

House Bill 445

By: Representative Carson of the 46th

A BILL TO BE ENTITLED

AN ACT

1 To amend certain titles of the Official Code of Georgia Annotated so as to provide for
 2 comprehensive changes to the nature of taxation in this state; to amend Titles 48, 36, and 46
 3 of the Official Code of Georgia Annotated, relating, respectively, to revenue and taxation,
 4 local government, and public utilities, so as to provide for comprehensive revision of
 5 personal income taxes; to redefine taxable net income; to provide for a flat rate tax structure;
 6 to change certain adjustments to income; to provide for procedures, conditions, and
 7 limitations; to revise certain provisions regarding low-income tax credits; to change and
 8 provide for sales and use tax definitions; to provide for the comprehensive revision of
 9 exemptions from sales and use taxes; to provide for the repeal of certain exemptions at
 10 various points in time; to provide for the sales and use taxation of digital products; to provide
 11 for conforming amendments; to provide that every purchaser of certain tangible personal
 12 property which is or which is required to be titled or registered by or in this state shall be
 13 liable for sales and use tax on the purchase; to provide for requirements, procedures,
 14 conditions, and limitations; to provide for consolidated and simplified state and local excise
 15 taxes on communications services in lieu of certain other state or local taxes, charges, or fees
 16 on such services; to provide for legislative findings and intent; to provide for sales and use
 17 tax exemptions and refunds; to provide for comprehensive procedures, conditions, and
 18 limitations; to provide for powers, duties, and authority of the Department of Revenue and
 19 the state revenue commissioner; to amend certain titles of the Official Code of Georgia
 20 Annotated so as to correct certain cross-references and make conforming changes; to provide
 21 for a short title; to provide for effective dates; to provide for applicability; to provide that
 22 certain provisions of this Act shall not abate or affect prosecutions, punishments, penalties,
 23 administrative proceedings or remedies, or civil actions related to certain violations; to
 24 provide for related matters; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26
27

PART I
SECTION 1-1.

28 This Act shall be known and may be cited as the "More Take Home Pay Act of 2015."

29

SECTION 1-2.

30 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
31 amended by revising Code Section 48-7-20, relating to individual tax rates and tables, as
32 follows:

33 "48-7-20.

34 (a) A tax is imposed upon every resident of this state with respect to the Georgia taxable
35 net income of the taxpayer as defined in Code Section 48-7-27. A tax is imposed upon
36 every nonresident with respect to such nonresident's Georgia taxable net income not
37 otherwise exempted which is received by the taxpayer from services performed, property
38 owned, proceeds of any lottery prize awarded by the Georgia Lottery Corporation, or from
39 business carried on in this state. Except as otherwise provided in this chapter, the tax
40 imposed by this subsection shall be levied, collected, and paid annually.

41 (b)(~~1~~) For taxable years beginning prior to January 1, 2016:

42 (1) The tax imposed pursuant to subsection (a) of this Code section shall be computed
43 in accordance with the following tables:

44

SINGLE PERSON

If Georgia Taxable Net Income Is:	The Tax Is:
Not over \$750.00	1%
Over \$750.00 but not over \$2,250.00	\$7.50 plus 2% of amount over \$750.00
Over \$2,250.00 but not over \$3,750.00	\$37.50 plus 3% of amount over \$2,250.00
Over \$3,750.00 but not over \$5,250.00	\$82.50 plus 4% of amount over \$3,750.00
Over \$5,250.00 but not over \$7,000.00	\$142.50 plus 5% of amount over \$5,250.00
Over \$7,000.00	\$230.00 plus 6% of amount over \$7,000.00

57 MARRIED PERSON FILING A SEPARATE RETURN

58 If Georgia Taxable	The Tax Is:
59 Net Income Is:	
60 Not over \$500.00	1%
61 Over \$500.00 but not over \$1,500.00	\$5.00 plus 2% of amount over \$500.00
62 Over \$1,500.00 but not over \$2,500.00	\$25.00 plus 3% of amount over
63	\$1,500.00
64 Over \$2,500.00 but not over \$3,500.00	\$55.00 plus 4% of amount over
65	\$2,500.00
66 Over \$3,500.00 but not over \$5,000.00	\$95.00 plus 5% of amount over
67	\$3,500.00
68 Over \$5,000.00	\$170.00 plus 6% of amount over
69	\$5,000.00

70 HEAD OF HOUSEHOLD AND MARRIED PERSONS
71 FILING A JOINT RETURN

72 If Georgia Taxable	The Tax Is:
73 Net Income Is:	
74 Not over \$1,000.00	1%
75 Over \$1,000.00 but not over \$3,000.00	\$10.00 plus 2% of amount over
76	\$1,000.00
77 Over \$3,000.00 but not over \$5,000.00	\$50.00 plus 3% of amount over
78	\$3,000.00
79 Over \$5,000.00 but not over \$7,000.00	\$110.00 plus 4% of amount over
80	\$5,000.00
81 Over \$7,000.00 but not over \$10,000.00	\$190.00 plus 5% of amount over
82	\$7,000.00
83 Over \$10,000.00	\$340.00 plus 6% of amount over
84	\$10,000.00

85 (2) To facilitate the computation of the tax by those taxpayers whose federal adjusted
86 gross income together with the adjustments set out in Code Section 48-7-27 for use in
87 arriving at Georgia taxable net income is less than \$10,000.00, the commissioner may
88 construct tax tables which may be used by the taxpayers at their option. The tax shown

89 to be due by the tables shall be computed on the bases of the standard deduction and the
 90 tax rates specified in paragraph (1) of this subsection. Insofar as practicable, the tables
 91 shall produce a tax approximately equivalent to the tax imposed by paragraph (1) of this
 92 subsection.

93 (c)(1) For taxable years beginning on or after January 1, 2016, the tax imposed pursuant
 94 to subsection (a) of this Code section shall be the amount determined by multiplying the
 95 Georgia taxable net income of the taxpayer by 4.5 percent.

96 (2) For taxable years beginning on or after January 1, 2017, the tax imposed pursuant to
 97 subsection (a) of this Code section shall be the amount determined by multiplying the
 98 Georgia taxable net income of the taxpayer by 4.25 percent.

99 (d) For taxable years beginning on or after January 1, 2018, the tax imposed pursuant to
 100 subsection (a) of this Code section shall be the amount determined by multiplying the
 101 Georgia taxable net income of the taxpayer by 4 percent.

102 ~~(e)~~(e) The amount deducted and withheld by an employer from the wages of an employee
 103 pursuant to Article 5 of this chapter, relating to current income tax payments, shall be
 104 allowed the employee as a credit against the tax imposed by this Code section. Amounts
 105 paid by an individual as estimated tax under Article 5 of this chapter shall constitute
 106 payments on account of the tax imposed by this Code section. The amount withheld or
 107 paid during any calendar year shall be allowed as a credit or payment for the taxable year
 108 beginning in the calendar year in which the amount is withheld or paid.

109 ~~(f)~~(f) The tax imposed by this Code section applies to the Georgia taxable net income of
 110 estates and trusts, which shall be computed in the same manner as in the case of a single
 111 individual. The tax shall be computed on the Georgia taxable net income and shall be paid
 112 by the fiduciary."

113 **SECTION 1-3.**

114 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.1,
 115 relating to a tax credit for retrofitting certain single-family homes with accessibility features,
 116 as follows:

117 "(e) This Code section shall be repealed effective December 31, 2019. The value of any
 118 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 119 to be carried forward to the taxpayer's next three succeeding years' tax liability. No such
 120 tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
 121 credit shall accrue on or after January 1, 2016."

122 **SECTION 1-4.**

123 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.2,
124 relating to a tax credit for qualified caregiving expenses, as follows:

125 "(f) This Code section shall be repealed effective December 31, 2017. The value of any
126 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
127 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
128 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
129 shall accrue on or after January 1, 2016."

130 **SECTION 1-5.**

131 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.3,
132 relating to a tax credit for federal qualified transportation fringe benefits, as follows:

133 "(e) This Code section shall be repealed effective December 31, 2019. The value of any
134 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
135 to be carried forward to the taxpayer's next three succeeding years' tax liability. No such
136 tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
137 credit shall accrue on or after January 1, 2016."

138 **SECTION 1-6.**

139 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.4,
140 relating to a tax credit for disaster assistance funds received, as follows:

141 "(d) This Code section shall be repealed effective December 31, 2021. The value of any
142 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
143 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
144 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
145 shall accrue on or after January 1, 2016."

146 **SECTION 1-7.**

147 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.5,
148 relating to a tax credit for private driver education courses, as follows:

149 "(f) This Code section shall be repealed effective December 31, 2017. The value of any
150 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
151 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
152 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
153 shall accrue on or after January 1, 2016."

154 **SECTION 1-8.**

155 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.10,
156 relating to a tax credit for qualified child and dependent care expenses, as follows:

157 "(d) This Code section shall be repealed effective December 31, 2017. The value of any
158 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
159 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
160 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
161 shall accrue on or after January 1, 2016."

162 **SECTION 1-9.**

163 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.11,
164 relating to a tax credit for teleworking, as follows:

165 "(h) This Code section shall be repealed effective December 31, 2016. The value of any
166 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
167 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
168 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
169 shall accrue on or after December 31, 2016."

170 **SECTION 1-10.**

171 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.12,
172 relating to a tax credit for donation of real property, as follows:

173 "(h) This Code section shall be repealed effective December 31, 2017. The value of any
174 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
175 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
176 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
177 shall accrue on or after January 1, 2016."

178 **SECTION 1-11.**

179 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.14,
180 relating to a tax credit for clean energy property, as follows:

181 "(e) This Code section shall be repealed effective December 31, 2019. The value of any
182 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
183 to be carried forward to the taxpayer's next three succeeding years' tax liability. No such
184 tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
185 credit shall accrue on or after January 1, 2016."

186 **SECTION 1-12.**

187 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.15,
 188 relating to a tax credit for the adoption of a foster child, as follows:

189 "(e) This Code section shall be repealed effective December 31, 2021. The value of any
 190 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 191 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
 192 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 193 shall accrue on or after January 1, 2016."

194 **SECTION 1-13.**

195 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.17,
 196 relating to a tax credit for the purchase of one single-family residence, as follows:

197 "(f) This Code section shall be repealed effective December 31, 2021. The value of any
 198 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 199 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
 200 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 201 shall accrue on or after January 1, 2016."

202 **SECTION 1-14.**

203 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.6,
 204 relating to a tax credit for employers providing child care, as follows:

205 "(h) This Code section shall be repealed effective December 31, 2021. The value of any
 206 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 207 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
 208 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 209 shall accrue on or after January 1, 2016."

210 **SECTION 1-15.**

211 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.7,
 212 relating to a tax credit for existing manufacturing and telecommunications facilities in tier
 213 1 counties, as follows:

214 "(e) This Code section shall be repealed effective December 31, 2021. The value of any
 215 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 216 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
 217 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 218 shall accrue on or after January 1, 2016."

219 **SECTION 1-16.**

220 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.8,
221 relating to a tax credit for existing manufacturing and telecommunications facilities in tier
222 2 counties, as follows:

223 "(e) This Code section shall be repealed effective December 31, 2021. The value of any
224 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
225 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
226 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
227 shall accrue on or after January 1, 2016."

228 **SECTION 1-17.**

229 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.9,
230 relating to a tax credit for existing manufacturing and telecommunications facilities in tier
231 3 and 4 counties, as follows:

232 "(e) This Code section shall be repealed effective December 31, 2021. The value of any
233 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
234 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
235 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
236 shall accrue on or after January 1, 2016."

