to be entitled an Act to create the Henry County Governmental Services Authority; to provide for a short title; to provide for the appointment of members of the authority; to confer powers upon the authority including the power to acquire, lease,

construct, install, maintain, and equip certain public service facilities within the limits of Henry County, Georgia; to authorize the issuance of revenue bonds of the authority from the revenues, tolls, fees, charges and earnings, of the authority, contract payments to the authority and from other moneys pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, earnings, and contract payments of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; 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:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	N Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the local legislation, the yeas were 48, nays 1.

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

The following legislation, as listed on the Consent Calendar for Privileged Resolutions, was put upon its adoption.

**CONSENT CALENDAR FOR PRIVILEGED RESOLUTIONS**  
**THURSDAY, MARCH 31, 2005**  
**THIRTY-NINTH LEGISLATIVE DAY**

- SR 611 Passantino, Helen; honoring
- SR 612 Hinesley, Edward L.; condolences
- SR 613 Bogart, City of; celebrating 100th anniversary
- SR 614 North Georgia College/State University women's basketball team; congratulate
- SR 615 Cochran, Jr., Johnnie L; condolences
- SR 616 Brand Banking Company; recognize
- SR 617 Smith, Sergeant First Class Paul Ray; condolences
- SR 618 Crisp County, Georgia; celebrate 100th anniversary
- SR 619 Tift County, Georgia; celebrate 100th anniversary
- SR 620 Turner County, Georgia; celebrate 100th anniversary
- SR 621 Chickamauga Elementary School; public safety/traffic control volunteers
- SR 622 Ashburn, David; commend
- SR 623 "Rick and Bubba Morning Show"; commend
- SR 624 Glennville Bank; honoring
- SR 625 Moore, Dr. J. Michael; commend
- SR 626 Holland, Miss Andrea; commend
- SR 627 Johnson, Kathy; commend
- SR 628 Kellett, Jacqueline Nicole; celebrate birth

- SR 629 Griffin, Brenda James; commend  
SR 630 Penley, Steve; recognize  
SR 631 Jones, Verdell /Joyce; honoring  
SR 633 Busbee, George Dekle; condolences  
SR 634 Black Madonna, Shrine; recognize 30th anniversary  
SR 635 Mullis Heartland Refugees Living Historians; honoring  
SR 636 Lowe, James; recognize  
SR 637 Butler, John; commend

On the adoption of the legislation on the Consent Calendar for Privileged Resolutions, a roll call was taken, and the vote was as follows:

Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	E Moody	Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the legislation, the yeas were 48, nays 0, and the legislation on the Consent Calendar for Privileged Resolutions was adopted.

The following resolution was read and adopted:

SR 638. By Senator Thompson of the 33rd:

A RESOLUTION regretting the passing and celebrating the life of Mr. James O. Wynn; and for other purposes.

The following bill was taken up to consider the Conference Committee Report thereto:

HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government; local government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 48 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 48 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Unterman of the 45th  
/s/ Senator Balfour of the 9th  
/s/ Senator Wiles of the 37th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Wilkinson of the 52nd  
/s/ Representative Fleming of the 117th  
/s/ Representative Golick of the 34th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 48

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 5 of Title 21 and Titles 36 and 45 of the Official Code of Georgia

Annotated, relating, respectively, to ethics in government, local government, and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to change certain provisions relating to the Ethics Commission; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to change provisions relating to mailing complaints; to provide for rule making with regard to technical defects and the time frame for correction of technical defects in financial disclosure statements; to change certain provisions regarding connected organizations; to create certain restrictions on receipt or award of state contracts; to change certain provisions regarding contributions made to candidates and the location where certain reports are filed; to change provisions relating to contributions or expenditures other than through candidates or campaign committees and disclosure of extensions of credit; to change certain provisions regarding disclosure reports; to change certain provisions regarding electronic filing of reports; to change certain provisions relating to acceptance of campaign contributions during legislative sessions; to change certain provisions relating to maximum allowable contributions; to change certain provisions relating to accounting for and expenditure of campaign contributions; to change certain provisions relating to filing of financial disclosure statements; to change provisions relating to filing by mail; to change certain provisions relating to lobbyist registration; to change provisions relating to lobbyist disclosure reports and the contents thereof and the definition of lobbyist; to create provisions relating to a lobbyist's eligibility for certain appointments; to provide for restrictions for lobbying activities for certain persons; to provide restrictions for lobbyists relating to contingency agreements; to provide for restrictions for lobbyists relating to presence on the floor of the House of Representatives and Senate; to correct cross-references; to create the Joint Legislative Ethics Committee; to provide for powers and duties of the committee; to provide for the initiation of complaints; to provide for anti-nepotism provisions; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to provide for related matters; to provide for applicability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in government, is amended by striking Code Section 21-5-2, relating to declaration of policy, and inserting in lieu thereof the following:

"21-5-2.

It is declared to be the policy of this state, in furtherance of its responsibility to protect the integrity of the democratic process and to ensure fair elections for constitutional

offices; state offices; district attorneys; members of the Georgia House of Representatives and Georgia Senate; all constitutional judicial officers; and all county and municipal elected officials, to institute and establish a requirement of public disclosure of campaign contributions and expenditures relative to the seeking of such offices, to the recall of public officers holding elective office, and to the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any county or municipal election. Further, it is the policy of this state that the state's public affairs will be best served by disclosures of significant private interests of public officers and officials which may influence the discharge of their public duties and responsibilities. The General Assembly further finds that it is for the public to determine whether significant private interests of public officers have influenced the state's public officers to the detriment of their public duties and responsibilities and, in order to make that determination and hold the public officers accountable, the public must have reasonable access to the disclosure of the significant private interests of the public officers of this state."

## SECTION 2.

Said chapter is further amended by striking Code Section 21-5-3, relating to definitions, and inserting in lieu thereof the following:

"21-5-3.

As used in this chapter, the term:

- (1) 'Business entity' means any corporation, sole proprietorship, partnership, limited partnership, limited liability company, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether profit or nonprofit.
- (2) 'Campaign committee' means the candidate, person, or committee which accepts contributions or makes expenditures designed to bring about the nomination or election of an individual to any elected office. The term 'campaign committee' also means any person or committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer holding elective office or to oppose the recall of a public officer holding elective office or any person or any committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any this state, or a county, or a municipal election in this state.
- (3) 'Campaign contribution disclosure report' means a report filed with the appropriate filing officer by a candidate or the chairperson or treasurer of a campaign committee setting forth all expenditures of \$101.00 or more and all contributions of \$101.00 or more, including contributions and expenditures of lesser amounts when the aggregate amount thereof by or to a person is \$101.00 or more for the calendar year in which the report is filed. Such report shall also include the total amount of all individual contributions received or expenditures made of less than \$101.00 each. The

first report required in the calendar year of the election shall contain all such expenditures made and all such contributions received by the candidate or the committee in prior years in support of the campaign in question.

(4) 'Candidate' means an individual who seeks nomination for election or election to any public office, whether or not such an individual is elected; and a person shall be deemed to seek nomination or election if such person has taken necessary action under the laws of this state to qualify such person for nomination for election or election or has received any contributions or made any expenditures in pursuit of such nomination or election or has given such person's consent for such person's campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or election to such office.

(5) 'Commission' means the State Ethics Commission created under Code Section 21-5-4.

(6) 'Connected organization' means any organization, including any business entity, labor organization, membership organization, or cooperative, which is not a political action committee, as defined in this Code section, but which, directly or indirectly, establishes or administers a political action committee or which provides more than 40 percent of the funds of the political action committee for a calendar year.

(6)(7) 'Contribution' means a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value conveyed or transferred for the purpose of influencing the nomination for election or election of any person for office, bringing about the recall of a public officer holding elective office or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any this state, or a county, or a municipal election in this state. The term specifically shall not include the value of personal services performed by persons who serve without compensation from any sourees source and on a voluntary basis. The term 'contribution' shall include other forms of payment made to candidates for office or who hold office when such fees and compensation made can be reasonably construed as a campaign contribution designed to encourage or influence a candidate or public officer holding elective office. The term 'contribution' shall also encompass transactions wherein a qualifying fee required of the candidate is furnished or paid by anyone other than the candidate.

(7)(8) 'Direct ownership interest' means the holding or possession of good legal or rightful title of property or the holding or enjoyment of real or beneficial use of the property by any person and includes any interest owned or held by a spouse of such person if such interest is held jointly or as tenants in common between the person and spouse.

(8)(9) 'Election' means a primary election; run-off election, either primary or general; special election; or general election. The term 'election' also means a recall election.

(8.1)(10) 'Election cycle' means the period from the day following the date of an election or appointment of a person to elective public office through and including the

date of the next such election of a person to the same public office and shall be construed and applied separately for each elective office.

(9)(11) 'Expenditure' means a purchase, payment, distribution, loan, advance, deposit, or ~~gift any transfer~~ of money or anything of value made for the purpose of influencing the nomination for election or election of any person, bringing about the recall of a public officer holding elective office or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in ~~any this state, or a county, or a municipal election in this state~~. The term specifically shall not include the value of personal services performed by persons who serve without compensation from any source and on a voluntary basis. The term 'expenditure' shall also include the payment of a qualifying fee for and in behalf of a candidate.

(10)(12) 'Fiduciary position' means any position imposing a duty to act primarily for the benefit of another person as an officer, director, manager, partner, guardian, or other designation of general responsibility of a business entity.

(11)(13) 'Filing officer' means that official who is designated in Code Section 21-5-34 to receive campaign contribution disclosure reports; ~~provided, however, that such term shall not include the State Ethics Commission.~~

(12)(14) 'Gift' means any gratuitous transfer to a public officer, ~~the spouse of the public officer, or any dependents of the public officer member of the family of the public officer~~ or a loan of property or services which is not a contribution as defined in paragraph (6) (7) of this Code section and which is in the amount of \$101.00 or more.

(12.1)(15) 'Independent committee' means any committee, club, association, partnership, corporation, labor union, or other group of persons, other than a campaign committee, political party, or political action committee, which receives donations during a calendar year from persons who are members or supporters of the committee and which expends such funds either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate.

(13)(16) 'Intangible property' means property which is not real property and which is held for profit and includes stocks, bonds, interest in partnerships, choses in action, and other investments but shall not include any ownership interest in any public or private retirement or pension fund, account, or system and shall not include any ownership interest in any public or private life insurance contract or any benefit, value, or proceeds of such life insurance contract.

(17) 'Member of the family' means a spouse and all dependent children.

(18) 'Ordinary and necessary expenses' shall include, but shall not be limited to, expenditures made during the reporting period for office costs and rent, lodging, equipment, travel, advertising, postage, staff salaries, consultants, files storage, polling, special events, volunteers, reimbursements to volunteers, contributions to nonprofit organizations, and flowers for special occasions, which shall include, but

are not limited to, birthdays and funerals, and all other expenditures contemplated in Code Section 21-5-33.

(14)(19) 'Person' means an individual, partnership, committee, association, corporation, limited liability company, limited liability partnership, trust, professional corporation, or other business entity recognized in the State of Georgia, labor organization, or any other organization or group of persons.

(14.1)(20) 'Political action committee' means:

(A) Any any committee, club, association, partnership, corporation, labor union, or other group of persons which receives donations during a calendar year from persons who are members or supporters of the committee and which distributes these contributes funds ~~as contributions~~ to one or more candidates for public office or campaign committees of candidates for public office; and

(B) A a 'separate segregated fund' as defined in Code Section 21-5-40.

Such term does not include a candidate campaign committee.

(14.2)(21) 'Public employee' means every person employed by the executive, legislative, or judicial branch of state government, or any department, board, bureau, agency, commission, or authority thereof.

(15)(22) 'Public officer' means:

(A) Every constitutional officer;

(B) Every elected state official;

(C) The executive head of every state department or agency, whether elected or appointed;

(D) Each member of the General Assembly;

(E) The executive director of each state board, commission, or authority and the members thereof;

(F) Every elected county official and every elected member of a local board of education; and

(G) Every elected municipal official."

### SECTION 3.

Said chapter is further amended by striking subsection (b) of Code Section 21-5-4, relating to the Ethics Commission, and inserting in lieu thereof the following:

"(b) There is created the State Ethics Commission, with such duties and powers as are set forth in this chapter. The commission shall be a successor to the State Campaign and Financial Disclosure Commission in all matters pending before the State Campaign and Financial Disclosure Commission on March 1, 1987, and may continue to investigate, prosecute, and act upon all such matters. The commission shall be governed by five members appointed as follows: three members, not more than two of whom shall be from the same political party, shall be appointed by the Governor, two for terms of three years and one for a term of two years; one member shall be appointed by the Lieutenant Governor Senate Committee on Assignments for a term of four years; and one member shall be appointed by the Speaker of the House of Representatives for a term of four years. The initial members shall take office on March 2, 1987. Upon the

expiration of a member's term of office, a new member, appointed in the same manner as the member whose term of office expired as provided in this subsection, shall become a member of the commission and shall serve for a term of four years and until such member's successor is duly appointed and qualified. If a vacancy occurs in the membership of the commission, a new member shall be appointed to the unexpired term of office by the state official who appointed the vacating member. Members of the commission shall not serve for more than one complete term of office; provided, however, that the members of the State Campaign and Financial Disclosure Commission serving on March 1, 1987, shall be eligible for appointment as initial members of the State Ethics Commission."

#### **SECTION 4.**

Said chapter is further amended by striking Code Section 21-5-5, relating to operating expenses, and inserting in lieu thereof the following:

"21-5-5.

The funds necessary to carry out this chapter shall come from the funds appropriated to and available to the State Ethics Commission and from any other available funds. The commission shall be a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the commission shall be assigned for administrative purposes only to the Secretary of State."

#### **SECTION 5.**

Said chapter is further amended by striking Code Section 21-5-6, relating to powers and duties of the commission, and inserting in lieu thereof the following:

"21-5-6.

- (a) The commission is vested with the following powers:
  - (1) To meet at such times and places as it may deem necessary;
  - (2) To contract with other agencies, public or private, or persons as it deems necessary for the rendering and affording of such services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities;
  - (3) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this chapter;
  - (4) To employ an executive secretary and such additional staff as the commission deems necessary to carry out the powers delegated to the commission by this chapter;
  - (5) To issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence;
  - (6) To institute and prosecute actions in the superior courts, in its own name, seeking to enjoin or restrain any violation or threatened violation of this chapter;
  - (7) To adopt in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' such rules and regulations as are necessary to carry out the purposes

- of this chapter; and
- (8) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the ~~power~~ powers granted to it.
- (b) The commission shall have the following duties:
- (1) To prescribe forms to be used in complying with this chapter;
  - (2) To prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required by this chapter to file statements and reports;
  - (3) To accept and file any information voluntarily supplied that exceeds the requirements of this chapter;
  - (4) To develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter;
  - (5) To adopt a retention standard for records of the commission in accordance with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act';
  - (6) To prepare and publish such other reports and technical studies as in its judgment will tend to promote the purposes of this chapter;
  - (7) To provide for public dissemination of such summaries and reports;
  - (8) To determine whether the required statements and reports have been filed and, if so, whether they conform to the requirements of this chapter;
  - (9) To make investigations, subject to the limitations contained in Code Section ~~21-5-7~~ 21-5-7.1, with respect to the statements and reports filed under this chapter and with respect to alleged failure to file any statements or reports required under this chapter and upon receipt of the written complaint of any person, verified under oath to the best information, knowledge, and belief by the person making such complaint with respect to an alleged violation of any provision of this chapter, provided that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter;
  - (10)(A) To conduct a preliminary investigation, subject to the limitations contained in Code Section ~~21-5-7~~ 21-5-7.1 of the merits of a written complaint by any person who believes that a violation of this chapter has occurred, verified under oath to the best information, knowledge, and belief by the person making such complaint. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the commission determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The commission may file a complaint charging violations of this chapter, and any person aggrieved by the final decision of the commission is entitled to judicial review in accordance with Chapter 13 of Title 50; provided, however, that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable

cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.

(B) In any such preliminary investigation referenced in subparagraph (A) of this paragraph, until such time as the commission determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';

(11) To report suspected violations of law to the appropriate law enforcement authority;

(12) To investigate upon a written complaint any illegal use of ~~state~~ public employees in a political campaign by any candidate;

(13) To issue, upon written request, and publish written advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances; and each such written advisory opinion shall be issued within 60 days of the written request for the advisory opinion. The commission shall make all advisory opinions that were issued after January 9, 2006, publicly available for review and shall post these and all future opinions on the commission's website and the commission shall make all advisory opinions that were issued prior to January 9, 2006, publicly available for review and shall post these opinions on the commission's website. No liability shall be imposed under this chapter for any act or omission made in conformity with a written advisory opinion issued by the commission that is valid at the time of the act or omission;

(14) To issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or prohibiting the actual or threatened commission of any conduct constituting a violation, which order may include a provision requiring the violator:

(A) To cease and desist from committing further violations;

(B) To make public complete statements, in corrected form, containing the information required by this chapter;

(C)(i) ~~To Except as provided in paragraph (2) of Code Section 21-5-7.1, to~~ pay a civil penalty not to exceed \$1,000.00 for each violation contained in any report required by this chapter or for each failure to comply with any other provision of this chapter or of any rule or regulation promulgated under this chapter; provided, however, that a civil penalty not to exceed \$5,000.00 may be imposed for a second occurrence of a violation of the same provision and a civil penalty not to exceed \$10,000.00 may be imposed for each third or subsequent occurrence of a violation of the same provision. For the purposes of the penalties imposed by this division, the same error, act, omission, or inaccurate entry shall be considered a single violation if the error, act, omission, or inaccurate entry appears multiple times on the same report or causes further errors, omissions, or inaccurate entries in that report or in any future reports or further violations in that report or in any future reports.

(ii) A civil penalty shall not be assessed ~~against any person~~ except after notice and

hearing as provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the commission. All moneys recovered pursuant to this Code section shall be deposited in the state treasury.

(iii) The Attorney General of this state shall, upon complaint by the commission, or may, upon the Attorney General's own initiative if after examination of the complaint and evidence the Attorney General believes a violation has occurred, bring an action in the superior court in the name of the commission for a temporary restraining order or other injunctive relief or for civil penalties ~~assessed against any person violating for a violation of~~ any provision of this chapter or any rule or regulation duly issued by the commission.

(iv) Any action brought by the Attorney General to enforce civil penalties ~~assessed against any person for violating for a violation of~~ the provisions of this chapter or ~~of~~ any rule or regulation duly issued by the commission or any order issued by the commission ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county of the residence of the party against whom relief is sought. Service of process shall lie in any jurisdiction within the state. In such actions, the superior court inquiry will be limited to whether notice was given by the commission to the violator in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Upon satisfaction that notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the superior court shall enforce the orders of the commission and the civil penalties assessed under this chapter and the superior court shall not make independent inquiry as to whether the violations have occurred.

(v) In any action brought by the Attorney General to enforce any of the provisions of this chapter or of any rule or regulation issued by the commission, the judgment, if in favor of the commission, shall provide that the defendant pay to the commission the costs, including reasonable attorneys' fees, incurred by the commission in the prosecution of such action~~s~~.

The commission shall make all such orders that were issued after January 9, 2006, publicly available for review and shall post these and all future orders on the commission's website and the commission shall make all advisory orders that were issued prior to January 9, 2006, publicly available for review and shall post these orders on the commission's website. Such orders shall serve as precedent for all future orders and opinions of the commission.

- (15) To make public its conclusion that a violation has occurred and the nature of such violation;
- (16) To petition the superior court within the county where the hearing was or is being conducted for the enforcement of any order issued in connection with such hearing; ~~and~~
- (17) To report to the General Assembly and the Governor at the close of each fiscal

year concerning the action taken during that time, the names, salaries, and duties of all individuals employed, and the funds disbursed and to make such further report on the matters within its jurisdiction as may appear desirable:

(18) To carry out the procedures, duties, and obligations relative to the commission set forth in this chapter;

(19) On a quarterly basis, to prepare, update, and publish a report and post such report on its website, listing the name of each filer who has not filed the most recent campaign contribution disclosure report required by Code Sections 21-5-34 and 21-5-34.1, the financial disclosure statement required by Code Section 21-5-50, or the disclosure report required by Code Section 21-5-73 within 30 days of the date such report was due to be filed;

(20) To publish overall lobbyist spending by category. Such categories shall include gifts, meals, entertainment, office supplies, lodging, equipment, advertising, travel, and postage;

(21) To promulgate rules and regulations with respect to electronic filings; and

(22) To provide and conduct semiannual training on the mechanics of electronic filing and registration.

(c) ~~The Secretary of State, through the Secretary of State's office, shall perform the ministerial functions which the commission may require. The office of the Secretary of State shall be designated as the place where members of the public may file papers or correspond with the commission and receive any form or instruction from the commission. The Secretary of State or the Secretary of State's designee shall serve as secretary to the commission."~~

## SECTION 6.

Said chapter is further amended by striking Code Section 21-5-7, relating to initiation of complaints, and inserting in lieu thereof the following:

"21-5-7.

(a) The commission shall not initiate any investigation or inquiry into any matter under its jurisdiction based upon the complaint of any person unless that person shall ~~re<sup>d</sup>uee produce~~ the same in writing and verify the same under oath to the best information, knowledge, and belief of such person, the falsification of which shall be punishable as false swearing under Code Section 16-10-71. The person against whom any complaint is made shall be furnished by hand delivery or statutory overnight delivery or mailed by certified mail, return receipt requested, a copy of the complaint by the commission ~~immediately upon within two business days of~~ the commission's receipt of such complaint and prior to any other public dissemination of such complaint. Nothing in this Code section, however, shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.

(b) The commission shall adopt rules which shall provide that:

(1) Upon the commission's receipt of a complaint, a determination shall be made as to whether the complaint relates to an alleged technical defect in a filing. For this

~~purpose, a technical defect shall be a defect such as a failure to include a date or an incorrect date, a failure to include a contributor's occupation or an incorrect occupation, a failure to include an address or an incorrect address, or any other similar technical defect as specified by rule of the commission;~~

~~(2) When the commission determines that a complaint relates to a technical defect in a filing, the subject of the complaint shall be given a period of ten days to correct the alleged technical defect. During such ten day period the complaint shall be considered as received by the commission but not yet filed with the commission. If during such ten day period the alleged technical violation is cured by an amended filing or otherwise, or if during such ten day period the subject of the complaint demonstrates that there is no technical violation as alleged, the complaint shall be disposed of without filing or further proceedings and no penalty shall be imposed."~~

## SECTION 7.

Said chapter is further amended by inserting a new Code Section 21-5-7.1 to follow Code Section 21-5-7 to read as follows:

### "21-5-7.1.

The commission shall adopt rules which shall provide that:

(1) Upon the commission's receipt of a complaint, a determination shall be made as to whether the complaint relates to a technical defect in a filing. For this purpose, a technical defect shall include, but not be limited to, a defect such as a failure to include a date or an incorrect date, a failure to include a contributor's occupation or an incorrect occupation, a failure to include an address or an incorrect address, a failure to include an employer or an incorrect employer, accounting errors, or any other similar defects;

(2) When the commission determines that a complaint relates to a technical defect in a filing, the subject of the complaint shall be issued a notice of the technical defect by certified mail, return receipt requested, or statutory overnight delivery and shall be given a period of 30 calendar days from the receipt of the notice to correct the technical defect. During the 30 day period the complaint shall be considered as received by the commission but not yet filed with the commission and shall not be considered a violation of this chapter. If during the 30 day period the technical defect is cured by an amended filing or otherwise, or if during the 30 day period the subject of the complaint demonstrates that there is no technical defect as alleged, the complaint shall be disposed of without filing or further proceedings and no penalty shall be imposed. If the subject of the complaint fails to respond to the notice of a technical defect, make an amended filing, or demonstrate that there is no technical defect as alleged by the thirty-first day, the commission shall impose and collect an administrative fee not to exceed \$50.00 per technical defect. For the purposes of the penalties imposed by this paragraph, the same error or inaccurate entry shall be considered a single technical violation if the error or inaccurate entry appears multiple times on a single report or causes further errors or inaccurate entries in that report or in any future reports;

- (3) If the subject of the complaint does not pay the administrative fee required by paragraph (2) of this Code section, if any, and does not otherwise also comply with paragraph (2) of this Code section by the sixtieth day from the receipt of the notice of a technical defect, the commission shall conduct further investigation and the complaint may proceed further in accordance with the provisions of this chapter; and  
(4) When the commission determines in its discretion that best efforts have been made to complete a required filing, said filing shall be considered in compliance with this Code section and any complaint relative to said filing shall be dismissed."

### SECTION 8.

Said chapter is further amended by striking Code Section 21-5-12, relating to connected organizations, and inserting in lieu thereof the following:

"21-5-12.

(a) ~~As used in this Code section, the term 'connected organization' means any organization, including any corporation, labor organization, membership organization, or cooperative, which is not a political action committee, as defined in this article, but which, directly or indirectly, establishes or administers a political action committee or which provides more than 40 percent of the funds of the political action committee for a calendar year.~~

(b) (a) The name of each political action committee shall include the name of its connected organization.

~~(e)~~(b) The name of any separate segregated fund, as defined in Code Section 21-5-40, shall include the name of its connected organization."

### SECTION 9.

Said chapter is further amended by inserting a new Code Section 21-5-13 to follow Code Section 21-5-12 to read as follows:

"21-5-13.