237 **SECTION 1-18.**

238 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.10,
239 relating to a tax credit for water conservation facilities and qualified water conservation
240 investment property, as follows:

241 "(d) This Code section shall be repealed effective December 31, 2019. The value of any
242 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
243 to be carried forward to the taxpayer's next three succeeding years' tax liability. No such
244 tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
245 credit shall accrue on or after January 1, 2016."

246 **SECTION 1-19.**

247 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.11,
248 relating to a tax credit for shift from ground-water usage, as follows:

249 "(d) This Code section shall be repealed effective December 31, 2021. The value of any
250 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
251 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax

252 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 253 shall accrue on or after January 1, 2016."

254 **SECTION 1-20.**

255 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.12,
 256 relating to a tax credit for qualified research expenses, as follows:

257 "(g) This Code section shall be repealed effective December 31, 2017. The value of any
 258 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 259 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
 260 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 261 shall accrue on or after January 1, 2016."

262 **SECTION 1-21.**

263 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.15,
 264 relating to a tax credit for base year port traffic increases, as follows:

265 "(f) This Code section shall be repealed effective December 31, 2026. The value of any
 266 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 267 to be carried forward to the taxpayer's next ten succeeding years' tax liability. No such tax
 268 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 269 shall accrue on or after January 1, 2016."

270 **SECTION 1-22.**

271 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.15A,
 272 relating to a tax credit for increase in port traffic, as follows:

273 "(f) This Code section shall be repealed effective December 31, 2015."

274 **SECTION 1-23.**

275 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.16,
 276 relating to a tax credit for low-emission vehicles, as follows:

277 "(h) This Code section shall be repealed effective December 31, 2021. The value of any
 278 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 279 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
 280 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 281 shall accrue on or after January 1, 2016."

282 **SECTION 1-24.**

283 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.17,
284 relating to a tax credit for establishing or relocating quality jobs, as follows:

285 "(h) This Code section shall be repealed effective December 31, 2021. The value of any
286 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
287 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
288 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
289 shall accrue on or after January 1, 2016."

290 **SECTION 1-25.**

291 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.18,
292 relating to a tax credit for businesses headquartered in the state, as follows:

293 "(d) This Code section shall be repealed effective December 31, 2017. The value of any
294 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
295 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
296 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
297 shall accrue on or after January 1, 2016."

298 **SECTION 1-26.**

299 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.19,
300 relating to a tax credit for diesel particulate emission reduction technology equipment, as
301 follows:

302 "(h) This Code section shall be repealed effective December 31, 2016. The value of any
303 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
304 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
305 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
306 shall accrue on or after December 31, 2016."

307 **SECTION 1-27.**

308 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.20,
309 relating to a tax credit for businesses manufacturing cigarettes for exportation, as follows:

310 "(e) This Code section shall be repealed effective December 31, 2021. The value of any
311 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
312 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
313 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
314 shall accrue on or after January 1, 2016."

315 **SECTION 1-28.**

316 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.22,
317 relating to a tax credit for business enterprises leasing certain vehicles, as follows:

318 "(h) This Code section shall be repealed effective December 31, 2018. The value of any
319 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
320 to be carried forward to the taxpayer's next two succeeding years' tax liability. No such tax
321 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
322 shall accrue on or after January 1, 2016."

323 **SECTION 1-29.**

324 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.24,
325 relating to conditions for taking a job tax credit by business enterprises, as follows:

326 "(q) This Code section shall be repealed effective December 31, 2026. The value of any
327 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
328 to be carried forward to the taxpayer's next ten succeeding years' tax liability. No such tax
329 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
330 shall accrue on or after January 1, 2016."

331 **SECTION 1-30.**

332 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.27,
333 relating to a tax credit for qualified investments, as follows:

334 "(g) This Code section shall be repealed effective December 31, 2020. The value of any
335 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
336 to be carried forward to the taxpayer's next four succeeding years' tax liability. No such
337 tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
338 credit shall accrue on or after January 1, 2016."

339 **SECTION 1-31.**

340 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.28,
341 relating to a limitation on the tax credit for qualified investments, as follows:

342 "(f) This Code section shall be repealed effective December 31, 2020. The value of any
343 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
344 to be carried forward to the taxpayer's next four succeeding years' tax liability. No such
345 tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
346 credit shall accrue on or after January 1, 2016."

SECTION 1-32.

347
 348 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.29,
 349 relating to a tax credit for qualified equipment that reduces business or domestic energy or
 350 water usage, as follows:

351 "(i) This Code section shall be repealed effective December 31, 2021. The value of any
 352 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 353 to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
 354 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 355 shall accrue on or after January 1, 2016."

SECTION 1-33.

356
 357 Said Title 48 is further amended by adding a new subsection to Code Section 48-7-41,
 358 relating to a tax credit for a basic skills education program, as follows:

359 "(f) This Code section shall be repealed effective December 31, 2017. The value of any
 360 tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
 361 to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax
 362 credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit
 363 shall accrue on or after January 1, 2016."

SECTION 1-34.

364
 365 Said Title 48 is further amended by revising subsection (b) of Code Section 48-7A-3, relating
 366 to person entitled to claim an income tax credit, as follows:

367 "(b) Each taxpayer may claim a tax credit in the amount indicated for each adjusted gross
 368 income bracket as shown in the schedule below multiplied by the number of dependents
 369 which the taxpayer is entitled to claim. ~~Each taxpayer 65 years of age or over may claim~~
 370 ~~double the tax credit.~~

TAX CREDIT SCHEDULE

<u>Adjusted Gross Income</u>	<u>Tax Credit</u>
Under \$6,000.00	\$ 26.00
6,000.00 but not more than 7,999.00	20.00
8,000.00 but not more than 9,999.00	14.00
10,000.00 but not more than 14,999.00	8.00
15,000.00 but not more than 19,999.00	5.00"

378

PART II

379

SECTION 2-1.

380 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 381 amended in Code Section 48-8-2, relating to definitions regarding sales and use tax, by
 382 revising paragraph (39) as follows:

383 "(39) 'Telecommunications service' means the electronic transmission, conveyance, or
 384 routing of voice, data, audio, video, or any other information or signals to a point, or
 385 between or among points. The term telecommunications service includes such
 386 transmission, conveyance, or routing in which computer processing applications are used
 387 to act on the form, code, or protocol of the content for purposes of transmission,
 388 conveyance, or routing without regard to whether such service is referred to as voice over
 389 Internet protocol services or is classified by the Federal Communications Commission
 390 as enhanced or value added. Telecommunications service shall not include:

391 (A) Data processing and information services that allow data to be generated, acquired,
 392 stored, processed, or retrieved and delivered by an electronic transmission to a
 393 purchaser where such purchaser's primary purpose for the underlying transaction is the
 394 processed data or information;

395 (B) Installation or maintenance of wiring or equipment on a customer's premises;

396 (C) Tangible personal property;

397 (D) Advertising, including but not limited to directory advertising;

398 (E) Billing and collection services provided to third parties;

399 (F) Internet access service;

400 (G) Radio and television audio and video programming services, regardless of the
 401 medium, including the furnishing of transmission, conveyance, and routing of such
 402 services by the programming service provider. Radio and television audio and video
 403 programming services shall include but not be limited to cable service as defined in 47
 404 U.S.C. Section 522(6) and audio and video programming services delivered by
 405 commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3; or

406 (H) Ancillary services; ~~or~~

407 ~~(I) Digital products delivered electronically, including but not limited to software,~~
 408 ~~music, video, reading materials, or ring tones."~~

409

SECTION 2-2.

410 Said Title 48 is further amended by adding a new Code section to read as follows:

411 "48-8-2.1.

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

413 (1) 'Delivered electronically' means delivered to the purchaser by means other than
 414 tangible storage media.

415 (2) 'Services' means the providing by a dealer other than one which is qualified as a
 416 tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as
 417 governed and determined under subsection (b) of Code Section 48-7-25, of any services
 418 listed in subsection (c) of this Code section.

419 (b) Sales of or charges made for services, descriptions of services, or services provided by
 420 establishments listed in subsection (c) of this Code section shall be taxed at the rate
 421 specified in subsection (a) of Code Section 48-8-30 and shall be collected as specified in
 422 this article.

423 (c) For purposes of this Code section, 'services' include:

424 (1) Products transferred electronically, including specified digital products, sold to an
 425 end user with rights of permanent or less than permanent use and regardless of whether
 426 the end user is required to make continued payments for such rights. Products transferred
 427 electronically are not subject to the tax imposed under this Code section if such products
 428 are subject to the tax imposed under Chapter 18 of this title;

429 (2) Prewritten computer software delivered electronically; and

430 (3) Prewritten computer software transferred electronically, which includes a charge to
 431 consumers for the right to access and use prewritten computer software, where possession
 432 of the software is maintained by the seller or a third party, regardless of whether the
 433 charge for the service is on a per use, per user, per license, subscription, or some other
 434 basis."

435 **SECTION 2-3.**

436 Said Title 48 is further amended by revising Code Section 48-8-3, relating to exemptions
 437 from sales and use tax, as follows:

438 "48-8-3.

439 The sales and use taxes levied or imposed by this article shall not apply to:

440 (1) Sales to the United States government, this state, any county or municipality of this
 441 state, or any bona fide department of such governments when paid for directly to the
 442 seller by warrant on appropriated government funds;

443 (2) Transactions in which tangible personal property is furnished by the United States
 444 government or by a county or municipality of this state to any person who contracts to
 445 perform services for the governmental entity for the installation, repair, or extension of
 446 any public water, gas, or sewage system of the governmental entity when the tangible
 447 personal property is installed for general distribution purposes, notwithstanding Code

448 Section 48-8-63 or any other provision of this article. No exemption is granted with
449 respect to tangible personal property installed to serve a particular property site;

450 (3) The federal retailers' excise tax if the tax is billed to the consumer separately from
451 the selling price of the product or from the tax imposed by Article 1 of Chapter 9 of this
452 title relating to motor fuel taxes;

453 (4) Sales by counties and municipalities arising out of their operation of any public
454 transit facility and sales by public transit authorities or charges by counties,
455 municipalities, or public transit authorities for the transportation of passengers upon their
456 conveyances;

457 (5)(A) Fares and charges, except charges for charter and sightseeing service, collected
458 by an urban transit system for the transportation of passengers.

459 (B) As used in this paragraph, the term:

460 (i) 'Public transit system primarily urban in character' shall include a transit system
461 operated by any entity which provides passenger transportation services by means of
462 motor vehicles having passenger-carrying capacity within or between standard
463 metropolitan areas and urban areas, as those terms are defined in Code Section
464 32-2-3, of this state.

465 (ii) 'Urban transit system' means a public transit system primarily urban in character
466 which is operated by a street railroad company or a motor carrier, is subject to the
467 jurisdiction of the Department of Public Safety, and whose fares and charges are
468 regulated by the Department of Public Safety, or is operated pursuant to a franchise
469 contract with a municipality of this state so that its fares and charges are regulated by
470 or are subject to the approval of the municipality. An urban transit system certificate
471 shall be issued by the Department of Public Safety, or by the municipality which has
472 regulatory authority, upon an affirmative showing that the applicant operates an urban
473 transit system. The certificate shall be obtained and filed with the commissioner and
474 shall continue in effect so long as the holder of such certificate qualifies as an urban
475 transit system. Any urban transit system certificate granted prior to January 1, 2002,
476 shall be deemed valid as of the date it was issued;

477 (6) Sales to any hospital authority created by Article 4 of Chapter 7 of Title 31;

478 (6.1) Sales to any housing authority created by Article 1 of Chapter 3 of Title 8, the
479 'Housing Authorities Law';

480 (6.2) Sales to any local government authority created on or after January 1, 1980, by
481 local law, which authority has as its principal purpose or one of its principal purposes the
482 construction, ownership, or operation of a coliseum and related facilities to be used for
483 athletic contests, games, meetings, trade fairs, expositions, political conventions,

484 agricultural events, theatrical and musical performances, conventions, or other public
485 entertainments or any combination of such purposes;

486 (6.3) Sales to any agricultural commodities commission created by and regulated
487 pursuant to Chapter 8 of Title 2;

488 (7) Sales of tangible personal property and services to a nonprofit licensed nursing home,
489 nonprofit licensed in-patient hospice, or a nonprofit general or mental hospital used
490 exclusively by such nursing home, in-patient hospice, or hospital in performing a general
491 nursing home, in-patient hospice, hospital, or mental hospital treatment function in this
492 state when such nursing home, in-patient hospice, or hospital is a tax exempt organization
493 under the Internal Revenue Code and obtains an exemption determination letter from the
494 commissioner;

495 (7.05)(A) For the period commencing on July 1, 2008, and ending on June 30, 2010,
496 sales of tangible personal property to a nonprofit health center in this state which has
497 been established under the authority of and is receiving funds pursuant to the United
498 States Public Health Service Act, 42 U.S.C. Section 254b if such health clinic obtains
499 an exemption determination letter from the commissioner.