Any action alleging a violation of this chapter shall be commenced within three years after the date of filing of the first report containing the alleged violation involving any person elected to serve for a term of two years, and any action alleging a violation of this chapter shall be commenced within five years after the date of filing of the first report containing the alleged violation involving any person elected to serve for a term of four years. For purposes of this Code section, an action shall be deemed to have commenced against a person only when either:

- (1) A complaint has been accepted by the commission in compliance with Code Section 21-5-7; or
- (2) The commission or Attorney General serves on such person a notice of summons or hearing, in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' that alleges that such person has violated this chapter."

**SECTION 10.**

Said chapter is further amended by striking Code Section 21-5-30, relating to contributions made to a candidate or a campaign committee or for the recall of a public officer, and inserting in lieu thereof the following:

"21-5-30.

- (a) Except as provided in subsection (e) of Code Section ~~21-5-34~~ 21-5-34, no contributions to bring about the nomination or election of a candidate for any office shall be made or accepted except directly to a candidate or such candidate's campaign committee which is organized for the purpose of bringing about the nomination or election of any such candidate; and no contributions to bring about the recall of a public officer or to oppose the recall of a public officer or to bring about the approval or rejection by the voters of a proposed constitutional amendment, state-wide referendum, or ~~other issue~~ proposed question at the ~~state~~, municipal<sub>s</sub> or county level shall be made or accepted except directly by a campaign committee organized for that purpose.
- (b) Each candidate shall maintain records and file reports as required by this chapter or shall have a campaign committee for the purposes of maintaining records and filing reports as required by this chapter. Every campaign committee shall have a chairperson and a treasurer, except that the candidate may serve as the chairperson and treasurer. Before a campaign committee accepts contributions, the name and address of the chairperson and treasurer shall be filed with the ~~Secretary of State commission~~. When a candidate has been elected to public office, the registration of that candidate's campaign committee with the ~~Secretary of State commission~~ shall remain in effect so long as the candidate remains in office until and unless: (1) the registration is canceled by the campaign committee or the candidate; or (2) a new campaign committee for that candidate is registered with the ~~Secretary of State~~. The same person may serve as chairperson and treasurer. No contributions shall be accepted by or on behalf of the campaign committee at a time when there is a vacancy in the office of chairperson or treasurer of the campaign committee.
- (c) Contributions of money received pursuant to subsection (a) of this Code section shall be deposited in ~~the separate~~ a campaign depository account opened and maintained by the candidate or the campaign committee ~~for the purpose for which such campaign committee was organized~~. Such The account may be an interest-bearing account; provided, however, that any interest earned on such account shall be ~~deemed contributions reported~~ and may only be used for the purposes allowed for contributions under this chapter. Those who elect the separate accounting option as provided in Code Section 21-5-43 may also open, but are not required to open, a separate campaign depository account for each election for which contributions are accepted and allocated beyond their next upcoming election.
- (d) Where Unless otherwise reported individually, where separate contributions of less than \$101.00 are knowingly received from a common source, such contributions shall be aggregated for reporting purposes. For purposes of fulfilling such aggregation requirement, members of the same family, members of the same firm, or partnership<sub>s</sub> or employees of the same person, as defined in paragraph (14) (19) of Code Section 21-5-

3, shall be considered to be a common source; provided, however, that the purchase of tickets for not more than \$25.00 each and for or attendance at a fundraising event by members of the ~~same~~ family, ~~members of the same~~ firm, or partnership, or employees of the same person shall not be considered to be contributions from a common source except to the extent that tickets are purchased as a block.

(e) The making and acceptance of anonymous contributions are prohibited. Any anonymous contributions received by a candidate or campaign committee shall be transmitted to the director of the Office of Treasury and Fiscal Services for deposit in the state treasury, and the fact of such contribution and transmittal shall be reported to the commission.

(f) A person acting on behalf of a public utility corporation regulated by the Public Service Commission shall not make, directly or indirectly, any contribution to a political campaign. This subsection shall not apply to motor carriers whose rates are not regulated by the Public Service Commission. Any person who knowingly violates this subsection with respect to a member of the Public Service Commission, a candidate for the Public Service Commission, or the campaign committee of a candidate for the Public Service Commission shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years or by a fine not to exceed \$5,000.00 ~~\$10,000.00~~, or both; and any person who knowingly violates this subsection with respect to any other public officer, a candidate for such other public office, or the campaign committee of a candidate for such other public office shall be guilty of a misdemeanor.

(g) Neither a candidate who is not a public officer nor his or her campaign committee may lawfully accept a campaign contribution until the candidate has filed with the ~~Secretary of State~~ commission or appropriate local filing officer a declaration of intention to accept campaign contributions which shall include the name and address of the candidate and the names and addresses of his or her campaign committee officers, if any."

#### SECTION 11.

Said chapter is further amended by striking Code Section 21-5-31, relating to contributions or expenditures other than through candidate or committee and disclosure of extensions of credit, and inserting in lieu thereof the following:

"21-5-31.

(a) ~~Any person who accepts contributions for, makes contributions to, or makes expenditures on behalf of candidates is subject to the same disclosure requirements of this chapter as a candidate, except that contributions from individuals made directly to a candidate or his campaign committee do not require separate reporting, except that contributions from persons as defined in paragraph (14) of Code Section 21-5-3 which do not exceed \$500.00 in the aggregate or which are made to only one candidate, regardless of the amount, do not require separate reporting, and except that copies of campaign contribution disclosure reports do not have to be filed with local election superintendents as required of candidates for membership in the General Assembly~~

pursuant to paragraph (1) of subsection (a) of Code Section 21-5-34.

(b) When a contribution consists of the proceeds of a loan, advance, or other extension of credit, the campaign contribution disclosure report shall also contain the name of the lending institution or party making the advance or extension of credit and the names, mailing addresses, occupations, and places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have a fiduciary relationship to the lending institution or party making the advance or extension of credit, the report shall specify such relationship. Reserved."

## SECTION 12.

Said chapter is further amended by striking Code Section 21-5-34, relating to disclosure reports, and inserting in lieu thereof the following:

"21-5-34.

(a)(1)(A) The candidate or the chairperson or treasurer of each campaign committee organized to bring about the nomination or election of a candidate for any office except county and municipal offices or the General Assembly and the chairperson or treasurer of every campaign committee designed to bring about the recall of a public officer or to oppose the recall of a public officer or designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, state-wide proposed question, or state-wide referendum shall sign and file with the Secretary of State commission the required campaign contribution disclosure reports. A candidate for membership in the General Assembly or the chairperson or treasurer of such candidate's campaign committee shall file such candidate's reports with the Secretary of State commission and a copy thereof of such report with the election superintendent of the county of such candidate's residence.

(B) The chairperson or treasurer of each independent committee as defined in Code Section 21-5-3 shall file the required disclosure reports with the Secretary of State commission.

(2)(A) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed question which is to appear on the ballot in any this state, or a county, or a municipal election in this state shall file a campaign contribution disclosure report as prescribed by this chapter; provided, however, that such report shall only be required if such campaign committee has received contributions which total more than \$500.00 or if such campaign committee has made expenditures which total more than \$500.00. All advertising pertaining to referendums must shall identify the principal officer of such campaign committee by listing or stating the name and title of the principal officer.

(B) If a campaign committee is required to file a report under subparagraph (A) of this paragraph, such report shall be filed with the election superintendent of the county in the case of a county election or with the municipal clerk in the case of a municipal election. Any such report shall be filed 15 days prior to the date of the election; and a final report shall be filed prior to December 31 of the year in which

the election is held.

- (3) A candidate for county office or the chairperson or treasurer of such candidate's campaign committee shall sign and file the required campaign contribution disclosure reports with the election superintendent in the respective county of election.
- (4) A candidate for municipal office or such candidate's campaign committee shall file the reports with the municipal clerk in the respective municipality of election or, if there is no clerk, with the chief executive officer of the municipality.

(b)(1) All reports shall list the following:

(A) The As to any contributions of \$101.00 or more, its amount and date of receipt, the election for which the contribution has been accepted and allocated, along with the name, and mailing address, occupation, and employer of any person making a contribution of \$101.00 or more, including of the contributor, and, if the contributor is an individual, that individual's occupation and the name of his or her employer. Such contributions shall include, but shall not be limited to, the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events coordinated for the purpose of raising campaign contributions for the reporting candidate person;

(B) The name and mailing address and occupation or place of employment of any person to whom an expenditure of \$101.00 or more is made and the amount, date, and general purpose of such expenditure; As to any expenditure of \$101.00 or more, its amount and date of expenditure, the name and mailing address of the recipient receiving the expenditure, and, if that recipient is an individual, that individual's occupation and the name of his or her employer and the general purpose of the expenditure;

(C) When a contribution consists of a loan, advance, or other extension of credit, the report shall also contain the name of the lending institution or party making the advance or extension of credit and the names, mailing addresses, occupations, and places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have a fiduciary relationship to the lending institution or party making the advance or extension of credit, the report shall specify such relationship;

(D) Total contributions received and total expenditures made as follows:

(i) Contributions and expenditures shall be reported for the applicable reporting cycle;

(ii) A reporting cycle shall commence on January 1 of the year in which an election is to be held for the public office to which a candidate seeks election and shall conclude:

(I) At the expiration of the term of office if such candidate is elected and does not seek reelection or election to some other office;

(II) On December 31 of the year in which such election was held if such candidate is unsuccessful; or

(III) If such candidate is successful and seeks reelection or seeks election to some other office the current reporting cycle shall end when the reporting cycle

- for reelection or for some other office begins;
- (iii) The first report of a reporting cycle shall list the net balance on hand brought forward from the previous reporting cycle, if any, and the total contributions received during the period covered by the report;
- (iv) Subsequent reports shall list the total contributions received during the period covered by the report and the cumulative total of contributions received during the reporting cycle;
- (v) The first report of a reporting cycle shall list the total expenditures made during the period covered by the report;
- (vi) Subsequent reports shall list the total expenditures made during the period covered by the report, the cumulative total of expenditures made during the reporting cycle, and net balance on hand; and
- (vii) If a public officer seeks reelection to the same public office, or if the public officer is a member of the General Assembly seeking reelection in another district as a result of redistricting, the net balance on hand at the end of the current reporting cycle shall be carried forward to the first report of the applicable new reporting cycle; and
- (E) The corporate, labor union, or other affiliation of any political action committee or independent committee making a contribution of \$101.00 or more.
- (2) Each report shall be in such form as will allow for the separate identification of a contribution or contributions which are less than \$101.00 but which become reportable due to the receipt of an additional contribution or contributions which when combined with such previously received contribution or contributions cumulatively equal or exceed \$101.00.
- (c) Candidates or campaign committees which accept contributions, make expenditures designed to bring about the nomination or election of a candidate, or have filed a declaration of intention to accept campaign contributions pursuant to subsection (g) of Code Section 21-5-30 shall file campaign contribution disclosure reports in compliance with the following schedule:
- (1) In each nonelection year on June 30 and December 31;
- (2) In each year in which the candidate qualifies to run for public office:
- (A) On March 31, June 30, September 30, October 25, and December 31;
- (B) Six days before any run-off primary or election in which the candidate is listed on the ballot; and
- (C) During the period of time between the last report due prior to the date of any ~~state wide primary or state wide~~ election for which the candidate is qualified and the date of such ~~primary or~~ election, all contributions of \$1,000.00 or more ~~must shall~~ be reported within ~~48 hours two business days~~ of receipt to the location where the original disclosure report for such candidate or committee was filed and also reported on the next succeeding regularly scheduled campaign contribution disclosure report;
- (3) If the candidate is candidate in a special primary or special primary runoff, 15 days prior to the special primary and six days prior to the special primary runoff; and

(4) If the candidate is candidate in a special election or special election runoff, 15 days prior to the special election and six days prior to the special election runoff.

All persons or entities required to file reports shall have a five-day grace period in filing the required reports, except that the grace period shall be two days for required reports prior to run-off primaries or run-off elections, and no grace period shall apply to contributions required to be reported within ~~48 hours two business days~~. Except as provided for electronic filing, the The mailing of such reports by United States mail with adequate postage affixed, within the required filing time as determined by the official United States postage date cancellation, shall be prima-facie evidence of filing but reports required to be filed within ~~48 hours two business days~~ of a contribution ~~must shall~~ also be reported by facsimile, electronic transmission, or otherwise within those ~~48 hours two business days~~ to the location where the original disclosure report for such candidate or committee was filed. A report or statement required to be filed by this Code section other than a report of contributions required to be reported within ~~48 hours two business days~~ shall be verified by the oath or affirmation of the person filing such report or statement taken before an officer authorized to administer oaths. Each report required in the calendar year of the election shall contain cumulative totals of all contributions which have been received and all expenditures which have been made in support of the campaign in question and which are required, or previously have been required, to be reported.

(d) In the event any candidate covered by this chapter has no opposition in either a primary or a general election and receives no contribution of \$101.00 or more, such candidate shall only be required to make the initial and final report as required under this chapter.

(e) Any person who makes contributions to, accepts contributions for, or makes expenditures on behalf of candidates, and any independent committee, shall file a registration with the ~~Secretary of State commission~~ in the same manner as is required of campaign committees prior to accepting or making contributions or expenditures. Such persons, other than independent committees, shall also file campaign contribution disclosure reports in the same places and at the same times as required of the candidates they are supporting, ~~but such persons shall not be required to file copies of campaign contribution disclosure reports with local election superintendents as is required of candidates for membership in the General Assembly~~. The following persons shall be exempt from the foregoing registration and reporting requirements:

(1) Individuals making aggregate contributions of \$25,000.00 or less directly to candidates or the candidates' campaign committees in one calendar year; ~~and~~

(2) Persons other than individuals making aggregate contributions and expenditures to or on behalf of candidates of ~~\$5,000.00 \$25,000.00~~ or less in one calendar year; ~~and~~

(3) ~~Contributors who make contributions to only one candidate during one calendar year.~~

(f)(1) Any independent committee which accepts contributions or makes expenditures for the purpose of affecting the outcome of an election or advocates the

election or defeat of any candidate shall file disclosure reports with the ~~Secretary of State commission~~ as follows:

- (A) ~~On or~~ the first day of each of the two calendar months preceding any such election;
- (B) ~~Two two~~ weeks prior to the date of such election; and
- (C) ~~Within within~~ the two-week period prior to the date of such election the independent committee shall report ~~within 48 hours two business days~~ any contributions or expenditure of more than \$1,000.00.

The independent committee shall file a final report prior to December 31 of the year in which the election is held and shall file supplemental reports on June 30 and December 31 of each year that such independent committee continues to accept contributions or make expenditures.

(2) Reports filed by independent committees shall list the following:

- (A) The amount and date of receipt, along with the name, mailing address, occupation, and employer of any person making a contribution of \$101.00 or more;
- (B) The name, mailing address, occupation, and employer of any person to whom an expenditure or provision of goods or services of the value of \$101.00 or more is made and the amount, date, and general purpose thereof, including the name of the candidate or candidates, if any, on behalf of whom, or in support of or in opposition to whom, the expenditure or provision was made;
- (C) Total expenditures made as follows:
  - (i) Expenditures shall be reported for the applicable reporting year;
  - (ii) The first report of a reporting year shall list the total expenditures made during the period covered by the report; and
  - (iii) Subsequent reports shall list the total expenditures made during the period covered by the report, the cumulative total of expenditures made during the reporting year, and net balance on hand; and
- (D) The corporate, labor union, or other affiliation of any political action committee, candidate, campaign committee, or independent committee making a contribution of the value of \$101.00 or more.

(3) Whenever any independent committee makes an expenditure for the purpose of financing any communication intended to affect the outcome of an election, such communication shall clearly state that it has been financed by such independent committee.

(g) Any campaign committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer or to oppose the recall of a public officer shall file campaign contribution disclosure reports with the ~~Secretary of State commission~~ as follows:

- (1) An initial report shall be filed within 15 days after the date when the official recall petition forms were issued to the sponsors;
- (2) A second report shall be filed 45 days after the filing of the initial report;
- (3) A third report shall be filed within 20 days after the election superintendent certifies legal sufficiency or insufficiency of a recall petition;

(4) A final report shall be filed prior to December 31 of the year in which the recall election is held or, in any case where such recall election is not held, a final report shall be filed prior to December 31 of any year in which such campaign committee accepts such contributions or makes such expenditures; and

(5) In the case of state officials or county officials, a copy of each of the reports shall also be filed with the election superintendent in the county of residence of the official sought to be recalled. In the case of municipal officials, a copy of the reports shall also be filed with the municipal clerk in the municipality of residence of the official sought to be recalled or, if there is no clerk, with the chief executive officer of the municipality.

Each filing officer shall forward a copy of the reporting forms required by this Code section to each candidate or public officer holding elective office required to file such report within a reasonable time prior to each filing.

(h) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of a proposed constitutional amendment or a state-wide referendum shall file a campaign contribution disclosure report with the Secretary of State commission 75, 45, and 15 days prior to the date of the election and shall file a final report prior to December 31 of the year in which the election is held.

(i) In any county in which the county board of elections does not maintain an office open to the public during normal business hours for five days a week, the reports required by this Code section shall be filed in the office of the judge of the probate court of that county.

(j)(1) Any person elected to a public office who is required to file campaign contribution disclosure reports pursuant to this article shall, upon leaving public office with excess contributions, be required to file supplemental campaign contribution disclosure reports on June 30 and December 31 of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33.

(2) Any person who is an unsuccessful candidate in an election and who is required to file campaign contribution disclosure reports pursuant to this article shall for the remainder of the reporting cycle file such reports at the same times as a successful candidate and thereafter, upon having excess contributions from such campaign, be required to file a supplemental campaign contribution disclosure report no later than December 31 of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33. Any unsuccessful candidate in an election who is required to file campaign contribution disclosure reports pursuant to this article and who receives contributions following such election to retire debts incurred in such campaign for elective office shall be required to file a supplemental campaign contribution disclosure report no later than December 31 of each year until such unpaid expenditures from such campaign are satisfied.

(k) Notwithstanding any other provision of this chapter to the contrary, soil and water

conservation district supervisors elected pursuant to Article 2 of Chapter 6 of Title 2, the 'Soil and Water Conservation Districts Law,' shall not be required to file campaign contribution disclosure reports under this Code section.

(l) In addition to other penalties provided under this chapter, an additional filing fee of \$25.00 shall be imposed for each report that is filed late. In addition, a filing fee of \$50.00 shall be imposed on the fifteenth day after the due date if the report has still not been filed; provided, however, a 15 day extension period shall be granted on the final report.

(m) It shall be the duty of the commission or any other officer or body which receives for filing any disclosure report or statement or other document required to be filed under this chapter to maintain with the filed document a copy of the postal markings or statutory overnight delivery service markings of any envelope, package, or wrapping in which the document was delivered for filing if mailed or sent after the date such filing was due.

(n) Any disclosure report, statement, or other document required to be filed under this chapter which is in the possession of the Secretary of State shall be transferred to the commission."

### SECTION 13.

Said chapter is further amended by striking Code Section 21-5-34.1, relating to filing campaign contribution disclosure reports electronically, and inserting in lieu thereof the following:

"21-5-34.1.

(a) Beginning February 1, 2001, candidates Candidates seeking election to constitutional offices, the Supreme Court, the Court of Appeals, and the Public Service Commission shall use electronic means to file their campaign contribution disclosure reports with the Secretary of State commission upon having raised or spent a minimum of \$20,000.00 in an election cycle. Under that threshold, electronic filing is permitted and encouraged but not required.

(b) Beginning January 1, 2003, candidates Candidates seeking election to the General Assembly, superior courts, and the office of district attorney shall use electronic means to file their campaign contribution disclosure reports with the Secretary of State commission, as specified in Code Section 21-5-34, upon having raised or spent a minimum of \$10,000.00 in an election cycle, but contributions and expenditures received or made prior to reaching such threshold need not be electronically filed if previously reported, except as cumulative totals. Under that threshold, electronic filing is permitted and encouraged but not required.

(c) Beginning January 1, 2003, candidates Candidates seeking election to county or municipal offices shall use electronic means to file their campaign contribution disclosure reports with the election superintendent of their county or the municipal clerk or chief executive officer of their municipality, as specified in Code Section 21-5-34, upon having raised or spent a minimum of \$10,000.00 in an election cycle, but contributions and expenditures received or made prior to reaching such threshold need

not be electronically filed if previously reported, except as cumulative totals. Under that threshold, electronic filing is permitted and encouraged but not required.

(d) ~~Beginning January 1, 2003, political~~ Political action committees, independent committees, and any persons otherwise required by this article to file campaign contribution disclosure reports shall use electronic means to file such reports with the ~~Secretary of State commission~~ upon having raised or spent \$5,000.00 in a calendar year. Under that threshold, electronic filing is permitted and encouraged but not required.

(e) When campaign contribution disclosure reports are filed electronically as provided in subsections (a) through (d) of this Code section, ~~the original report shall be filed at the same location the filer shall only submit to the commission a notarized affidavit certifying that the electronic filing is correct by United States mail, with adequate postage affixed.~~

(f) ~~No funds raised or spent prior to the implementation date of electronic filing shall be counted toward the appropriate threshold. When campaign contribution disclosure reports are filed electronically, as provided in subsections (a) through (d) of this Code section, no paper copy of the report shall be filed.~~

(g) ~~The commission is authorized to promulgate rules and regulations to implement this Code section."~~

#### SECTION 14.

Said chapter is further amended by striking Code Section 21-5-35, relating to acceptance of contributions during legislative sessions, and inserting in lieu thereof the following:

"21-5-35.

(a) No member of the General Assembly or that member's campaign committee or public officer elected state wide or campaign committee of such public officer shall seek or accept a contribution or a pledge of a contribution to the member, the member's campaign committee, or public officer elected state wide, or campaign committee of such public officer during a legislative session.

(b) Subsection (a) of this Code section shall not apply to:

(1) The receipt of a contribution which is returned with reasonable promptness to the donor or the donor's agent;

(2) The receipt and acceptance during a legislative session of a contribution consisting of proceeds from a dinner, luncheon, rally, or similar fundraising event held prior to the legislative session; or

(3) The receipt of a contribution by a political party consisting of the proceeds from a dinner, luncheon, rally, or similar fundraising event in which a member of the General Assembly or a public officer elected state wide participates; or

(3)(4) A judicial officer elected state wide or campaign committee of such judicial officer."

#### SECTION 15.

Said chapter is further amended by striking Code Section 21-5-40, relating to definitions

applicable to campaign contributions, and inserting in lieu thereof the following:

"21-5-40.

As used in this article, the term:

- (1) 'Affiliated committees' means any two or more political committees (including a separate segregated fund) established, financed, maintained, or controlled by the same ~~corporation business entity~~, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof.
- (2) 'Affiliated corporation' means with respect to any ~~corporation business entity~~ any other ~~corporation business entity~~ related thereto: as a parent ~~corporation business entity~~; as a subsidiary ~~corporation business entity~~; as a sister ~~corporation business entity~~; by common ownership or control; or by control of one ~~corporation business entity~~ by the other.
- (3) 'Corporation' means any business or nonprofit corporation organized under the laws of this state, any other state, or the United States. 'Business entity' shall have the same meaning as provided in Code Section 21-5-3.
- (4) 'Election year' shall be construed and applied separately for each elective office and means for each elective office the calendar year during which a regular or special election to fill such office is held.
  - (4.1) 'Nonelection year' shall be construed and applied separately for each elective office and means for each elective office any calendar year during which there is no regular or special election to fill such office.
- (5) 'Person' means an individual.
- (6) 'Political committee' means: (A) any partnership, committee, club, association, organization, party caucus of the House of Representatives or the Senate, or similar entity (other than a ~~corporation business entity~~) or any other group of persons or entities which makes a contribution; or (B) any separate segregated fund.
  - (6.1) 'Political party' means any political party as that term is defined in paragraph (25) of Code Section 21-2-2, as amended; provided, however, that for purposes of this article, local, state, and national committees shall be separate political parties.
  - (6.2) 'Public office' means the office of each elected public officer as specified in paragraph (15)(22) of Code Section 21-5-3.
- (7) 'Separate segregated fund' means a fund which is established, administered, and used for political purposes by a ~~corporation business entity~~, labor organization, membership organization, or cooperative and to which the ~~corporation business entity~~, labor organization, membership organization, or cooperative solicits contributions."

## SECTION 16.

Said chapter is further amended by striking Code Section 21-5-41, relating to maximum allowable contributions, and inserting in lieu thereof the following:

"21-5-41.

- (a) No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for state-wide elected office which in the aggregate for an election cycle

exceed:

- (1) Five thousand dollars for a primary election;
- (2) Three thousand dollars for a primary run-off election;
- (3) Five thousand dollars for a general election; and
- (4) Three thousand dollars for a general election runoff.

(b) No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for an election cycle exceed:

- (1) Two thousand dollars for a primary election;
- (2) One thousand dollars for a primary run-off election;
- (3) Two thousand dollars for a general election; and
- (4) One thousand dollars for a general election runoff.

(c) No business entity shall make any election contributions to any candidate which when aggregated with contributions to the same candidate for the same election from any affiliated corporations exceed the per election maximum allowable contribution limits for such candidate as specified in subsection (a) of this Code section.

(e)(d) Candidates and campaign committees may separately account for contributions pursuant to Code Section 21-5-43. Candidates and campaign committees not separately accounting for contributions pursuant to such Code section shall not accept contributions for any election in an election cycle prior to the conclusion of the immediately preceding election in such cycle; provided, however, that contributions may be accepted for a primary election at any time in the election cycle prior to and including the date of such primary election. Upon At the conclusion of ~~an~~ each election, contributions remaining unexpended may be expended on succeeding elections in the election cycle, and contributions not exceeding the contribution limits of this Code section may continue to be accepted for repayment of campaign obligations incurred as a candidate in that election except as provided in subsection (h) of this Code section.