500 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
501 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
502 area consisting of less than the entire state, however authorized, including, but not
503 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
504 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
505 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
506 pursuant to Article 2, 2A, 3, or 4 of this chapter.

507 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
508 to any local sales and use tax levied or imposed at any time.

509 (7.1) Sales of tangible personal property and services to a nonprofit organization, the
510 primary function of which is the provision of services to mentally retarded persons, when
511 such organization is a tax exempt organization under the Internal Revenue Code and
512 obtains an exemption determination letter from the commissioner;

513 (7.2) Sales of tangible personal property or services to any chapter of the Georgia State
514 Society of the Daughters of the American Revolution which is tax exempt under Section
515 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter
516 from the commissioner;

517 (7.3) For the period commencing July 1, 2008, and ending June 30, 2010, sales of
518 tangible personal property and services to a nonprofit volunteer health clinic which
519 primarily treats indigent persons with incomes below 200 percent of the federal poverty
520 level and which property and services are used exclusively by such volunteer health clinic

521 in performing a general treatment function in this state when such volunteer health clinic
522 is a tax exempt organization under the Internal Revenue Code and obtains an exemption
523 determination letter from the commissioner;

524 (8) Sales of tangible personal property and services to the University System of Georgia
525 and its educational units;

526 (9) Sales of tangible personal property and services to be used exclusively for
527 educational purposes by those private colleges and universities in this state whose
528 academic credits are accepted as equivalents by the University System of Georgia and its
529 educational units;

530 (10) Sales of tangible personal property and services to be used exclusively for
531 educational purposes by those bona fide private elementary and secondary schools which
532 have been approved by the commissioner as organizations eligible to receive tax
533 deductible contributions if application for exemption is made to the department and proof
534 of the exemption is established;

535 (11) Sales of tangible personal property or services to, and the purchase of tangible
536 personal property or services by, any educational or cultural institute which:

537 (A) Is tax exempt under Section 501(c)(3) of the Internal Revenue Code;

538 (B) Furnishes at least 50 percent of its programs through universities and other
539 institutions of higher education in support of their educational programs;

540 (C) Is paid for by government funds of a foreign country; and

541 (D) Is an instrumentality, agency, department, or branch of a foreign government
542 operating through a permanent location in this state.

543 This paragraph shall be repealed and reserved on December 31, 2015;

544 (12) Food and food ingredients and prepared food sold and served to pupils and
545 employees of public schools as part of a school lunch program;

546 (13) Sales of prepared food and food and food ingredients consumed by pupils and
547 employees of bona fide private elementary and secondary schools which have been
548 approved by the commissioner as organizations eligible to receive tax deductible
549 contributions when application for exemption is made to the department and proof of the
550 exemption is established;

551 (14) Sales of objects of art and of anthropological, archeological, geological,
552 horticultural, or zoological objects or artifacts and other similar tangible personal
553 property to or for the use by any museum or organization which is tax exempt under
554 Section 501(c)(3) of the Internal Revenue Code of such tangible personal property for
555 display or exhibition in a museum within this state when the museum is open to the
556 public and has been approved by the commissioner as an organization eligible to receive
557 tax deductible contributions;

- 558 (15) Sales:
- 559 (A) Of any religious paper in this state when the paper is owned and operated by
- 560 religious institutions or denominations and no part of the net profit from the operation
- 561 of the institution or denomination inures to the benefit of any private person;
- 562 (B) By religious institutions or denominations when:
- 563 (i) The sale results from a specific charitable fundraising activity;
- 564 (ii) The number of days upon which the fundraising activity occurs does not exceed
- 565 30 in any calendar year;
- 566 (iii) No part of the gross sales or net profits from the sales inures to the benefit of any
- 567 private person; and
- 568 (iv) The gross sales or net profits from the sales are used for the purely charitable
- 569 purposes of:
- 570 (I) Relief to the aged;
- 571 (II) Church related youth activities;
- 572 (III) Religious instruction or worship; or
- 573 (IV) Construction or repair of church buildings or facilities;
- 574 (15.1) Sales of pipe organs or steeple bells to any church which is qualified as an exempt
- 575 religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as
- 576 amended. This paragraph shall be repealed on December 31, 2015;
- 577 (16) The sale or use of Holy Bibles, testaments, and similar books commonly recognized
- 578 as being Holy Scripture regardless of by or to whom sold;
- 579 (17) The sale of fuel and supplies for use or consumption aboard ships plying the high
- 580 seas either in intercoastal trade between ports in this state and ports in other states of the
- 581 United States or its possessions or in foreign commerce between ports in this state and
- 582 ports of foreign countries;
- 583 (18) Charges made for the transportation of tangible personal property except delivery
- 584 charges by the seller associated with the sale of taxable tangible personal property,
- 585 including, but not limited to, charges for accessorial services such as refrigeration,
- 586 switching, storage, and demurrage made in connection with interstate and intrastate
- 587 transportation of the property;
- 588 (19) All tangible personal property purchased outside of this state by persons who at the
- 589 time of purchase are not domiciled in this state but who subsequently become domiciled
- 590 in this state and bring the property into this state for the first time as a result of the change
- 591 of domicile, if the property is not brought into this state for use in a trade, business, or
- 592 profession;
- 593 (20) The sale of water delivered to consumers through water mains, lines, or pipes;

- 594 (21) Sales, transfers, or exchanges of tangible personal property made as a result of a
 595 business reorganization when the owners, partners, or stockholders of the business being
 596 reorganized maintain the same proportionate interest or share in the newly formed
 597 business reorganization;
- 598 (22) Professional, insurance, or personal service transactions which involve sales as
 599 inconsequential elements for which no separate charges are made;
- 600 (23) Fees or charges for services rendered by repairmen for which a separate charge is
 601 made;
- 602 (24) The rental of videotape or motion picture film to any person who charges an
 603 admission fee to view such film or videotape;
- 604 (25) Reserved;
- 605 (26) Reserved;
- 606 (27) Reserved;
- 607 (28) Reserved;
- 608 (29) Reserved;
- 609 ~~(29.1) Reserved;~~
- 610 (30) The sale of a vehicle to a service-connected disabled veteran when the veteran
 611 received a grant from the United States Department of Veterans Affairs to purchase and
 612 specially adapt the vehicle to his disability;
- 613 (31) The sale of tangible personal property manufactured or assembled in this state for
 614 export when delivery is taken outside this state;
- 615 (32) Aircraft, watercraft, motor vehicles, and other transportation equipment
 616 manufactured or assembled in this state when sold by the manufacturer or assembler for
 617 use exclusively outside this state and when possession is taken from the manufacturer or
 618 assembler by the purchaser within this state for the sole purpose of removing the property
 619 from this state under its own power when the equipment does not lend itself more
 620 reasonably to removal by other means;
- 621 (33)(A) The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor
 622 vehicles, and major components of each, which will be used principally to cross the
 623 borders of this state in the service of transporting passengers or cargo by common
 624 carriers and by carriers who hold common carrier and contract carrier authority in
 625 interstate or foreign commerce under authority granted by the United States
 626 government. Replacement parts installed by carriers in such aircraft, watercraft,
 627 railroad locomotives and rolling stock, and motor vehicles which become an integral
 628 part of the craft, equipment, or vehicle shall also be exempt from all taxes under this
 629 article;

630 (B) In lieu of any tax under this article which would apply to the purchase, sale, use,
631 storage, or consumption of the tangible personal property described in this paragraph
632 but for this exemption, the tax under this article shall apply with respect to all fuel
633 purchased and delivered within this state by or to any common carrier and with respect
634 to all fuel purchased outside this state and stored in this state irrespective, in either case,
635 of the place of its subsequent use;

636 (33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport,
637 to the extent provided in subparagraphs (B) and (C) of this paragraph.

638 (B)(i) For the period of time beginning July 1, 2011, and ending June 30, 2012, the
639 sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be
640 exempt from state sales and use tax until the aggregate state sales and use tax liability
641 of the taxpayer during such period with respect to jet fuel exceeds \$20 million,
642 computed as if the exemption provided in this division was not in effect during such
643 period. Thereafter during such period, the exemption provided by this division shall
644 not apply to the sale or use of jet fuel to or by the qualifying airline. For purposes of
645 this division, the terms 'qualifying airline' and 'qualifying airport' shall have the same
646 meanings as those terms were defined under the prior provisions of this paragraph as
647 it existed immediately prior to July 1, 2012.

648 (ii) For the period of time beginning July 1, 2012, the sale or use of jet fuel to or by
649 a qualifying airline at a qualifying airport shall be exempt from 1 percent of the 4
650 percent state sales and use tax specified in subsection (a) of Code Section 48-8-30.

651 (C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall
652 be exempt at all times from the sales or use tax levied and imposed as authorized
653 pursuant to Part 1 of Article 3 of this chapter. As used in this subparagraph, the term
654 'qualifying airport' means any airport in this state that has had more than 750,000
655 takeoffs and landings during a calendar year, and the term 'qualifying airline' shall have
656 the same meaning as set forth in subparagraph (E) of this paragraph.

657 (D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall
658 not apply to any other local sales and use tax levied or imposed at any time in any area
659 consisting of less than the entire state, however authorized, including, but not limited
660 to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10,
661 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
662 Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article 3
663 or Article 2, 2A, or 4 of this chapter.

664 (E) For purposes of division (ii) of subparagraph (B) of this paragraph and paragraph
665 (2) of subsection (d) of Code Section 48-8-241, a 'qualifying airline' shall mean any
666 person which is authorized by the Federal Aviation Administration or appropriate

667 agency of the United States to operate as an air carrier under an air carrier operating
 668 certificate and which provides regularly scheduled flights for the transportation of
 669 passengers or cargo for hire.

670 (F) For purposes of division (ii) of subparagraph (B) of this paragraph and paragraph
 671 (2) of subsection (d) of Code Section 48-8-241, the term 'qualifying airport' means a
 672 certificated air carrier airport in Georgia.

673 (G) The commissioner shall adopt rules and regulations to carry out the provisions of
 674 this paragraph.

675 This paragraph shall be repealed on December 31, 2015;

676 (34) Reserved;

677 (34.1)(A) The sale of primary material handling equipment which is used for the
 678 handling and movement of tangible personal property and racking systems used for the
 679 conveyance and storage of tangible personal property in a warehouse or distribution
 680 facility located in this state when such equipment is either part of an expansion worth
 681 \$5 million or more of an existing warehouse or distribution facility or part of the
 682 construction of a new warehouse or distribution facility where the total value of all real
 683 and personal property purchased or acquired by the taxpayer for use in the warehouse
 684 or distribution facility is worth \$5 million or more.