(e)(e) Candidates and campaign committees shall designate on their disclosure reports the election for which a contribution has been accepted. Any contribution not so designated shall be presumed to have been accepted for the election on or first following the date of the contribution.

(e)(f) A contribution by a partnership shall be deemed to have been made pro rata by the partners as individuals for purposes of this Code section, as well as by the partnership in toto unless the partnership by proper action under its partnership agreement otherwise directs allocation of the contribution among the partners. At such direction of the partnership, the contribution may be allocated in any proportion among the partners, including to one or some but not all. Such allocation shall be indicated on the face of any instrument constituting the contribution or on an accompanying document referencing such instrument.

(f)(g) The limits contribution limitations established by this Code section shall not apply to a loan or other contribution made to a campaign committee or candidate by the candidate or ~~a member of the candidate's immediate family~~ a member of the family of

the candidate.

(h) Any candidate or campaign committee who incurs loans on or after January 9, 2006, in connection with the candidate's campaign for election shall not repay, directly or indirectly, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of the election for which the loan was made to the extent that such loans exceed \$250,000.00.

(e)(i) The contribution limits established by this Code section shall not apply to a bona fide loan made to a candidate or campaign committee by a state or federally chartered financial institution or a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation if:

(1) Such loan is made in the normal course of business with the expectation on the part of all parties that such loan shall be repaid; and

(2) Such loan is based on the credit worthiness of the candidate and the candidate is personally liable for the repayment of the loan.

(h)(j) The contribution limitations provided for in this Code section shall not include contributions or expenditures made by a political party in support of a party ticket or a group of named candidates.

(f)(k) At the end of the election cycle applicable to each public office as to which campaign contributions are limited by this Code section and every four years for all other elections to which this Code section is applicable, the contribution limitations in this Code section shall be raised or lowered in increments of \$100.00 by regulation of the State Ethics Commission pursuant to a determination by the commission of inflation or deflation during such cycle or four-year period, as determined by the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, and such limitations shall apply until next revised by the commission. The commission shall adopt rules and regulations for the implementation of this subsection."

## SECTION 17.

Said chapter is further amended by striking subsection (a) of Code Section 21-5-43, relating to accounting for and expenditure of campaign contributions, and inserting in lieu thereof the following:

"(a)(1) A candidate or campaign committee may separately account for contributions for each election in an election cycle for which contributions are accepted. If no contributions are accepted for an election, no corresponding accounting shall be required. Subject to the contribution limits of this chapter, contributions so separately accounted for may be accepted at any time in the election cycle. Upon the conclusion of ~~an~~ each election, contributions not exceeding such limits may continue to be accepted for repayment of campaign obligations incurred as a candidate in that election.

(2) A candidate who wishes to accept contributions for more than one election at a time shall separately account for such campaign contributions and shall file an 'Option to Choose Separate Accounting' form with the commission prior to accepting contributions for any election other than the candidate's next upcoming election;

provided, however, that a candidate shall only be required to file one such form which shall be utilized for all subsequent elections to the same elective office, regardless of whether an election occurs in a new election cycle.

(3) A candidate who accepts contributions for more than one election at a time may allocate contributions received from a single contributor to any election in the election cycle, provided that the contributions shall not violate maximum allowable contribution limits for any election; provided, however, that in order to allocate contributions to a past election, the candidate shall have outstanding campaign debt from the previous election."

#### SECTION 18.

Said chapter is further amended by striking Code Section 21-5-50, relating to filing by public officers and filings by candidates for public office, and inserting in lieu thereof the following:

"21-5-50.

(a)(1) Except as modified in subsection (c) of this Code section with respect to candidates for state-wide elected public office, each public officer, as defined in subparagraphs (A) through (E) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the Secretary of State commission not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year; and each person who qualifies as a candidate for election as a public officer, as defined in subparagraphs (A) through (E) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the Secretary of State commission, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(2) Each public officer, as defined in subparagraph (F) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the election superintendent of the county of election of such public officer, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer, as defined in subparagraph (F) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the election superintendent of the county of election, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(3) Each public officer, as defined in subparagraph (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer, as defined in

subparagraph (G) of paragraph ~~(15)~~ (22) of Code Section 21-5-3, shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(4) The filing officer shall review each financial disclosure statement to determine that such statement is in compliance with the requirements of this chapter.

(5) A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in a year in which there occurs qualifying for election to succeed such public officer, if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this subsection, a public officer shall not be deemed to hold office in a year in which the public officer holds office for less than 15 days.

(b) A financial disclosure statement shall be in the form specified by the commission and shall identify:

(1) Each monetary fee or honorarium ~~of \$101.00 or less~~ which is accepted by a public officer from speaking engagements, participation in seminars, discussion panels, or other activities which directly relate to the official duties of the public officer or the office of the public officer, with a statement identifying the fee or honorarium accepted and the person from whom it was accepted;

(2) All fiduciary positions held by the candidate for public office or the public officer, with a statement of the title of each such position, the name and address of the business entity, and the principal activity of the business entity;

(3) The name, address, and principal activity of any business entity and the office held by and the duties of the candidate for public office or public officer within such business entity as of December 31 of the covered year in which such candidate or officer has a direct ownership interest which interest:

(A) Is more than ~~40~~ 5 percent of the total interests in such business; or

(B) Has a net fair market value of more than ~~\$20,000.00~~ \$10,000.00;

(4)(A) Each tract of real property in which the candidate for public office or public officer has a direct ownership interest as of December 31 of the covered year when that interest has a ~~net~~ fair market value in excess of ~~\$20,000.00~~ \$10,000.00. As used in this paragraph, the term '~~net~~ fair market' value means the appraised value of the property for ad valorem tax purposes ~~less any indebtedness thereon~~. The disclosure shall contain the county and state, ~~and general location therein where the property is located~~ description of the property, and whether the fair market value is between (i) ~~\$10,000.00 and \$100,000.00~~; (ii) ~~\$100,000.01 and \$200,000.00~~; or (iii) ~~more than \$200,000.00~~;

(B) Each tract of real property in which the candidate for public office's spouse or public officer's spouse has a direct ownership interest as of December 31 of the covered year when that interest has a fair market value in excess of \$10,000.00. The disclosure shall contain the county and state, general description of the property, and

whether the fair market value is between (i) \$10,000.00 and \$100,000.00; (ii) \$100,000.01 to \$200,000.00; (iii) or more than \$200,000.00;

(5) The filer's occupation, employer, and the principal activity and address of such employer;

(6) The filer's spouse's name, occupation, employer, and the principal activity and address of such employer;

(7) The names of the filer's dependent children;

(8) The name of any business or subsidiary thereof or investment, exclusive of the individual stocks and bonds in mutual funds, in which the filer, jointly or severally, owns a direct ownership interest which interest:

(A) Is more than 5 percent of the total interests in such business or investment, exclusive of the individual stocks and bonds in mutual funds; or

(B) Has a net fair market value of more than \$10,000.00;

(9) If the filer has actual knowledge of such ownership interest, the name of any business or subsidiary thereof or investment, exclusive of the individual stocks and bonds in mutual funds, in which the filer's spouse or dependent children, jointly or severally, own a direct ownership interest which interest:

(A) Is more than 5 percent of the total interests in such business or investment, exclusive of the individual stocks and bonds in mutual funds; or

(B) Has a net fair market value of more than \$10,000.00

or in which the filer's spouse or any dependent child serves as an officer, director, equitable partner, or trustee;

~~(5)~~(10) All annual payments in excess of \$20,000.00 received by the public officer or any business entity identified in paragraph (3) of this subsection from the state, any agency, department, commission, or authority created by the state, and authorized and exempted from disclosure under Code Section 45-10-25, and the agency, department, commission, or authority making the payments, and the general nature of the consideration rendered for the source of the payments; and

~~(6)~~(11) No form prescribed by the commission shall require more information or specify more than provided in the several paragraphs of this Code section with respect to what is required to be disclosed.

(c)(1) Each person who qualifies with a political party as a candidate for party nomination to a public office elected state wide (including an incumbent public officer elected state wide qualifying to succeed himself or herself) shall file with the Secretary of State commission, not later than seven days after so qualifying, a financial disclosure statement. Each person who qualifies as a candidate for election to a public office elected state wide through a nomination petition or convention shall likewise file a financial disclosure statement not later than seven days after filing his or her notice of candidacy. Such financial disclosure statement shall comply with the requirements of subsections (a) and (b) of this Code section and shall in addition identify, for the preceding five calendar years:

(A) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate (whether for himself or herself or on behalf of

any business) or any business in which such candidate or any member of his or her family has a substantial interest or is an officer of such business has transacted business with the government of the State of Georgia, the government of any political subdivision of the State of Georgia, or any agency of any such government; and

(B) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate or any business in which such candidate or any member of his or her family has a substantial interest or is an officer of such business received any income of any nature from any person who was at the time of such receipt of income represented by a lobbyist registered with the commission pursuant to Article 4 of this chapter.

(2) The financial disclosure statement required by paragraph (1) of this subsection shall include an itemized list of the transactions required to be reported, including the date of, dollar amount of, and parties to each such transaction. However, with respect to any transactions of a privileged nature only the total amount of such transactions shall be required to be reported, and names, dates, amounts of individual transactions, and other identifying data may be omitted; and for this purpose 'transactions of a privileged nature' shall include transactions between attorney and client, transactions between psychiatrist and patient, transactions between physician and patient, and any other transactions which are by law of a similar privileged and confidential nature.

(3) The financial disclosure statement required by paragraph (1) of this subsection shall be accompanied by a financial statement of the candidate's financial affairs for the calendar year prior to the year in which the election is held and the first quarter of the calendar year in which the election is held.

(4)(A) As used in this subsection, the term:

(i)(A) 'Agency' means any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia or any political subdivision of the State of Georgia.

(ii)(B) 'Financial statement' means a statement of a candidate's financial affairs in a form substantially equivalent to the short form financial statement required for bank directors under the rules of the Department of Banking and Finance.

(B) As used in this subsection, the term:

(i) 'Member of the family' includes the candidate's spouse and dependent children; and

(ii)(C) 'Person' and 'transact business' shall have the meanings specified in Code Section 45-10-20.

(iii)(D) 'Substantial interest' means the direct or indirect ownership of 10 percent or more of the assets or stock of any business.

(5) Notwithstanding any other provisions of this subsection, if, due to a special election or otherwise, a person does not qualify as a candidate for nomination or election to public office until after the filing date otherwise applicable, such person shall make the filings required by this subsection within seven days after so qualifying.

(d) Beginning January 9, 2006, all state-wide elected officials and members of the General Assembly shall file financial disclosure statements electronically. Prior to such date, electronic filing of financial disclosure statements by such persons is permitted and encouraged but not required.

(e) Where the financial disclosure statements required by paragraph (1) of subsection (a) of this Code section are filed electronically, the public officer, as that term is defined in subparagraphs (A) through (E) of paragraph (22) of Code Section 21-5-3, shall file a notarized affidavit certifying that the electronic filing is correct and no paper copy of the financial disclosure statement shall be required to be filed.

(f) Any disclosure report, statement, or other document required to be filed under this chapter which is in the possession of the Secretary of State shall be transferred to the commission."

#### **SECTION 19.**

Said chapter is further amended by striking Code Section 21-5-52, relating to filing by mail, and inserting in lieu thereof the following:

"21-5-52.

~~Depositing of a properly addressed financial disclosure statement in the United States mails with adequate postage affixed shall constitute filing on the date of mailing.~~

(a) The mailing of the notarized financial disclosure affidavit by United States mail, with adequate postage affixed, within the required filing time as determined by the official United States postage date cancellation, shall be prima-facie proof of filing.

(b) It shall be the duty of the commission or any other officer or body which receives for filing any document required to be filed under this chapter to maintain with the filed document a copy of the postal markings or statutory overnight delivery service markings of any envelope, package, or wrapping in which the document was delivered for filing if mailed or sent after the date such filing was due."

#### **SECTION 20.**

Said chapter is further amended by striking Code Section 21-5-70, relating to definitions, and inserting in lieu thereof the following:

"21-5-70.

As used in this article, the term:

(1) 'Expenditure':

(A) Means a purchase, payment, distribution, loan, advance, deposit, or conveyance of money or anything of value made for the purpose of influencing the actions of any public officer or public employee;

(B) Includes any other form of payment when such can be reasonably construed as designed to encourage or influence a public officer;

(C) Includes any gratuitous transfer, payment, subscription, advance, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(D) Notwithstanding division (x) of subparagraph (E) of this paragraph, includes food or beverage consumed at a single meal or event by a public officer or public employee or a member of the ~~immediate~~ family of such public officer or public employee; and

(E) The term shall not include:

- (i) The value of personal services performed by persons who serve voluntarily without compensation from any source;
- (ii) A gift received from a member of the public officer's ~~immediate~~ family;
- (iii) Legal compensation or expense reimbursement provided to public employees and to public officers in the performance of their duties;
- (iv) Promotional items generally distributed to the general public or to public officers and food and beverages produced in Georgia;
- (v) An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service;
- (vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's nonpublic business, employment, trade, or profession;
- (vii) Food, beverages, and registration at group events to which all members of an agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are invited. An agency shall include the Georgia House of Representatives, the Georgia Senate, committees and subcommittees of such bodies, and the governing body of each political subdivision of this state;
- (viii) Campaign contributions or expenditures reported as required by Article 2 of this chapter;
- (ix) A commercially reasonable loan made in the ordinary course of business; or
- (x) Food, beverage, or expenses afforded public officers, members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

(2) 'Filed' means the delivery to the ~~State Ethics Commission~~ commission, as specified in this article, of a document that satisfies the requirements of this article. A document is considered delivered when it is electronically delivered to the commission or placed in the United States mail within the required filing time, properly addressed to the ~~State Ethics Commission~~ commission, as specified in this article, with adequate postage affixed.

(3) 'Identifiable group of public officers' means a description that is specifically determinable by available public records.

(4) ~~'Immediate family' means a spouse or child.~~

(5) (4) 'Lobbying' means the activity of a lobbyist while acting in that capacity.

(6) (5) 'Lobbyist' means:

- (A) Any natural person who, for compensation, either individually or as an employee of another person, undertakes to promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor;
- (B) Any natural person who makes a total expenditure of more than \$250.00 in a

calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor;

(C) Any natural person who as an employee of the executive branch or judicial branch of state government engages in any activity covered under subparagraph (A) of this paragraph;

(D) Any natural person who, for compensation, either individually or as an employee of another person, undertakes to promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph ~~(45)~~ (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution;

(E) Any natural person who makes a total expenditure of more than \$250.00 in a calendar year, not including the person's own travel, food, lodging expenses, or informational material to promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph ~~(45)~~ (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution; ~~or~~

(F) Any natural person who as an employee of the executive branch or judicial branch of local government engages in any activity covered under subparagraph (D) of this paragraph;

(G) Any natural person who, for compensation, either individually or as an employee of another person is hired specifically to undertake influencing a public officer or state agency in the selection of a vendor to supply any goods or services to any state agency but does not include any employee of the vendor solely on the basis that such employee participates in soliciting a bid or in preparing a written bid, written proposal, or other document relating to a potential sale to a state agency; or  
(H) Any natural person who, for compensation, either individually or as an employee of another person, is hired specifically to undertake to promote or oppose the passage of any rule or regulation of any state agency.

~~(7)(6)~~ 'Public officer' means those public officers specified under subparagraphs (A) through (G) of paragraph ~~(45)~~ (22) of Code Section 21-5-3, ~~as amended~~, except as otherwise provided in this article and also includes any public officer or employee who has any discretionary authority over, or is a member of a public body which has any discretionary authority over, the selection of a vendor to supply any goods or services to any state agency.

(7) 'State agency' means any branch of state government, agency, authority, department, board, bureau, commission, council, corporation, entity, or instrumentality of the state but does not include a local political subdivision, such as a county, city, or local school district or an instrumentality of such a local political subdivision.

(8) 'Vendor' means any person who sells to or contracts with any state agency for the provision of any goods or services."

**SECTION 21.**

Said chapter is further amended by striking Code Section 21-5-71, relating to lobbyist registration requirements, including the application, supplemental registration, expiration, docket, fees, identification cards, public rosters, and exemptions, and inserting in lieu thereof the following:

"21-5-71.

- (a) No person shall engage in lobbying as defined by this article unless such person is registered with the ~~State Ethics Commission~~ commission as a lobbyist. The administration of this article is vested in the ~~State Ethics Commission~~ commission. ~~The State Ethics Commission shall be the successor to the Secretary of State with respect to such officer's former regulation of registered agents.~~
- (b) Each lobbyist shall file an application for registration with the commission. The application shall be verified by the applicant and shall contain:
- (1) The applicant's name, address, and telephone number;
  - (2) The name, address, and telephone number of the person or agency that employs, appoints, or authorizes the applicant to lobby on its behalf;
  - (3) A statement of the general business or purpose of each person, firm, corporation, association, or agency the applicant represents;
  - (4) If the applicant represents a membership group other than an agency or corporation, the general purpose and approximate number of members of the organization; ~~and~~
  - (5) A statement signed by the person or agency employing, appointing, or authorizing the applicant to lobby on its behalf;
  - (6) If the applicant is a lobbyist within the meaning of subparagraph (G) or (H) of paragraph (5) of Code Section 21-5-70, the name of the state agency or agencies before which the applicant engages in lobbying; and
  - (7) A statement disclosing each individual or entity on whose behalf the applicant is registering if such individual or entity has agreed to pay him or her an amount exceeding \$10,000.00 in a calendar year for lobbying activities.
- (c) The lobbyist shall, within seven days of any substantial or material change or addition, file a supplemental registration indicating such substantial or material change or addition to the registration prior to its expiration. Previously filed information may be incorporated by reference. Substantial or material changes or additions shall include, but are not limited to, the pertinent information concerning changes or additions to client and employment information required by paragraphs (2), (3), ~~and (4)~~, (6), and (7) of subsection (b) of this Code section.
- (d) Each registration under this Code section shall expire on December 31 of each year. The commission may establish renewal procedures for those applicants desiring continuous registrations. Previously filed information may be incorporated by reference.
- (e) The commission shall provide a suitable public docket for registration under this Code section with appropriate indices and shall enter promptly therein the names of the lobbyists and the organizations they represent.

(f)(1) Each person registering under this Code section shall pay the registration fees set forth in paragraph (2) of this subsection; provided, however, that a person who represents any state, county, municipal, or public agency, department, commission, or authority shall be exempted from payment of such registration fees and a person employed by an organization exempt from federal income taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2, shall be exempted from payment of such registration fees except for payment of an initial registration fee of \$25.00.

(2) The commission shall collect the following fees:

(A) Annual lobbyist registration filed pursuant to this Code section..... \$200.00

(B) Lobbyist supplemental registration filed pursuant to this Code section.. 10.00

(C) Each lobbyist identification card issued pursuant to this Code section ... 5.00

(D) In addition to other penalties provided under this chapter, a filing fee of \$50.00 shall be imposed for each report that is filed late. In addition, a filing fee of \$25.00 shall be imposed on the fifteenth day after the due date if the report has still not been filed.

(g) As soon as practicable after registering any such person, the commission shall issue to such person an identification card which shall have printed thereon the name of the lobbyist, a color photograph of the lobbyist, and the person or agency such lobbyist represents, provided that, when any such person represents more than one entity, such identification card shall have printed thereon the name of the registered person and the word 'LOBBYIST.' Each lobbyist while engaged in lobbying at the capitol or in a government facility shall display said identification in a readily visible manner.

(h) The commission shall regularly publish public rosters of lobbyists along with the respective persons, firms, corporations, associations, agencies, or governmental entities they represent. During sessions of the General Assembly, the commission shall weekly report to the Clerk of the House of Representatives, the Secretary of the Senate, and the Governor those persons who have registered as lobbyists since the convening of the General Assembly. The commission shall be authorized to charge a reasonable fee for providing copies of the roster to the public.

(i) The registration provisions of this Code section shall not apply to:

(1) Any individual who expresses personal views, on that individual's own behalf, to any public officer;

(2) Any person who appears before a public agency or governmental entity committee or hearing for the purpose of giving testimony when such person is not otherwise required to comply with the registration provisions of this Code section;

(3) Any public employee of an agency appearing before a governmental entity committee or hearing at the request of the governmental entity or any person who furnishes information upon the specific request of a governmental entity;

(4) Any licensed attorney appearing on behalf of a client in any adversarial

proceeding before an agency of this state;

- (5) Any person employed or appointed by a lobbyist registered pursuant to this Code section whose duties and activities do not include lobbying;
- (6) Elected public officers performing the official duties of their public office; and
- (7) Any A public employee who performs services at the direction of a member of the General Assembly including, but not limited to, drafting petitions, bills, or resolutions; attending the taking of testimony; collating facts; preparing arguments and memorials and submitting them orally or in writing to a committee or member of the General Assembly; and other services of like character intended to reach the reason of the legislators."

## SECTION 22.

Said chapter is further amended by striking Code Section 21-5-73, relating to disclosure reports, and inserting in lieu thereof the following:

"21-5-73.

- (a) Each lobbyist registered under this article shall file disclosure reports as provided for in this Code section.
- (b) A person who is a lobbyist pursuant to subparagraph (A), (B), or (C) of paragraph (5) of Code Section 21-5-70 shall file a monthly disclosure report, current through the end of the preceding month, shall be filed on or before the fifth day of any month while the General Assembly is in session.
- (c) A person who is a lobbyist pursuant to subparagraph (D) or (E) of paragraph ~~(6)~~ (5) of Code Section 21-5-70 shall:
  - (1) File ~~file~~ a disclosure report, current through the end of the preceding month, on or before the fifth day of May, September, and January of each year instead of the reports otherwise required by subsection ~~(e)~~ (5) subsections (b) and (d) of this Code section and the first sentence of this subsection; and
  - (2) File ~~file~~ such report with the commission, file a copy of such report with the election superintendent of each county involved if the report contains any expenditures relating to county or county school district affairs, and file a copy of such report with the municipal clerk (or if there is no municipal clerk, with the chief executive officer of the municipality) of each municipality involved if the report contains any expenditures relating to municipal affairs or independent school district affairs.
- (d) A person who is a lobbyist pursuant to subparagraph (A), (B), (C), (F), (G), or (H) of paragraph (5) of Code Section 21-5-70 shall file a disclosure report, current through the end of the period ending on July 31 and December 31 of each year, shall be filed on or before August 5 and January 5 of each year.
- (e) Reports filed by lobbyists shall be verified and shall include:
  - (1) A description of all expenditures, as defined in Code Section 21-5-70, or the value thereof made by the lobbyist or employees of the lobbyist on behalf or for the benefit of a public officer. The description of each reported expenditure shall include:
    - (A) The name and title of the public officer or, if the expenditure is simultaneously

incurred for an identifiable group of public officers the individual identification of whom would be impractical, a general description of that identifiable group;

(B) The amount, date, and description of the expenditure and a summary of all spending classified by category. Such categories shall include gifts, meals, entertainment, lodging, equipment, advertising, travel, and postage;

(C) The provisions of Code Section 21-5-70 notwithstanding, aggregate expenditures described in divisions (1)(E)(vii) and (1)(E)(x) of Code Section 21-5-70 incurred during the reporting period; provided, however, expenses for travel and for food, beverage, and lodging in connection therewith afforded a public officer shall be reported in the same manner as under subparagraphs (A), (B), and (D) of this paragraph; and

(D) If applicable, the number of the bill, resolution, ordinance, or regulation pending before the governmental entity in support of or opposition to which the expenditure was made; and

(E) If applicable, the rule or regulation number or description of the rule or regulation pending before the state agency in support of or opposition to which the expenditure was made;

(2) The names of any members of the immediate family of a public officer employed by or whose professional services are paid for by the lobbyist during the reporting period. For those who are lobbyists within the meaning of subparagraph (G) of paragraph (5) of Code Section 21-5-70, the name of any vendor or vendors for which the lobbyist undertook to influence the awarding of a contract or contracts by any state agency together with a description of the contract or contracts and the monetary amount of the contract or contracts; and

(3) For those who are lobbyists within the meaning of subparagraph (H) of paragraph (5) of Code Section 21-5-70, the name of the individual or entity for which the lobbyist undertook to influence the rule or regulation of a state agency.

(f) The reports required by this article shall be in addition to any reports required under Code Section 45-1-6, relating to required reports by state vendors of gifts to public employees. Compliance with this Code section shall not excuse noncompliance with that Code section, and compliance with that Code section shall not excuse noncompliance with this Code section, notwithstanding the fact that in some cases the same information may be required to be disclosed under both Code sections."

### SECTION 23.

Said chapter is further amended by adding new Code Sections 21-5-74, 21-5-75, and 21-5-76 to follow Code Section 21-5-73 to read as follows:

"21-5-74.

A lobbyist shall not be eligible for executive appointment to any board, authority, commission, or bureau created and established by the laws of this state which regulates the activities of a business, firm, corporation, or agency that the lobbyist represented until one year after the expiration of the lobbyist's registration for that business, firm, corporation, or agency.

**21-5-75.**

- (a) Except as provided in subsection (b) of this Code section, on and after January 8, 2007, persons identified in subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3 and the executive director of each state board, commission, or authority shall be prohibited from registering as a lobbyist or engaging in lobbying under this article for a period of one year after terminating such employment or leaving such office.
- (b) The lobbying prohibition contained in subsection (a) of this Code section shall not apply to persons who terminate such employment or leave such office but who remain employed in state government.