685 (B) In order to qualify for the exemption provided for in subparagraph (A) of this
 686 paragraph, a warehouse or distribution facility may not make retail sales from such
 687 facility to the general public if the total of the retail sales equals or exceeds 15 percent
 688 of the total revenues of the warehouse or distribution facility. If retail sales are made
 689 to the general public by a warehouse or distribution facility and at any time the total of
 690 the retail sales equals or exceeds 15 percent of the total revenues of the facility, the
 691 taxpayer will be disqualified from receiving such exemption as of the date such 15
 692 percent limitation is met or exceeded. The taxpayer may be required to repay any tax
 693 benefits received under subparagraph (A) of this paragraph on or after that date plus
 694 penalty and interest as may be allowed by law;

695 (34.2)(A) The sale or use of machinery or equipment, or both, which is used in the
 696 remanufacture of aircraft engines or aircraft engine parts or components in a
 697 remanufacturing facility located in this state. For purposes of this paragraph,
 698 'remanufacture of aircraft engines or aircraft engine parts or components' means the
 699 substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or
 700 components.

701 (B) Any person making a sale of machinery or equipment, or both, for the
 702 remanufacture of aircraft engines or aircraft engine parts or components shall collect
 703 the tax imposed on the sale by this article unless the purchaser furnishes a certificate

704 issued by the commissioner certifying that the purchaser is entitled to purchase the
705 machinery or equipment without paying the tax;

706 (34.3) Reserved;

707 (34.4)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary,
708 sales of tangible personal property to, or used in or for the construction of, an
709 alternative fuel facility primarily dedicated to the production and processing of ethanol,
710 biodiesel, butanol, and their by-products, when such fuels are derived from biomass
711 materials such as agricultural products, or from animal fats, or the wastes of such
712 products or fats.

713 (B) As used in this paragraph, the term:

714 (i) 'Alternative fuel facility' means any facility located in this state which is primarily
715 dedicated to the production and processing of ethanol, biodiesel, butanol, and their
716 by-products for sale.

717 (ii) 'Used in or for the construction' means any tangible personal property
718 incorporated into a new alternative fuel facility that loses its character of tangible
719 personal property. Such term does not mean tangible personal property that is
720 temporary in nature, leased or rented, tools, or other items not incorporated into the
721 facility.

722 (C) Any person making a sale of tangible personal property for the purpose specified
723 in this paragraph shall collect the tax imposed on this sale unless the purchaser
724 furnishes an exemption certificate issued by the commissioner certifying that the
725 purchaser is entitled to purchase the tangible personal property without payment of tax.

726 (D) Any corporation, partnership, limited liability company, or any other entity or
727 person that qualifies for this exemption must conduct at least a majority of its business
728 with entities or persons with which it has no affiliation.

729 (E) The exemption provided for under subparagraph (A) of this paragraph shall not
730 apply to sales of tangible personal property that occur after the production and
731 processing of biodiesel, ethanol, butanol, and their by-products has begun at the
732 alternative fuel facility.

733 (F) The exemption provided for under subparagraph (A) of this paragraph shall apply
734 only to sales occurring during the period July 1, 2007, through June 30, 2012.

735 (G) The commissioner shall promulgate any rules and regulations necessary to
736 implement and administer this paragraph.

737 This paragraph shall be repealed on December 31, 2015;

738 (35) Reserved;

739 (36)(A) The sale of machinery and equipment and any repair, replacement, or
 740 component parts for such machinery and equipment which is used for the primary
 741 purpose of reducing or eliminating air or water pollution;.

742 (B) Any person making a sale of machinery and equipment or repair, replacement, or
 743 component parts for such machinery and equipment for the purposes specified in this
 744 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
 745 furnishes him with a certificate issued by the commissioner certifying that the purchaser
 746 is entitled to purchase the machinery and equipment or repair, replacement, or
 747 component parts for such machinery and equipment without paying the tax.

748 This paragraph shall be repealed and reserved on December 31, 2015;

749 (36.1)(A) The sale of machinery and equipment which is incorporated into any
 750 qualified water conservation facility and used for water conservation.

751 (B) As used in this paragraph, the term:

752 (i) 'Qualified water conservation facility' means any facility, including buildings, and
 753 any machinery and equipment used in the water conservation process resulting in a
 754 minimum 10 percent reduction in permit by relinquishment or transfer of annual
 755 permitted water usage from existing permitted ground-water sources. In addition,
 756 such facility shall have been certified pursuant to rules and regulations promulgated
 757 by the Department of Natural Resources as necessary to promote its ground-water
 758 management efforts for areas with a multiyear record of consumption at, near, or
 759 above sustainable use signaled by declines in ground-water pressure, threats of
 760 salt-water intrusion, need to develop alternate sources to accommodate economic
 761 growth and development, or any other indication of growing inadequacy of the
 762 existing resource.

763 (ii) 'Water conservation' means a minimum 10 percent reduction resulting in the
 764 relinquishment of transfer of annual permitted water usage from existing
 765 ground-water sources due to increased manufacturing process efficiencies or
 766 recycling of manufacturing process water which results in reduced ground-water
 767 usage, or a change from a ground-water source to a surface-water source or an
 768 alternate source.

769 (C) Any person making a sale of machinery and equipment for the purposes specified
 770 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 771 furnishes such person with a certificate issued by the commissioner certifying that the
 772 purchaser is entitled to purchase the machinery and equipment without paying the tax;

773 (37) Reserved;

774 (38) Sales of tangible personal property and fees and charges for services by the Rock
 775 Eagle 4-H Center. This paragraph shall be repealed and reserved on December 31, 2015;

- 776 (39) Sales by any public or private school containing any combination of grades
 777 kindergarten through 12 of tangible personal property, concessions, or tickets for
 778 admission to a school event or function, provided that the net proceeds from such sales
 779 are used solely for the benefit of such public or private school or its students;
- 780 (39.1) The use of cargo containers and their related chassis which are owned by or leased
 781 to persons engaged in the international shipment of cargo by ocean-going vessels which
 782 containers and chassis are directly used for the storage and shipment of tangible personal
 783 property in or through this state in intrastate or interstate commerce;
- 784 (40) The sale of major components and repair parts installed in military craft, vehicles,
 785 and missiles;
- 786 (41)(A) Sales of tangible personal property and services to a child-caring institution
 787 as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency
 788 as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home
 789 as defined in paragraph (14) of Code Section 49-5-3, as amended, when such
 790 institution, agency, or home is engaged primarily in providing child services and is a
 791 nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue
 792 Code and obtains an exemption determination letter from the commissioner; and
- 793 (B) Sales by an institution, agency, or home as described in subparagraph (A) of this
 794 paragraph when:
- 795 (i) The sale results from a specific charitable fundraising activity;
- 796 (ii) The number of days upon which the fundraising activity occurs does not exceed
 797 30 in any calendar year;
- 798 (iii) No part of the gross sales or net profits from the sales inures to the benefit of any
 799 private person; and
- 800 (iv) The gross sales or net profits from the sales are used purely for charitable
 801 purposes in providing child services;
- 802 (42) The use by, or lease or rental of tangible personal property to, a person who acquires
 803 the property from another person where both persons are under 100 percent common
 804 ownership and where the person who furnishes, leases, or rents the property has:
- 805 (A) Previously paid sales or use tax on the property; or
- 806 (B) Been credited under Code Section 48-8-42 with paying a sales or use tax on the
 807 property so furnished, leased, or rented, and the tax credited is based upon the fair
 808 rental or lease value of the property;
- 809 (43) Gross revenues generated from all bona fide coin operated amusement machines
 810 which vend or dispense music or are operated for skill, amusement, entertainment, or
 811 pleasure which are in commercial use and are provided to the public for play which will
 812 require a permit fee under Chapter 27 of Title 50;

813 (44) Sales of motor vehicles, as defined in Code Section 48-5-440, to nonresident
 814 purchasers for immediate transportation to and use in another state in which the vehicles
 815 are required to be registered, provided the seller obtains from the purchaser and retains
 816 an affidavit stating the name and address of the purchaser, the state in which the vehicle
 817 will be registered and operated, the make, model, and serial number of the vehicle, and
 818 such other information as the commissioner may require;

819 (45) The sale, use, storage, or consumption of paper stock which is manufactured in this
 820 state into catalogs intended to be delivered outside this state for use outside this state;

821 (46) Sales to blood banks having a nonprofit status pursuant to Section 501(c)(3) of the
 822 Internal Revenue Code;

823 (47)(A)(i) The sale or use of drugs which are lawfully dispensable only by
 824 prescription for the treatment of natural persons, the sale or use of insulin regardless
 825 of whether the insulin is dispensable only by prescription, and the sale or use of
 826 prescription eyeglasses and contact lenses including, without limitation, prescription
 827 contact lenses distributed by the manufacturer to licensed dispensers as free samples
 828 not intended for resale and labeled as such; and

829 (ii) The sale or use of drugs lawfully dispensable by prescription for the treatment of
 830 natural persons which are dispensed or distributed without charge to physicians,
 831 dentists, clinics, hospitals, or any other person or entity located in Georgia by a
 832 pharmaceutical manufacturer or distributor; and the use of drugs and durable medical
 833 equipment lawfully dispensed or distributed without charge solely for the purposes
 834 of a clinical trial approved by either the United States Food and Drug Administration
 835 or by an institutional review board.

836 (B) For purposes of this paragraph, the term:

837 (i) 'Drug' means the same as provided in Code Section 48-8-2 but shall not include
 838 over-the-counter drugs or tobacco.

839 (ii) 'Institutional review board' means an institutional review board as provided in 21
 840 C.F.R. Section 56.

841 (C) The commissioner is authorized to prescribe forms and promulgate rules and
 842 regulations deemed necessary in order to administer and effectuate this paragraph;

843 (48) Sales to licensed commercial fishermen of bait for taking crabs and the use by
 844 licensed commercial fishermen of bait for taking crabs;

845 (49) Reserved;

846 (49.1)(A) From July 1, 2008, until June 30, 2010, the sale or use of liquefied petroleum
 847 gas or other fuel used in a structure in which swine are raised.

848 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 849 any sales tax, use tax, or local sales and use tax which is levied and imposed in an

850 area consisting of less than the entire state, however authorized, including, but not
 851 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 852 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 853 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
 854 pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by
 855 or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3
 856 of this chapter; and by or pursuant to Article 4 of this chapter.

857 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 858 to any local sales and use tax levied or imposed at any time;

859 (50) Sales of insulin syringes and blood glucose level measuring strips dispensed without
 860 a prescription;

861 (51) Sales of oxygen prescribed by a licensed physician;

862 (52) The sale or use of hearing aids;

863 (53) Sales transactions for which food stamps or WIC coupons are used as the medium
 864 of exchange;

865 (54) The sale or use of any durable medical equipment that is sold or used pursuant to
 866 a prescription or prosthetic device that is sold or used pursuant to a prescription;

867 (55) The sale of lottery tickets authorized by Chapter 27 of Title 50;

868 (56) Sales by any parent-teacher organization qualified as a tax exempt organization
 869 under Section 501(c)(3) of the Internal Revenue Code;

870 (57)(A)(i) Until December 31, 2016, the ~~The~~ sale of food and food ingredients to an
 871 individual consumer for off-premises human consumption, to the extent provided in
 872 this paragraph.

873 (ii) On or after January 1, 2017, through December 31, 2017, the sale of food and
 874 food ingredients to an individual consumer for off-premises human consumption shall
 875 be taxed at the rate of 3 percent.

876 (iii) On or after January 1, 2018, through December 31, 2018, the sale of food and
 877 food ingredients to an individual consumer for off-premises human consumption shall
 878 be taxed at the rate of 4 percent.