**21-5-76.**

- (a) No person, firm, corporation, or association shall retain or employ an attorney at law or an agent to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislative measure or upon the receipt or award of any state contract. No attorney at law or agent shall be employed to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislation or upon the receipt or award of any state contract.
- (b) It shall be unlawful for any person registered pursuant to the requirements of this article or for any other person, except as authorized by the rules of the House of Representatives or Senate, to be on the floor of either chamber of the General Assembly while the same is in session."

**SECTION 24.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking paragraph (2.1) of Code Section 36-67A-1, relating to definitions for conflicts of interest in zoning actions, and inserting in lieu thereof the following:

"(2.1) 'Campaign contribution' means a 'contribution' as defined in paragraph ~~(6)~~ (7) of Code Section 21-5-3."

**SECTION 25.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by adding a new part to the end of Article 2 of Chapter 10, relating to conflicts of interest, to read as follows:

**"Part 5****45-10-80.**

- (a) A public officer, as defined in subparagraphs (A) through (E) of paragraph (22) of Code Section 21-5-3, is prohibited from advocating for or causing the advancement, appointment, employment, promotion, or transfer of a member of his or her family, as such term is defined in Code Section 21-5-3, to an office or position to become a public

employee, as defined in paragraph (3) of Code Section 45-1-4, that pays an annual salary of \$10,000.00 or more or its equivalent.

(b) Any person advanced, appointed, employed, promoted, or transferred in violation of this Code section shall not be entitled to any payment, salary, or benefits received for any position so illegally obtained; and any person who receives payment, salary, or benefits for a position obtained in violation of this Code section shall be required to reimburse the state for all amounts so received."

#### **SECTION 26.**

Said title is further amended by adding another new part to the end of Article 2 of Chapter 10, relating to conflicts of interest, to read as follows:

##### "Part 6

###### **45-10-90.**

As used in this part, the term:

- (1) 'Committee' means the Joint Legislative Ethics Committee created under Code Section 45-10-91.
- (2) 'Member of the legislative branch of state government' means any person elected to the General Assembly and any person who, pursuant to a written or oral contract, is employed by the legislative branch of state government.
- (3) 'Speaker' means the Speaker of the House of Representatives.

###### **45-10-91.**

(a) There is created the Joint Legislative Ethics Committee, with such duties and powers as are set forth in this part. The committee shall be a part of the legislative branch of state government. The committee shall be governed by ten members appointed as follows:

- (1) Four members of the Senate, appointed by the President Pro Tempore of the Senate, two of whom shall be from the majority party and two of whom shall be from the minority party;
- (2) Four members of the House of Representatives, appointed by the Speaker, two of whom shall be from the majority party and two of whom shall be from the minority party;
- (3) The Speaker; and
- (4) The President Pro Tempore of the Senate.

The Speaker and the President Pro Tempore of the Senate shall be nonvoting members of the committee except as provided in subsection (e) of this Code section.

(b) Each legislative member of the committee shall serve for a term of two years concurrent with the term of his or her office. If a vacancy occurs in the membership of the committee, a new member shall be appointed by the state official to the unexpired term of office. The new member shall be selected in the same manner as provided in subsection (a) of this Code section.

- (c) The President Pro Tempore of the Senate and Speaker shall serve as cochairpersons. The President Pro Tempore of the Senate shall preside in odd-numbered years and the Speaker shall preside in even-numbered years.
- (d) The members shall not be compensated for their services but they shall be reimbursed in an amount equal to the per diem received by the General Assembly for each day or portion thereof spent in serving as members of the committee. They shall be paid their necessary traveling expenses while engaged in the business of the committee.
- (e) Six members of the committee constitute a quorum for the transaction of business. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the committee. If a decision of the committee results in a tie vote, the Speaker shall cast the vote to break the tie if the subject of the complaint is a member of the Senate or a Senate staff member and the President Pro Tempore of the Senate shall cast the vote to break the tie if the subject of the complaint is a member of the House of Representatives or a House of Representatives staff member. No vacancy in the membership of the committee impairs the right of a quorum to exercise all rights and perform all duties of the committee.
- (f) If a complaint is filed alleging a violation by one of the members of the committee, the committee member shall recuse himself or herself and a temporary replacement member of the committee shall be appointed for the recused member. The replacement member shall be selected in the same manner as provided for in subsection (a) of this Code section.
- (g) Meetings of the members of the committee shall be held at the call of the presiding cochairperson.

45-10-92.

The funds necessary to carry out this part shall come from the funds appropriated to and available to the General Assembly and from any other available funds.

45-10-93.

- (a) The committee is vested with the following powers:
- (1) To meet at such times and places as it may deem necessary;
  - (2) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this part;
  - (3) To employ an executive director and such additional staff as the committee deems necessary to carry out the powers delegated to the committee by this part;
  - (4) To summons any person to appear, give sworn testimony, or produce documentary or other evidence;
  - (5) To adopt such rules and regulations as are necessary to carry out the purposes of this part; and
  - (6) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the powers granted to it.

- (b) The committee shall have the following duties:
- (1) To advise and assist the General Assembly in establishing rules and regulations relating to conflicts between the private interests of a member of the legislative branch of state government and the duties as such;
  - (2) To receive and investigate all complaints alleging a violation of the rules and regulations established by the committee;
  - (3) To prescribe forms to be used in complying with this part;
  - (4) To adopt a retention standard for records of the committee;
  - (5) To prepare and publish an annual report for the General Assembly summarizing the activities of the committee and recommending legislation that in its judgment will promote the purposes of this part;
- (6)(A) To conduct an investigation of the merits of a written complaint by any person who believes that a violation of this part has occurred. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the committee determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The committee may file a complaint charging violations of this part. Nothing in this Code section shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part;
- (B) In any such investigation referenced in subparagraph (A) of this paragraph, until such time as the committee determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing;
- (7) To report suspected violations of law to the appropriate law enforcement authority;
  - (8) With respect to matters involving the legislative branch of state government, to investigate upon a written complaint any illegal use of state employees in a political campaign by any candidate;
  - (9) To issue, upon written request, written advisory opinions, based on a real or hypothetical set of circumstances. The committee shall make all advisory opinions publicly available for review. No liability shall be imposed for any act made in conformity with a written advisory opinion issued by the committee that is valid at the time of the act; and
  - (10) With respect to punishment for violations by employees of the legislative branch of state government other than members of the General Assembly, the committee may order the violator to cease and desist from committing further violations and may issue employment related sanctions against such employee, including but not limited to reprimand, suspension, demotion, and termination; with respect to members of the General Assembly, the committee may make recommendations to the respective house of the type of punishment to be imposed.

(c) The committee shall designate the place where members of the public may file papers or correspond with the committee and receive any form or instruction from the committee. The committee shall preserve all complaints, statements, and other documentation received or generated by the committee.

**45-10-94.**

The committee shall not initiate any investigation or inquiry into any matter under its jurisdiction based upon the complaint of any person unless that person shall produce the same in writing and verify the same under oath to the best information, knowledge, and belief of such person, the falsification of which shall be punishable as false swearing under Code Section 16-10-71. The person against whom any complaint is made shall be furnished by hand delivery or statutory overnight delivery or mailed by certified mail, return receipt requested, a copy of the complaint by the committee within five business days of the committee's receipt of such complaint. Nothing contained in this Code section, however, shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part."

**SECTION 27.**

Said title is further amended by adding a new Code Section 45-12-61 to follow Code Section 45-12-60 to read as follows:

**"45-12-61.**

- (a) As used in this Code section, the terms 'campaign committee,' 'contribution,' and 'expenditure' shall have the meanings set forth in Code Section 21-5-3.
- (b) No person shall be eligible for appointment to fill a vacancy on the Supreme Court, the Court of Appeals, the superior courts, or the state courts if such person has made a contribution to or expenditure on behalf of the Governor or the Governor's campaign committee either: (1) in the 30 day period preceding the vacancy, unless the person requests and is provided a refund of such contribution or reimbursement for such expenditure; or (2) on or after the date the vacancy occurs."

**SECTION 28.**

The provisions of this Act shall not apply to any violation occurring prior to January 9, 2006.

**SECTION 29.**

This Act shall become effective on January 9, 2006.

**SECTION 30.**

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

Senator Unterman of the 45th moved that the Senate adopt the Conference Committee Report on HB 48.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 51, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 48.

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

Mr. President:

The House has adopted by the requisite constitutional majority the following Resolution of the House:

HR 952. By Representative Keen of the 179th:

A RESOLUTION relative to adjournment; and for other purposes.

The following bill was taken up to consider the Conference Committee Report thereto:

THURSDAY, MARCH 31, 2005

3633

HB 538. By Representatives O`Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Conference Committee Report was as follows:

The Committee of Conference on HB 538 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to HB 538 be adopted.

Respectfully submitted,

FOR THE SENATE:

/s/ Senator Cagle of the 49th  
/s/ Senator Hill of the 4th  
/s/ Senator Chance of the 16th

FOR THE HOUSE  
OF REPRESENTATIVES:

/s/ Representative Talton of the 145th  
/s/ Representative Williams of the 4th  
/s/ Representative O`Neal of the 146th

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 538

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for nonapplicability; to provide for an income tax credit for certain qualified life insurance premiums; to provide for conditions and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing; to provide for related matters; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:****SECTION 1.**

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, is amended by adding a new Code section at the end of Article 1, relating to general provisions, to be designated Code Section 48-7-6, to read as follows:

"48-7-6.

- (a) Notwithstanding any provision of law to the contrary, any member of the national guard or any reserve component of the armed services of the United States who serves on active duty for at least 90 consecutive days shall by operation of this subsection automatically be granted an extension, without fee charged for such extension, of any annual license or registration otherwise required under any other provision of law by the state or any agency, department, board, bureau, or commission of the state. Such extension shall continue until the otherwise regular expiration date which occurs in the year next succeeding the year in which such active duty ceases.
- (b) Notwithstanding any provision of law to the contrary, any member of the national guard or any reserve component of the United States who qualifies for the license or registration extension under subsection (a) of this Code section shall be exempt from any continuing education requirements during such automatic extension period.
- (c) This Code section shall not apply to attorneys."

**SECTION 2.**

Said chapter is further amended by adding a new Code section immediately following Code Section 48-7-29.8, to be designated Code Section 48-7-29.9, to read as follows:

"48-7-29.9.

- (a) As used in this Code section, the term:
  - (1) 'Active duty' means full time duty in the United States armed forces, other than active duty for training, for a period of more than 90 consecutive days.
  - (2) 'Active duty for training' means full time duty in the United States armed forces for a period of more than 90 consecutive days for training purposes performed by members of the national guard and air national guard who are residents of this state.
  - (3) 'Qualified life insurance' means insurance coverage through the Servicemembers' Group Life Insurance Program administered by the United States Department of Veterans Affairs for the maximum benefit amount available under such program for the loss of life of a member of the national guard or air national guard who is a resident of this state while on active duty or active duty for training.
- (b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 in an amount not to exceed the amount expended for qualified life insurance premiums.
- (c) The credit provided under this subsection:
  - (1) Shall be claimed and allowed in the year in which the majority of such days are served. In the event an equal number of consecutive days are served in two calendar years, then the exclusion shall be claimed and allowed in the year in which the

ninetieth day occurs; and

(2) Shall apply with respect to each taxable year in which such member serves for such qualifying period of time.

(d) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the taxpayer against succeeding years' tax liability. No such credit shall be allowed the taxpayer against prior years' tax liability.

(e) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section."

### SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2005.

### SECTION 4.

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

Senator Cagle of the 49th moved that the Senate adopt the Conference Committee Report on HB 538.

On the motion, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	E Stoner
Y Cagle	Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Miles	Y Thompson,C
Y Douglas	E Moody	Y Thompson,S
Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the motion, the yeas were 49, nays 0; the motion prevailed, and the Senate adopted the Conference Committee Report on HB 538.

The following resolution was read and adopted:

HR 952. By Representative Keen of the 179th:

A RESOLUTION

Relative to adjournment; and for other purposes.

WHEREAS, on this 39th legislative day of the 2005 regular session, the General Assembly of Georgia will complete the business of this session.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the General Assembly shall adjourn sine die upon the adoption of this resolution by both houses of the General Assembly.

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

Mr. President:

The House has agreed to the Senate substitutes to the following Bills of the House:

HB 10. By Representatives Oliver of the 83rd, Benfield of the 85th, McClinton of the 84th, Drenner of the 86th and Henson of the 87th:

A BILL to be entitled an Act to amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to assault and battery, so as to provide for the crime of female genital mutilation; to provide for penalties; to provide for exceptions; to provide that certain statutory privileges shall not be available; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 236. By Representatives Lane of the 158th, Stephens of the 164th, Barnard of the 166th and Burns of the 157th:

A BILL to be entitled an Act to amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to provide that a rebuttable presumption that services, accommodations, entertainment, or the use of personal property which is available only for compensation was knowingly obtained by deception and with intent to avoid payment

shall arise upon a showing that the person obtaining such services, accommodations, entertainment, or the use of personal property used false identification, provided false information on a written contract, made any payment with an insufficient check, or returned any personal property to a place or at a time other than as agreed upon; to repeal conflicting laws; and for other purposes.