879 (iv) Beginning January 1, 2019, the sale of food and food ingredients to an individual
 880 consumer for off-premises human consumption shall be taxed at the rate of 5 percent.

881 (B) For the purposes of this paragraph, the term 'food and food ingredients' as defined
 882 in Code Section 48-8-2 shall not include prepared food, drugs, or over-the-counter
 883 drugs.

884 (C) The exemption provided for in this paragraph shall not apply to the sale or use of
 885 food and food ingredients when purchased for any use in the operation of a business.

886 (D)(i) The exemption provided for in this paragraph shall not apply to any local sales
887 and use tax levied or imposed at any time.

888 (ii) For the purposes of this subparagraph, the term 'local sales and use tax' shall
889 mean any sales tax, use tax, or local sales and use tax which is levied and imposed in
890 an area consisting of less than the entire state, however authorized, including, but not
891 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
892 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
893 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or
894 pursuant to any article of this chapter.

895 (E) The commissioner shall adopt rules and regulations to carry out the provisions of
896 this paragraph;

897 (57.1)(A) From July 1, 2014, until June 30, 2016, sales of food and food ingredients
898 to a qualified food bank.

899 (B) As used in this paragraph, the term 'qualified food bank' means any food bank
900 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
901 and which is operated primarily for the purpose of providing hunger relief to low
902 income persons residing in this state.

903 (C) The commissioner is authorized to promulgate rules and regulations deemed
904 necessary in order to administer and effectuate this paragraph.

905 This paragraph shall be repealed on December 31, 2016;

906 (57.2)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the
907 use of prepared food which is donated to a qualified nonprofit agency and which is used
908 for hunger relief purposes.

909 (B) As used in this paragraph, the term 'qualified nonprofit agency' means any entity
910 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
911 and which provides hunger relief.

912 (C) The commissioner is authorized to promulgate rules and regulations deemed
913 necessary in order to administer and effectuate this paragraph.

914 This paragraph shall be repealed on December 31, 2015;

915 (57.3)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the
916 use of prepared food which is donated following a natural disaster and which is used
917 for disaster relief purposes.

918 (B) The commissioner is authorized to promulgate rules and regulations deemed
919 necessary in order to administer and effectuate this paragraph.

920 This paragraph shall be repealed on December 31, 2015;

921 (58) Reserved;

- 922 (59)(A) Sales of food and food ingredients to and by member councils of the Girl
923 Scouts of the U.S.A. in connection with fundraising activities of any such council.
- 924 (B) Sales of food and food ingredients to and by member councils of the Boy Scouts
925 of America in connection with fundraising activities of any such council;
- 926 (60) The sale of machinery and equipment which is incorporated into any
927 telecommunications manufacturing facility and used for the primary purpose of
928 improving air quality in advanced technology clean rooms of Class 100,000 or less,
929 provided such clean rooms are used directly in the manufacture of tangible personal
930 property. This paragraph shall be repealed and reserved on December 31, 2015;
- 931 (61) Printed advertising inserts or advertising supplements distributed in this state in or
932 as part of any newspaper for resale;
- 933 (62) The sale of grass sod of all kinds and character when such sod is in the original state
934 of production or condition of preparation for sale. The exemption provided for by this
935 paragraph shall only apply to a sale made by the sod producer, a member of such
936 producer's family, or an employee of such producer. The exemption provided for by this
937 paragraph shall not apply to sales of grass sod by a person engaged in the business of
938 selling plants, seedlings, nursery stock, or floral products;
- 939 (63) The sale or use of funeral merchandise, outer burial containers, and cemetery
940 markers as defined in Code Section 43-18-1, which are purchased with funds received
941 from the Georgia Crime Victims Emergency Fund under Chapter 15 of Title 17;
- 942 (64) Reserved;
- 943 (65)(A) Sales of dyed diesel fuel exclusively used to operate vessels or boats in the
944 commercial fishing trade by licensed commercial fishermen.
- 945 (B) Any person making a sale of dyed diesel fuel for the purposes specified in this
946 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
947 furnishes such person with a certificate issued by the commissioner certifying that the
948 purchaser is entitled to purchase the dyed diesel fuel without paying the tax;
- 949 (66) Sales of gold, silver, or platinum bullion or any combination of such bullion,
950 provided that the dealer maintains proper documentation, as specified by rule or
951 regulation to be promulgated by the department, to identify each sale or portion of a sale
952 which is exempt under this paragraph;
- 953 (67) Sales of coins or currency or a combination of coins and currency, provided that the
954 dealer maintains proper documentation, as specified by rule or regulation to be
955 promulgated by the department, to identify each sale or portion of a sale which is exempt
956 under this paragraph;
- 957 (68)(A) The sale or lease of computer equipment to be incorporated into a facility or
958 facilities in this state to any high-technology company classified under North American

959 Industrial Classification System code 51121, 51331, 51333, 51334, 51421, 52232,
 960 54133, 54171, 54172, 334413, 334611, 513321, 513322, 514191, 541511, 541512,
 961 541513, or 541519 where such sale of computer equipment for any calendar year
 962 exceeds \$15 million or, in the event of a lease of such computer equipment, the fair
 963 market value of such leased computer equipment for any calendar year exceeds \$15
 964 million.

965 (B) Any person making a sale or lease of computer equipment to a high-technology
 966 company as specified in subparagraph (A) of this paragraph shall collect the tax
 967 imposed on the sale by this article unless the purchaser furnishes such seller with a
 968 certificate issued by the commissioner certifying that the purchaser is entitled to
 969 purchase the computer equipment without paying the tax. As a condition precedent to
 970 the issuance of the certificate, the commissioner, at such commissioner's discretion,
 971 may require a good and valid bond with a surety company authorized to do business in
 972 this state as surety or may require legal securities, in an amount fixed by the
 973 commissioner, conditioned upon payment by the purchaser of all taxes due under this
 974 article in the event it should be determined that the sale fails to meet the requirements
 975 of this subparagraph.

976 (C)(i) As used in this paragraph, the term 'computer equipment' means any individual
 977 computer or organized assembly of hardware or software, such as a server farm,
 978 mainframe or midrange computer, mainframe driven high-speed print and mailing
 979 devices, and workstations connected to those devices via high bandwidth connectivity
 980 such as a local area network, wide area network, or any other data transport
 981 technology which performs one of the following functions: storage or management
 982 of production data, hosting of production applications, hosting of application systems
 983 development activities, or hosting of applications systems testing.

984 (ii) The term shall not include:

- 985 (I) Telephone central office equipment or other voice data transport technology; or
- 986 (II) Equipment with imbedded computer hardware or software which is primarily
 987 used for training, product testing, or in a manufacturing process.

988 (D) Any corporation, partnership, limited liability company, or any other similar entity
 989 which qualifies for the exemption and is affiliated in any manner with a nonqualified
 990 corporation, partnership, limited liability company, or any other similar entity must
 991 conduct at least a majority of its business with entities with which it has no affiliation;

992 (69) The sale of machinery, equipment, and materials incorporated into and used in the
 993 construction or operation of a clean room of Class 100 or less in this state, not to include
 994 the building or any permanent, nonremovable component of the building that houses such
 995 clean room, provided that such clean room is used directly in the manufacture of tangible

996 personal property in this state. This paragraph shall be repealed and reserved on
 997 December 31, 2015;

998 (70)(A) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 999 any sales tax, use tax, or local sales and use tax which is levied and imposed in an area
 1000 consisting of less than the entire state, however authorized, including, but not limited
 1001 to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant
 1002 to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,
 1003 the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to
 1004 Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by or pursuant to
 1005 Part 1 of Article 3 of this chapter; or by or pursuant to Part 2 of Article 3 of this chapter.

1006 (B) The sale of natural or artificial gas used directly in the production of electricity
 1007 which is subsequently sold.

1008 (C) The exemption provided for in subparagraph (B) of this paragraph shall not apply
 1009 to any local sales and use tax levied or imposed at any time.

1010 (D) The commissioner shall adopt rules and regulations to carry out the provisions of
 1011 this paragraph;

1012 (70.1)(A) For the period commencing July 1, 2008, and concluding on December 31,
 1013 2010, the sale of natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane,
 1014 petroleum coke, and coal used directly or indirectly in the manufacture or processing,
 1015 in a manufacturing plant located in this state, of tangible personal property primarily
 1016 for resale, and the fuel cost recovery component of retail electric rates used directly or
 1017 indirectly in the manufacture or processing, in a manufacturing plant located in this
 1018 state, of tangible personal property primarily for resale.

1019 (B) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1020 to the first \$7.60 per decatherm of the sales price or cost price of natural or artificial
 1021 gas, the first \$2.48 per gallon of the sales price or cost price of No. 2 fuel oil, the first
 1022 \$1.72 per gallon of the sales price or cost price of No. 6 fuel oil, the first \$1.44 per
 1023 gallon of the sales price or cost price of propane, the first \$57.90 per ton of petroleum
 1024 coke, the first \$57.90 per ton of coal, or the first 3.44¢ per kilowatt hour of the fuel cost
 1025 recovery component of retail electricity rates whether such fuel recovery charges are
 1026 charged separately or are embedded in such electric rates. Dealers with such embedded
 1027 rates may exempt from the electricity sales upon which the sales tax is calculated no
 1028 more than the amount, if any, by which the fuel cost recovery charge approved by the
 1029 Georgia Public Service Commission for transmission customers of electric utilities
 1030 regulated by the Georgia Public Service Commission exceeds 3.44¢ per kilowatt hour.

1031 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 1032 any sales tax, use tax, or local sales and use tax which is levied and imposed in an

1033 area consisting of less than the entire state, however authorized, including, but not
 1034 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1035 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1036 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or
 1037 pursuant to Article 2, 2A, 3, or 4 of this chapter.

1038 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1039 to any local sales and use tax levied or imposed at any time.

1040 (D) Any person making a sale of items qualifying for exemption under subparagraph
 1041 (A) of this paragraph shall be relieved of the burden of proving such qualification if the
 1042 person receives in good faith a certificate from the purchaser certifying that the
 1043 purchase is exempt under this paragraph.

1044 (E) Any person who qualifies for this exemption shall notify and certify to the person
 1045 making the qualified sale that this exemption is applicable to the sale;

1046 (71) Sales to or by any nonprofit organization which has as its primary purpose the
 1047 raising of funds for books, materials, and programs for public libraries if such
 1048 organization qualifies as a tax-exempt organization under Section 501(c)(3) of the
 1049 Internal Revenue Code;

1050 (72) The sale or use of all mobility enhancing equipment prescribed by a physician;

1051 (73) Reserved;

1052 (74)(A)(i) Except as otherwise provided in divisions (ii) and (iii) of this
 1053 subparagraph, the sale or use of digital broadcast equipment sold to, leased to, or used
 1054 by a federally licensed commercial or public radio or television broadcast station, a
 1055 cable network, or a cable distributor that enables a radio or television station, cable
 1056 network, or cable distributor to originate and broadcast or transmit or to receive and
 1057 broadcast or transmit digital signals, including, but not limited to, digital broadcast
 1058 equipment required by the Federal Communications Commission.

1059 (ii) For commercial or public television broadcasters and cable distributors, such
 1060 equipment shall be limited to antennas, transmission lines, towers, digital transmitters,
 1061 studio to transmitter links, digital routing switchers, character generators, Advanced
 1062 Television Systems Committee video encoders and multiplexers, monitoring facilities,
 1063 cameras, terminal equipment, tape recorders, and file servers.

1064 (iii) For radio broadcasters, such equipment shall be limited to transmitters, digital
 1065 audio processors, and diskettes.