HB 266. By Representatives Wilkinson of the 52nd, Henson of the 87th, Drenner of the 86th, Burmeister of the 119th, Williams of the 4th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors, so as to provide for additional authority for the board to expunge or delete certain violations from the disciplinary record of any licensee; to repeal conflicting laws; and for other purposes.

HB 320. By Representatives Forster of the 3rd, Knox of the 24th, Meadows of the 5th, Dodson of the 75th, Watson of the 91st and others:

A BILL to be entitled an Act to amend Title 33 of the O.C.G.A., relating to insurance, so as to create the Georgia Health Insurance Risk Pool; to provide alternative mechanism coverage for the availability of individual health insurance; to provide definitions; to provide for a risk pool board; to provide for powers, duties, and authority of the board; to provide for the selection of an administrator; to provide for the duties of the Commissioner of Insurance with respect to the board and pool; to provide for the establishment of rates; to provide for eligibility for and termination of coverage; to provide for minimum pool benefits; to provide for funding and assessments; to provide for complaint procedures; to provide for audits; to provide for applicability; to provide for related matters; to repeal the Georgia High Risk Health Insurance Plan; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 470. By Representatives Lunsford of the 110th, Golick of the 34th, Smith of the 129th, Roberts of the 154th, Lewis of the 15th and others:

A BILL to be entitled an Act to amend the following provisions of the O.C.G.A., so as to change all references to "911" emergency numbers to read 9-1-1; Article 2 of Chapter 10 of Title 20, relating to obstruction of public administration; Article 2 of Chapter 5 of Title 46, relating to telephone service; Code Section 19-13-51, relating to definitions relative to the "Family Violence and Stalking Protective Order Registry Act,"; Code Section 31-11-1, relating to findings and declaration of policy relative to

emergency services; Code Section 33-9-39, relating to restrictions on motor vehicle insurance surcharges relating to accidents involving law enforcement officers, firefighters, or emergency medical technicians; Code Section 36-60-19, relating to dispatch centers, required training for communications officers, exceptions, and penalty for noncompliance; to repeal conflicting laws; and for other purposes.

- HB 495. By Representatives Coleman of the 97th, Bridges of the 10th, Jamieson of the 28th, Cummings of the 16th and Jones of the 46th:

A BILL to be entitled an Act to amend Article 7 of Chapter 3 of Title 47 of the O.C.G.A., relating to retirement allowances, disability benefits, and spouses' benefits under the Teachers Retirement System of Georgia, so as to provide that a local school system may employ a person who was retired under the Teachers Retirement System of Georgia on December 31, 2003, in a full-time capacity in any position and such person's retirement benefit shall not be affected; to provide that the employing local school system shall pay the normal employer's contribution to the retirement system for such employee; to provide that any retired member of the Teachers Retirement System of Georgia may return to full-time employment with a local school system and such person's retirement benefits shall not be affected; to repeal conflicting laws; and for other purposes.

- HB 559. By Representatives Smith of the 70th, Ehrhart of the 36th, Jones of the 46th, Graves of the 12th and Fleming of the 117th:

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 from state sales and use tax only with respect to sales of certain energy efficient products for a limited period of time; to provide for a definition; to provide for conditions and limitations; to provide an effective date; to repeal conflicting laws; and for other purposes.

- HB 669. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Code Section 50-14-1 of the Official Code of Georgia Annotated, relating to open meetings requirements, so as to revise a definition; to provide that certain associations of school districts in this state are subject to the open meetings statute; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate amendments to the following Bill of the House:

- HB 221. By Representatives Burmeister of the 119th, Watson of the 91st, Mosby of the 90th, Morgan of the 39th, Ehrhart of the 36th and others:

A BILL to be entitled an Act to amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, so as to change certain provisions relating to the calculation of child support; to provide guidelines for determining amount of child support to be paid; to provide for factors for apportioning child support obligations; to provide a schedule of basic child support obligation amounts; to change the form of the final judgment in divorce actions to conform such changes in the determination and computation of child support; to remove a certain limitation on petitions to modify alimony and child support; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has agreed to the Senate amendments to the House substitutes to the following Bills of the Senate:

- SB 137. By Senator Schaefer of the 50th:

A BILL to be entitled an Act to amend an Act to create the office of Commissioner of Towns County, approved March 14, 1984 (Ga. L. 1984, p. 4130), as amended, so as to reconstitute the board of commissioners of Towns County and revise and restate the law relating to the board; to provide for continuation in office of the present sole county commissioner; to provide for the establishment of commissioner districts; to provide for the election and terms of office for subsequent members; to provide for filling vacancies; to provide for the powers, duties, and authority of the chairperson and members of the board; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

- SB 168. By Senators Rogers of the 21st, Johnson of the 1st, Stephens of the 27th, Seabaugh of the 28th, Pearson of the 51st and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for special license plates bearing the National Association for Stock Car Auto Racing (NASCAR) logo and promoting specific drivers or general motorsports; to support the Governor's Highway Safety Program; to

provide for issuance, renewal, fees, licensing agreements, applications, transfers, and disposition of funds relative to such license plates; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 206. By Senator Williams of the 19th:

A BILL to be entitled an Act to provide for deer management; to amend Part 1 of Article 1 of Chapter 3 of Title 27 of the Official Code of Georgia Annotated, relating to general provisions relative to hunting, so as to change certain provisions relating to legal weapons for hunting wildlife generally; to change certain provisions relating to season and bag limits, promulgation of rules and regulations by the board, possession of more than bag limit, and reporting number of deer killed; to change certain provisions relating to hunting deer with dogs; to repeal conflicting laws; and for other purposes.

The House has adopted the report of the Committee of Conference on the following Bills of the House:

HB 36. By Representatives Willard of the 49th, Geisinger of the 48th and Wilkinson of the 52nd:

A BILL to be entitled an Act to revise provisions of law relating to creation of new municipal corporations; to amend Chapter 31 of Title 36 of the O.C.G.A., relating to incorporation of municipal corporations, so as to eliminate certain minimum distance requirements; to provide that new municipal corporations shall have a minimum amount of time to arrange for service delivery; to provide that the Attorney General shall seek federal Voting Rights Act preclearances required in connection with new incorporations; to provide for the authorization and regulation of alcoholic beverage sales in new municipalities under certain circumstances; to amend Code Section 48-8-89.1 of the O.C.G.A., relating to distribution of joint county and municipal local option sales tax with respect to new qualified municipalities; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

HB 48. By Representatives Golick of the 34th, Roberts of the 154th, O'Neal of the 146th, Chambers of the 81st and Jennings of the 82nd:

A BILL to be entitled an Act to amend Chapter 5 of Title 21 and Titles 36, 42, and 45 of the O.C.G.A., relating, respectively, to ethics in government;

local government; penal institutions; and public officers, so as to provide for the comprehensive revision of provisions regarding ethics and conflicts of interest; to provide for and change certain definitions; to change certain provisions relative to declaration of policy; to provide for the timely issuance of advisory opinions by the State Ethics Commission and other matters relative to advisory opinions; to change provisions relating to the State Ethics Commission including its administrative attachment to the Secretary of State's office; to provide for penalties; to provide for restrictions on the Governor's appointment power under certain circumstances; to repeal conflicting laws; and for other purposes.

HB 106. By Representative Barnard of the 166th:

A BILL to be entitled an Act to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the definition of the term "sexually violent offense"; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 244. By Representative Burmeister of the 119th:

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally, so as to amend certain definitions; to authorize the Secretary of State to provide copies of the general election ballot and questions on compact disc or other media or an Internet website; to clarify the meaning of governing authority; to authorize the Secretary of State to review ballots for use on DRE units; to provide for certain training for poll officers; to change municipal qualifying periods; to provide that a candidate shall use the surname shown on such candidate's voter registration card when qualifying for office; to provide that the form of a candidate's name cannot be changed after the candidate qualifies; to provide for the offense of conspiracy to commit election fraud; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 254. By Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th and Ehrhart of the 36th:

A BILL to be entitled an Act to amend Chapter 1 of Title 15 of the O.C.G.A., relating to general provisions of courts, so as to authorize the establishment of drug courts divisions within certain courts; to provide for assignment of certain cases to a drug court division; to provide for jurisdiction; to provide for judges and their appointment, designation, and terms; to provide for district attorneys, public defenders, a clerk, probation

officers, and other employees; to authorize agreements with other courts and agencies for the assignment of personnel to such court; to authorize judges to complete a planned program of instruction; to provide for powers and duties of the drug court division; to provide for expenses; to provide for admissibility of certain matters in certain proceedings; to provide for access to certain information and confidentiality; to provide for costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 366. By Representatives Murphy of the 23rd, Knox of the 24th, Amerson of the 9th, Hill of the 21st, Byrd of the 20th and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 374. By Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, so as to extend the time for the levy and collection of a tax for the purpose of construction and expansion of a system of bicycle or pedestrian greenways, trails, walkways, or any other combination thereof connecting a downtown historic or business district and surrounding areas under certain circumstances; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 538. By Representatives O'Neal of the 146th, Fleming of the 117th, Smith of the 129th, Keen of the 179th and Rynders of the 152nd:

A BILL to be entitled an Act to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for certain benefits for members of the national guard or reserve components of the armed services of the United States; to provide for state income tax exclusion; to provide for procedures, conditions, and limitations; to provide for certain automatic license or registration extension; to provide for an exemption regarding continuing education requirements; to provide for

nonapplicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has adopted the report of the Committee of Conference on the following Bills of the Senate:

SB 140. By Senators Williams of the 19th and Cagle of the 49th:

A BILL to be entitled an Act to amend Article 2 of Chapter 20A of Title 33 of the O.C.G.A., relating to the patient's right to independent review, so as to revise and add definitions; to change references to conform to revised and new terms; to amend Article 7 of Chapter 4 of Title 49 of the O.C.G.A., relating to medical assistance generally, so as to strike Code Section 49-4-156, which is reserved, and inserting a new Code Section 49-4-156 to provide that certain requirements shall not apply to health maintenance organizations which contract with the department of community health; to amend Article 13 of Chapter 5 of Title 49 of the O.C.G.A., relating to PeachCare for Kids, so as to provide for a definition; to provide for a reduction in the maximum income limit in the discretion of the board of community health; to change certain provisions relating to services, copayments, enrollment, and contracting of services; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 227. By Senator Cagle of the 49th:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local government, and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the entering into of cap, collar, swap, and other derivative transactions regarding interest rates that manage interest rate risk or cost with respect to the issuance of certain bonds; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Georgia State Financing and Investment Commission; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 230. By Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to

provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House has adopted the report of the Committee of Conference on the following Resolution of the Senate:

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

The House has adopted the report of the Committee of Conference on the following Bill of the House:

HB 509. By Representatives Harbin of the 118th, Keen of the 179th and Burkhalter of the 50th:

A BILL to be entitled an Act to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to provide for program budgeting; to provide for definitions; to change certain provisions regarding budget estimates; to change certain provisions regarding required reserve of certain appropriations; to provide for the comprehensive revision of provisions regarding the revenue shortfall reserve; to change certain provisions regarding the promotion of state development; to change certain provisions regarding policy documents with respect to strategic state planning; to provide an effective date; to repeal conflicting laws; and for other purposes.

The House recedes from its position in substituting the following Bills of the Senate:

SB 51. By Senators Hamrick of the 30th, Heath of the 31st and Thomas of the 54th:

A BILL to be entitled an Act to amend Code Section 31-22-1 of the Official Code of Georgia Annotated, relating to definitions relative to clinical laboratories, so as to provide for the degree of supervision of technicians in clinical laboratories; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 93. By Senators Harp of the 29th, Tolleson of the 20th, Hamrick of the 30th, Heath of the 31st, Goggans of the 7th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles generally, so as to prohibit the use of plastic or other types of material covering license plates; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following committee report was read by the Secretary:

Mr. President:

The Enrolling and Journals subcommittee has read and examined the following legislation and has instructed me to report the same back to the Senate as correct and ready for transmission to the Governor:

SB 3	SB 4	SB 6
SB 13	SB 15	SB 19
SB 33	SB 34	SB 35
SB 41	SB 42	SB 43
SB 46	SB 48	SB 49
SB 51	SB 52	SB 53
SB 55	SB 56	SB 62
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SB 358	SB 359	SR 21
SR 23	SR 33	SR 44
SR 54	SR 67	SR 80
SR 81	SR 88	SR 161
SR 280	SR 294	SR 298
SR 304	SR 305	SR 537

Senator Stephens of the 27th moved that the Senate stand adjourned sine die pursuant to HR 952.

The President announced the Senate adjourned sine die at 11:58 p.m.

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2005

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