1066 (B) As used in this paragraph, the term:

1067 (i) 'Digital broadcast equipment' means equipment purchased, leased, or used for the
 1068 origination or integration of program materials for broadcast over the airwaves or
 1069 transmission by cable, satellite, or fiber optic line which uses or produces an

1070 electronic signal where the signal carries data generated, stored, and processed as
 1071 strings of binary data. Data transmitted or stored as digital data consists of strings of
 1072 positive or nonpositive elements of a transmission expressed in strings of 0's and 1's
 1073 which a computer or processor can reconstruct as an electronic signal.

1074 (ii) 'Federally licensed commercial or public radio or television broadcast station'
 1075 means any entity or enterprise, either commercial or noncommercial, which operates
 1076 under a license granted by the Federal Communications Commission for the purpose
 1077 of free distribution of audio and video services when the distribution occurs by means
 1078 of transmission over the public airwaves.

1079 (C) The exemption provided under this paragraph shall not apply to any of the
 1080 following:

1081 (i) Repair or replacement parts purchased for the equipment described in this
 1082 paragraph;

1083 (ii) Equipment purchased to replace equipment for which an exemption was
 1084 previously claimed and taken under this paragraph;

1085 (iii) Any equipment purchased after a television station, cable network, or cable
 1086 distributor has ceased analog broadcasting, or purchased after November 1, 2004,
 1087 whichever occurs first; or

1088 (iv) Any equipment purchased after a radio station has ceased analog broadcasting,
 1089 or purchased after November 1, 2008, whichever occurs first.

1090 (D) Any person making a sale of digital broadcasting equipment to a federally licensed
 1091 commercial or public radio or television broadcast station, cable network, or cable
 1092 distributor shall collect the tax imposed on the sale by this article unless the purchaser
 1093 furnishes a certificate issued by the commissioner certifying that the purchaser is
 1094 entitled to purchase the equipment without paying the tax;

1095 (75)(A) The sale of eligible property. The exemption provided by this paragraph
 1096 applies only to sales occurring during periods:

1097 (i) Commencing at 12:01 A.M. on August 1, 2014, and concluding at 12:00 Midnight
 1098 on August 2, 2014; and

1099 (ii) Commencing at 12:01 A.M. on July 31, 2015, and concluding at 12:00 Midnight
 1100 on August 1, 2015.

1101 (B) As used in this paragraph, the term:

1102 (i) 'Clothing' means all human wearing apparel suitable for general use and includes
 1103 footwear. The term 'clothing' excludes belt buckles sold separately; costume masks
 1104 sold separately; patches and emblems sold separately; sewing equipment and supplies,
 1105 including but not limited to knitting needles, patterns, pins, scissors, sewing machines,
 1106 sewing needles, tape measures, and thimbles; sewing materials that become part of

- 1107 clothing, including but not limited to buttons, fabric, lace, thread, yarn, and zippers;
1108 and clothing accessories or equipment.
- 1109 (ii) 'Clothing accessories or equipment' means incidental items worn on the person
1110 or in conjunction with clothing.
- 1111 (iii) 'Computer' means an electronic device that accepts information in digital or
1112 similar form and manipulates it for a result based on a sequence of instructions. The
1113 term 'computer' excludes cellular phones.
- 1114 (iv) 'Computer software' means a set of coded instructions designed to cause a
1115 computer or automatic data processing equipment to perform a task.
- 1116 (v) 'Eligible property' means:
- 1117 (I) Articles of clothing with a sales price of \$100.00 or less per item;
 - 1118 (II) Computers, computer components, and prewritten computer software
1119 purchased for noncommercial home or personal use with a sales price of \$1,000.00
1120 or less per item; and
 - 1121 (III) School supplies, school art supplies, school computer supplies, and school
1122 instructional materials purchased for noncommercial use with a sales price of
1123 \$20.00 or less per item.
- 1124 (vi) 'Prewritten computer software' means computer software, including prewritten
1125 upgrades, which is not designed and developed by the author or other creator to the
1126 specifications of a specific purchaser. The combining of two or more prewritten
1127 computer software programs or prewritten portions thereof does not cause the
1128 combination to be other than prewritten computer software. Prewritten computer
1129 software includes software designed and developed by the author or other creator to
1130 the specifications of a specific purchaser when it is sold to a person other than the
1131 specific purchaser. Where a person modifies or enhances computer software of which
1132 the person is not the author or creator, the person shall be deemed to be the author or
1133 creator only of such person's modifications or enhancements. Prewritten computer
1134 software or a prewritten portion thereof that is modified or enhanced to any degree,
1135 where such modification or enhancement is designed and developed to the
1136 specifications of a specific purchaser, remains prewritten computer software;
1137 provided, however, that where there is a reasonable, separately stated charge or an
1138 invoice or other statement of the price given to the purchaser for such modification
1139 or enhancement, such modification or enhancement shall not constitute prewritten
1140 computer software.
- 1141 (vii) 'School art supply' means an item commonly used by a student in a course of
1142 study for artwork.

1143 (viii) 'School computer supply' means an item commonly used by a student in a
1144 course of study in which a computer is used.

1145 (ix) 'School instructional material' means written material commonly used by a
1146 student in a course of study as a reference and to learn the subject being taught.

1147 (x) 'School supply' means an item commonly used by a student in a course of study.

1148 (C) The commissioner shall promulgate any rules and regulations necessary to
1149 implement and administer this paragraph including but not be limited to a list of those
1150 articles and items qualifying for the exemption pursuant to this paragraph;

1151 (76) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from June
1152 4, 2003, until January 1, 2007, sales of tangible personal property to, or used in the
1153 construction of, an aquarium owned or operated by an organization which is exempt from
1154 taxation under Section 501(c)(3) of the Internal Revenue Code;

1155 (77) Reserved;

1156 (78)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1157 May 5, 2004, until September 1, 2011, sales of tangible personal property used in direct
1158 connection with the construction of a new symphony hall facility owned or operated by
1159 an organization which is exempt from taxation under Section 501(c)(3) of the Internal
1160 Revenue Code if the aggregate construction cost of such facility is \$200 million or
1161 more.

1162 (B) Any person making a sale of tangible personal property for the purpose specified
1163 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1164 furnishes such person with an exemption determination letter issued by the
1165 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1166 property without paying the tax.

1167 This paragraph shall be repealed and reserved on December 31, 2015;

1168 (79) Reserved;

1169 (80)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1170 May 17, 2004, until December 31, 2007, sales of tangible personal property to, or used
1171 in or for the new construction of an eligible corporate attraction.

1172 (B) As used in this paragraph, the term 'corporate attraction' means any tourist
1173 attraction facility constructed on or after May 17, 2004, dedicated to the history and
1174 products of a corporation which costs exceeds \$50 million, is greater than 60,000
1175 square feet of space, and has associated facilities, including but not limited to parking
1176 decks and landscaping owned by the same owner as the eligible corporate attraction.

1177 (C) Any person making a sale of tangible personal property for the purpose specified
1178 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1179 furnishes such person with an exemption determination letter issued by the

1180 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1181 property without paying the tax.

1182 This paragraph shall be repealed and reserved on December 31, 2015;

1183 (81) The sale of food and food ingredients to a qualifying airline for service to
1184 passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing
1185 without charge of food and food ingredients to qualifying airline passengers and crew in
1186 the aircraft, whether in flight or on the ground; and for purposes of this paragraph a
1187 'qualifying airline' shall mean any person which is authorized by the Federal Aviation
1188 Administration or appropriate agency of the United States to operate as an air carrier
1189 under an air carrier operating certificate and which provides regularly scheduled flights
1190 for the transportation of passengers or cargo for hire. As used in this paragraph, 'food and
1191 food ingredients' means substances, whether in liquid, concentrated, solid, frozen, dried,
1192 or dehydrated form, that are sold for ingestion or chewing by humans and are consumed
1193 for their taste or nutritional value. Food and food ingredients shall not include alcoholic
1194 beverages or tobacco;

1195 (82)(A) Purchase of Energy Star Qualified Products or WaterSense Products with a
1196 sales price of \$1,500.00 or less per product purchased for noncommercial home or
1197 personal use. The exemption provided by this paragraph shall apply only to sales:

1198 (i) Commencing at 12:01 A.M. on October 3, 2014, and concluding at 12:00
1199 Midnight on October 5, 2014; and

1200 (ii) Commencing at 12:01 A.M. on October 2, 2015, and concluding at 12:00
1201 Midnight on October 4, 2015.

1202 (B) As used in this paragraph, the term:

1203 (i) 'Energy Star Qualified Product' means any dishwasher, clothes washer, air
1204 conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable
1205 thermostat, refrigerator, door, or window that meets the energy efficient guidelines
1206 set by the United States Environmental Protection Agency and the United States
1207 Department of Energy and is authorized to carry the Energy Star label.

1208 (ii) 'WaterSense Product' means a product authorized to bear the United States
1209 Environmental Protection Agency WaterSense label.

1210 (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply
1211 to purchases of Energy Star Qualified Products or WaterSense Products purchased for
1212 trade, business, or resale.

1213 (D) The commissioner shall promulgate any rules and regulations necessary to
1214 implement and administer this paragraph.

1215 This paragraph shall be repealed and reserved on December 31, 2015;

1216 (83)(A) The sale or use of biomass material, including pellets or other fuels derived
 1217 from compressed, chipped, or shredded biomass material, utilized in the production of
 1218 energy, including without limitation the production of electricity, steam, or the
 1219 production of electricity and steam, which is subsequently sold.

1220 (B) As used in this paragraph, the term 'biomass material' means organic matter,
 1221 excluding fossil fuels, including agricultural crops, plants, trees, wood, wood wastes
 1222 and residues, sawmill waste, sawdust, wood chips, bark chips, and forest thinning,
 1223 harvesting, or clearing residues; wood waste from pallets or other wood demolition
 1224 debris; peanut shells; pecan shells; cotton plants; corn stalks; and plant matter,
 1225 including aquatic plants, grasses, stalks, vegetation, and residues, including hulls,
 1226 shells, or cellulose containing fibers;

1227 (84)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 1228 July 1, 2006, until June 30, 2008, sales of tangible personal property used in direct
 1229 connection with the construction of a national infantry museum and heritage park
 1230 facility.

1231 (B) As used in this paragraph, the term 'national infantry museum and heritage park
 1232 facility' means a museum and park facility which is constructed after July 1, 2006; is
 1233 dedicated to the history of the American foot soldier; has more than 130,000 square feet
 1234 of space; and has associated facilities, including, but not limited to, parking, parade
 1235 grounds, and memorial areas.

1236 (C) Any person making a sale of tangible personal property for the purpose specified
 1237 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1238 furnishes such person with an exemption determination letter issued by the
 1239 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1240 property without paying the tax.

1241 This paragraph shall be repealed and reserved on December 31, 2015;

1242 (85) Reserved;

1243 (86) The sale or use of engines, parts, equipment, and other tangible personal property
 1244 used in the maintenance or repair of aircraft when such engines, parts, equipment, and
 1245 other tangible personal property are installed on such aircraft that is being repaired or
 1246 maintained in this state, so long as such aircraft is not registered in this state;

1247 (87)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 1248 July 1, 2013, until June 30, 2015, sales of tangible personal property used for and in the
 1249 renovation or expansion of a zoological institution.

1250 (B) As used in this paragraph, the term 'zoological institution' means a nonprofit
 1251 wildlife park, terrestrial institution, or facility which:

1252 (i) Is open to the public, exhibits and cares for a collection consisting primarily of
 1253 animals other than fish, and has received accreditation from the Association of Zoos
 1254 and Aquariums; and

1255 (ii) Is located in this state and owned or operated by an organization which is exempt
 1256 from taxation under Section 501(c)(3) of the Internal Revenue Code.

1257 (C) Any person making a sale of tangible personal property for the purpose specified
 1258 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1259 furnishes such person with an exemption determination letter issued by the
 1260 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1261 property without paying the tax.

1262 This paragraph shall be repealed and reserved on December 31, 2015;

1263 (88)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 1264 July 1, 2009, until July 30, 2015, sales of tangible personal property to, or used in or for
 1265 the new construction of, a civil rights museum.

1266 (B) As used in this paragraph, the term 'civil rights museum' means a museum which
 1267 is constructed after July 1, 2009; is owned or operated by an organization which is
 1268 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; has more
 1269 than 40,000 square feet of space; and has associated facilities, including, but not limited
 1270 to, special event space and retail space.

1271 (C) Any person making a sale of tangible personal property for the purpose specified
 1272 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1273 furnishes such person with an exemption determination letter issued by the
 1274 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1275 property without paying the tax.

1276 (D) The exemption provided for under subparagraph (A) of this paragraph shall not
 1277 apply to sales of tangible personal property that occur after the museum is opened to
 1278 the public.

1279 This paragraph shall be repealed and reserved on December 31, 2015;

1280 (89) For the period commencing on July 1, 2009, and ending on June 30, 2011, the sale
 1281 or use of an airplane flight simulation training device approved by the Federal Aviation
 1282 Administration under Appendices A and B, 14 C.F.R. Part 60. This paragraph shall be
 1283 repealed and reserved on December 31, 2015;

1284 (90) Reserved;

1285 (91) The sale of prewritten software which has been delivered to the purchaser
 1286 electronically or by means of load and leave. This paragraph shall be repealed and
 1287 reserved on December 31, 2015;

1288 (92) For the period commencing July 1, 2012, and ending on December 31, 2013, sales
1289 to an organization defined by the Internal Revenue Service as an instrumentality of the
1290 states relating to the holding of an annual meeting in this state. This paragraph shall be
1291 repealed and reserved on December 31, 2015;

1292 (93)(A) For the period commencing January 1, 2012, until June 30, 2016, sales of
1293 tangible personal property used for and in the construction of a competitive project of
1294 regional significance.

1295 (B) The exemption provided in subparagraph (A) of this paragraph shall apply to
1296 purchases made during the entire time of construction of the competitive project of
1297 regional significance so long as such project meets the definition of a 'competitive
1298 project of regional significance' within the period commencing January 1, 2012, until
1299 June 30, 2016.

1300 (C) The department shall not be required to pay interest on any refund claims filed for
1301 local sales and use taxes paid on purchases made prior to the implementation of this
1302 paragraph.

1303 (D) As used in this paragraph, the term 'competitive project of regional significance'
1304 means the location or expansion of some or all of a business enterprise's operations in
1305 this state where the commissioner of economic development determines that the project
1306 would have a significant regional impact. The commissioner of economic development
1307 shall promulgate regulations in accordance with the provisions of this paragraph
1308 outlining the guidelines to be applied in making such determination;

1309 (94) The sale, use, consumption, or storage of materials, containers, labels, sacks, or bags
1310 used for packaging tangible personal property for shipment or sale. To qualify for the
1311 packaging exemption, the items shall be used solely for packaging and shall not be
1312 purchased for reuse. The packaging exemption shall not include materials purchased at
1313 a retail establishment for consumer use; or

1314 (95) The sale or purchase of any motor vehicle titled in this state on or after March 1,
1315 2013, pursuant to Code Section 48-5C-1. Except as otherwise provided in this paragraph,
1316 this exemption shall not apply to rentals of motor vehicles for periods of 31 or fewer
1317 consecutive days. Lease payments for a motor vehicle that is leased for more than 31
1318 consecutive days for which a state and local title ad valorem tax is paid shall be exempt
1319 from sales and use taxes as provided for in this paragraph. No sales and use taxes shall
1320 be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C
1321 of this title as a part of the purchase price of a motor vehicle or any portion of a lease or
1322 rental payment that is attributable to payment of state and local title ad valorem tax fees
1323 under Chapter 5C of this title."

1324 **SECTION 2-4.**

1325 Said Title 48 is further amended by revising subsection (c.1) of Code Section 48-8-6, relating
1326 to limitations with respect to certain taxes, as follows:

1327 "(c.1) Where the exception specified in paragraph (2) of subsection (a) of this Code section
1328 applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed under
1329 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
1330 not exceed ~~14~~ 15 percent."

1331 **SECTION 2-5.**

1332 Said Title 48 is further amended by revising Code Section 48-8-30, relating to the rate and
1333 imposition of the state sales and use tax, as follows:

1334 "48-8-30.

1335 (a)(1) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage,
1336 use, or consumption of tangible personal property and on the services described in this
1337 article.

1338 (2) Until December 31, 2016, the rate of the state sales and use taxation provided for in
1339 this article shall be 4 percent.

1340 (3) On or after January 1, 2017, the rate of the state sales and use taxation provided for
1341 in this article shall be 5 percent.

1342 (b)(1) Every purchaser of tangible personal property at retail in this state shall be liable
1343 for a tax on the purchase at the ~~rate of 4 percent~~ percentage of the sales price of the
1344 purchase specified in subsection (a) of this Code section. The tax shall be paid by the
1345 purchaser to the retailer making the sale, as provided in this article. The retailer shall
1346 remit the tax to the commissioner as provided in this article and, when received by the
1347 commissioner, the tax shall be a credit against the tax imposed on the retailer. Every
1348 person making a sale or sales of tangible personal property at retail in this state shall be
1349 a retailer and a dealer and shall be liable for a tax on the sale at the ~~rate of 4 percent~~
1350 percentage of the sales price of the purchase specified in subsection (a) of this Code
1351 section, or the amount of taxes collected by him or her from his or her purchaser or
1352 purchasers, whichever is greater.

1353 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
1354 purchaser at retail.

1355 (c)(1) Upon the first instance of use, consumption, distribution, or storage within this
1356 state of tangible personal property purchased at retail outside this state, the owner or user
1357 of the property shall be a dealer and shall be liable for a tax at the ~~rate of 4 percent~~
1358 percentage of the sales price of the purchase specified in subsection (a) of this Code
1359 section, except as provided in paragraph (2) of this subsection.

1360 (2) Upon the first instance of use, consumption, distribution, or storage within this state
 1361 of tangible personal property purchased at retail outside this state and used outside this
 1362 state for more than six months prior to its first use within this state, the owner or user of
 1363 the property shall be a dealer and shall be liable for a tax at the ~~rate of 4 percent~~
 1364 percentage of the purchase price or fair market value of the property specified in
 1365 subsection (a) of this Code section, whichever is the lesser.

1366 (3) This subsection shall not be construed to require a duplication in the payment of the
 1367 tax. The tax imposed by this subsection shall be subject to the credit otherwise granted
 1368 by this article for like taxes previously paid in another state.

1369 (c.1)(1) Every purchaser of tangible personal property at retail outside this state from a
 1370 dealer, as defined in Code Section 48-8-2, when such property is to be used, consumed,
 1371 distributed, or stored within this state, shall be liable for a tax on the purchase at the ~~rate~~
 1372 ~~of 4 percent~~ percentage of the sales price of the purchase specified in subsection (a) of
 1373 this Code section. It shall be prima-facie evidence that such property is to be used,
 1374 consumed, distributed, or stored within this state if ~~that~~ such property is delivered in this
 1375 state to the purchaser or agent thereof. The tax shall be paid by the purchaser to the
 1376 retailer making the sale, as provided in this article. The retailer shall remit the tax to the
 1377 commissioner as provided in this article and, when received by the commissioner, the tax
 1378 shall be a credit against the tax imposed on the retailer. Every person who is a dealer, as
 1379 defined in Code Section 48-8-2, and who makes any sale of tangible personal property
 1380 at retail outside this state, which property is to be delivered in this state to a purchaser or
 1381 purchaser's agent, shall be a retailer and a dealer for purposes of this article and shall be
 1382 liable for a tax on the sale at the ~~rate of 4 percent~~ percentage of such sales price specified
 1383 in subsection (a) of this Code section or the amount of tax as collected by that person
 1384 from purchasers having their purchases delivered in this state, whichever is greater.

1385 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
 1386 purchaser at retail. The tax imposed by this subsection shall be subject to the credit
 1387 otherwise granted by this article for like taxes previously paid in another state. This
 1388 subsection shall not be construed to require a duplication in the payment of the tax.

1389 (d)(1) Every person to whom tangible personal property in the state is leased or rented
 1390 shall be liable for a tax on the lease or rental at the ~~rate of 4 percent~~ percentage of the
 1391 sales price specified in subsection (a) of this Code section. The tax shall be paid to the
 1392 person who leases or rents the property by the person to whom the property is leased or
 1393 rented. A person who leases or rents property to others as a dealer under this article shall
 1394 remit the tax to the commissioner as provided in this article. When received by the
 1395 commissioner, the tax shall be a credit against the tax imposed on the person who leases
 1396 or rents the property to others. Every person who leases or rents tangible personal

1397 property in this state to others shall be a dealer and shall be liable for a tax on the lease
 1398 or rental at the ~~rate of 4 percent~~ percentage of the sales price specified in subsection (a)
 1399 of this Code section, or the amount of taxes collected by him or her from persons to
 1400 whom he or she leases or rents tangible personal property, whichever is greater.

1401 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
 1402 to another which is not taxable to the person to whom the property is leased or rented.

1403 (3) The lessee of both taxable and exempt property in this state under a single lease
 1404 agreement containing a lease period of ten years or more shall have the option to
 1405 discharge in full all sales and use taxes imposed by this article relating to the tangible
 1406 personal property by paying in a lump sum ~~4 percent~~ the percentage of the fair market
 1407 value of the tangible personal property specified in subsection (a) of this Code section at
 1408 the date of inception of the lease agreement in the same manner and under the same
 1409 conditions applicable to sales of the tangible personal property.

1410 (e) Upon the first instance of use within this state of tangible personal property leased or
 1411 rented outside this state, the person to whom the property is leased or rented shall be a
 1412 dealer and shall be liable for a tax at the ~~rate of 4 percent~~ percentage specified in subsection
 1413 (a) of this Code section of the sales price paid to the person who leased or rented the
 1414 property, subject to the credit authorized for like taxes previously paid in another state.

1415 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
 1416 this state for use within this state shall be liable for a tax at the ~~rate of 4 percent~~
 1417 percentage specified in subsection (a) of this Code section of the sales price paid for that
 1418 lease or rental if that person is a dealer, as defined in Code Section 48-8-2, and title to
 1419 that property remains in that person. It shall be prima-facie evidence that such property
 1420 is to be used within this state if ~~that~~ such property is delivered in this state to the lessee
 1421 or renter of such property, or to the agent of either. The tax shall be paid by the lessee
 1422 or renter, and payment of the tax shall be made to the lessor or person receiving rental
 1423 payments for that property, which person shall be the dealer for purposes of this article.
 1424 The dealer shall remit the tax to the commissioner as provided in this article and, when
 1425 received by the commissioner, the tax shall be a credit against the tax imposed on the
 1426 dealer. Every person who is a dealer, as defined in Code Section 48-8-2, and who leases
 1427 or rents tangible personal property outside this state to be delivered in this state to the
 1428 lessee, renter, or agent of either shall be a dealer and shall be liable as such for a tax on
 1429 the lease or rental at the ~~rate of 4 percent~~ percentage specified in subsection (a) of this
 1430 Code section of the sales price from such leases or rentals or the amount of taxes
 1431 collected by that dealer for leases or rentals of tangible personal property delivered in this
 1432 state, whichever is greater.

1433 (2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or
 1434 renter. The tax imposed by this subsection shall be subject to the credit granted by this
 1435 article for like taxes previously paid in another state. This subsection shall not be
 1436 construed to require a duplication in the payment of the tax.

1437 (f)(1) Every person purchasing or receiving any service within this state, the purchase
 1438 of which is a retail sale, shall be liable for tax on the purchase at the ~~rate of 4 percent~~
 1439 percentage specified in subsection (a) of this Code section of the sales price made for the
 1440 purchase. The tax shall be paid by the person purchasing or receiving the service to the
 1441 person furnishing the service. The person furnishing the service, as a dealer under this
 1442 article, shall remit the tax to the commissioner as provided in this article; and, when
 1443 received by the commissioner, the tax shall be a credit against the tax imposed on the
 1444 person furnishing the service. Every person furnishing a service, the purchase of which
 1445 is a retail sale, shall be a dealer and shall be liable for a tax on the sale at the ~~rate of 4~~
 1446 percent percentage specified in subsection (a) of this Code section of the sales price made
 1447 for furnishing the service, or the amount of taxes collected by him or her from the person
 1448 to whom the service is furnished, whichever is greater.

1449 (2) No sale of services shall be taxable to the person furnishing the service which is not
 1450 taxable to the purchaser of the service.

1451 (g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of
 1452 this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this
 1453 Code section, or a purchaser of taxable services under subsection (f) of this Code section
 1454 does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is
 1455 involved in the taxable transaction, the purchaser, lessee, or renter shall be a dealer himself
 1456 or herself and the commissioner, whenever he or she has reason to believe that a purchaser
 1457 or lessee has not so paid the tax, may assess and collect the tax directly against and from
 1458 the purchaser, lessee, or renter, unless the purchaser, lessee, or renter shows that the
 1459 retailer, lessor, or dealer who is involved in the transaction has nevertheless remitted to the
 1460 commissioner the tax imposed on the transaction. If payment is received directly from the
 1461 purchaser, it shall not be collected a second time from the retailer, lessor, or dealer who is
 1462 involved.

1463 (h) The tax imposed by this Code section shall be collected from the dealer and paid at the
 1464 time and in the manner provided in this article. Any person engaging or continuing in
 1465 business as a retailer and wholesaler or jobber shall pay the tax imposed on the sales price
 1466 of retail sales of the business at the rate specified when proper books are kept showing
 1467 separately the gross proceeds of sales for each business. If the records are not kept
 1468 separately, the tax shall be paid as a retailer or dealer on the gross sales of the business.
 1469 For the purpose of this Code section, all sales through any one vending machine shall be

1470 treated as a single sale. The gross proceeds for reporting vending sales shall be treated as
 1471 if the tax is included in the sale and the taxable proceeds shall be net of the tax included in
 1472 the sale.

1473 (i) The tax levied by this Code section is in addition to all other taxes, whether levied in
 1474 the form of excise, license, or privilege taxes, and shall be in addition to all other fees and
 1475 taxes levied.

1476 (j) In the event any distributor licensed under Chapter 9 of this title purchases any motor
 1477 fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant
 1478 to this Code section and resells the same to a governmental entity that is totally or partially
 1479 exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall
 1480 be entitled to either a credit or refund. The amount of the credit or refund shall be the
 1481 prepaid state tax or prepaid local tax or both rates for which such governmental entity is
 1482 exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be
 1483 eligible for the credit or refund, the distributor shall reduce the amount such distributor
 1484 charges for the fuel sold to such governmental entity by an amount equal to the tax from
 1485 which such governmental entity is exempt. Should a distributor have a liability under this
 1486 Code section, the distributor may elect to take a credit for those sales against such liability.

1487 (k) The prepaid local tax shall be imposed at the time tax is imposed ~~under subparagraph~~
 1488 ~~(b)(2)(B) of Code Section 48-9-14 pursuant to paragraph (23) of Code Section 48-8-2."~~

1489 **SECTION 2-6.**

1490 Said Title 48 is further amended by revising Code Section 48-8-32, relating to collection of
 1491 the tax from dealers, as follows:

1492 "48-8-32.

1493 ~~The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of~~
 1494 ~~the purchase price at the time of purchase, as the case may be, shall be collectable at the~~
 1495 rate specified in subsection (a) of Code Section 48-8-30 from all persons engaged as
 1496 dealers in the sale at retail, or in the use, consumption, distribution, or storage for use or
 1497 consumption in this state of tangible personal property."

1498 **SECTION 2-7.**

1499 Said Title 48 is further amended by revising Code Section 48-8-43, relating to the disposition
 1500 of certain excess taxes, as follows:

1501 "48-8-43.

1502 When the tax collected for any period is in excess of ~~4 percent~~ the rate specified in
 1503 subsection (a) of Code Section 48-8-30, the total tax collected shall be paid over to the
 1504 commissioner less the compensation to be allowed the dealer."

SECTION 2-8.

1505
 1506 Said Title 48 is further amended by revising subsection (e) of Code Section 48-8-63, relating
 1507 to the payment of the tax by certain contractors, as follows:

1508 "(e)(1) Any subcontractor who enters into a construction contract with a general or prime
 1509 contractor shall be liable under this article as a general or prime contractor. Any general
 1510 or prime contractor who enters into any construction contract or contracts with any
 1511 nonresident subcontractor, where the total amount of such contract or contracts between
 1512 such general or prime contractor and any nonresident subcontractors on any given project
 1513 equals or exceeds \$250,000.00, shall withhold ~~2 percent~~ a percentage of the payments due
 1514 the nonresident subcontractor in satisfaction of any sales or use taxes owed this state.
 1515 The percentage shall be at the rate specified in subsection (a) of Code Section 48-8-30.

1516 (2) The prime or general contractor shall withhold payments on all contracts that meet
 1517 the criteria specified in paragraph (1) of this subsection until the nonresident
 1518 subcontractor furnishes such prime or general contractor with a certificate issued by the
 1519 commissioner showing that all sales taxes accruing by reason of the contract between the
 1520 nonresident subcontractor and the general or prime contractor have been paid and
 1521 satisfied. If the prime or general contractor for any reason fails to withhold ~~2 percent~~ the
 1522 percentage of the payments due the nonresident subcontractor under their contract, such
 1523 prime or general contractor shall become liable for any sales or use taxes due or owed this
 1524 state by the nonresident subcontractor."

SECTION 2-9.

1525
 1526 Said Title 48 is further amended by revising subsection (d) of Code Section 48-8-201,
 1527 relating to distribution of proceeds of the water and sewer projects and costs tax, as follows:

1528 "(d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under
 1529 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
 1530 not exceed ~~14~~ 15 percent."

SECTION 2-10.

1531
 1532 Said Title 48 is further amended by revising subsection (a) of Code Section 48-11-2, relating
 1533 to an excise tax on tobacco products, as follows:

1534 "(a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
 1535 upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of
 1536 cigars, cigarettes, and loose or smokeless tobacco in this state at the following rates:

1537 (1) Little cigars: two and one-half mills each;

1538 (2) All cigars other than little cigars: 23 percent of the wholesale cost price, exclusive
 1539 of any trade, cash, or other discounts or any promotion, advertising, display, or similar
 1540 allowances;

1541 (3) Cigarettes:

1542 (A) Until December 31, 2016, 37¢ per pack of 20 cigarettes and a like rate, pro rata,
 1543 for other size packages; and

1544 (B) From January 1, 2017, until December 31, 2017, 45¢ per pack of 20 cigarettes and
 1545 a like rate, pro rata, for other size packages;

1546 (C) From January 1, 2018, until December 31, 2018, 55¢ per pack of 20 cigarettes and
 1547 a like rate, pro rata, for other size packages; and

1548 (D) From January 1, 2019 onward, 65¢ per pack of 20 cigarettes and a like rate, pro
 1549 rata, for other size packages;

1550 (4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any
 1551 trade, cash, or other discounts or any promotion, advertising, display, or similar
 1552 allowances."

1553 **SECTION 2-11.**

1554 Said Title 48 is further amended by revising paragraphs (3.1), (4.1), and (5.1) of subsection
 1555 (a) of Code Section 48-13-51, relating to the excise tax on rooms, lodgings, and
 1556 accommodations, as follows:

1557 "(3.1) Notwithstanding any other provision of this subsection, a county (within the
 1558 territorial limits of the special district located within the county) and the municipalities
 1559 within a county in which a trade and convention center authority has been created by
 1560 intergovernmental contract between a county and one or more municipalities located
 1561 therein, and which trade and convention center authority is in existence on or before
 1562 March 21, 1988, and which trade and convention center authority has not constructed or
 1563 operated any facility before March 21, 1988, may levy a tax under this Code section at
 1564 a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph
 1565 shall expend (in each fiscal year during which the tax is collected under this paragraph)
 1566 an amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 6
 1567 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B)
 1568 funding, supporting, acquiring, constructing, renovating, improving, and equipping
 1569 buildings, structures, and facilities, including, but not limited to, a trade and convention
 1570 center, exhibit hall, conference center, performing arts center, accommodations facilities,
 1571 including food service, or any combination thereof, for convention, trade show, athletic,
 1572 musical, theatrical, cultural, civic, and performing arts purposes and other events and
 1573 activities for similar and related purposes, acquiring the necessary property therefor, both

1574 real and personal, and funding all expenses incident thereto, and supporting, maintaining,
1575 and promoting such facilities owned, operated, or leased by or to the local trade and
1576 convention center authority; or (C) for some combination of such purposes; provided,
1577 however, that at least 50 percent of the total taxes collected at the rate of 6 percent shall
1578 be expended for the purposes specified in subparagraph (B) of this paragraph. Amounts
1579 so expended shall be expended only through a contract or contracts with the state, a
1580 department of state government, a state authority, a convention and visitors bureau
1581 authority created by local Act of the General Assembly for a municipality, a local
1582 building authority created by local constitutional amendment, and a trade and convention
1583 center authority created by intergovernmental contract between a county and one or more
1584 municipalities located therein, or a private sector nonprofit organization or through a
1585 contract or contracts with some combination of such entities. The aggregate amount of
1586 all excise taxes imposed under this paragraph and all sales and use taxes, and other taxes
1587 imposed by a county or municipality, or both, shall not exceed ~~13~~ 14 percent. Any tax
1588 levied pursuant to this paragraph shall terminate not later than December 31, 2029,
1589 provided that during any period during which there remains outstanding any obligation
1590 issued to fund a facility as contemplated by this paragraph, secured in whole or in part
1591 by a pledge of a tax authorized under this Code section, the powers of the counties and
1592 municipalities to impose and distribute the tax imposed by this paragraph shall not be
1593 diminished or impaired by the state, and no county or municipality levying the tax
1594 imposed by this paragraph shall cease to levy the tax in any manner that will impair the
1595 interests and rights of the holder of any such obligation. This proviso shall be for the
1596 benefit of the holder of any such obligation and, upon the issuance of any such obligation
1597 by a building authority created by local constitutional amendment, shall constitute a
1598 contract with the holder of such obligation. Notwithstanding any other provision of this
1599 Code section to the contrary, as used in this paragraph, the term: 'fund' or 'funding' shall
1600 include the cost and expense of all things deemed necessary by a building authority
1601 created by local constitutional amendment for the construction and operation of a facility
1602 or facilities, including, but not limited to, the study, operation, marketing, acquisition,
1603 construction, financing, including the payment of principal and interest on any obligation
1604 of the building authority created by local constitutional amendment and any obligation
1605 of the building authority created by local constitutional amendment to refund any prior
1606 obligation of the building authority created by local constitutional amendment,
1607 development, extension, enlargement, or improvement of land, waters, property, streets,
1608 highways, buildings, structures, equipment, or facilities, and the repayment of any
1609 obligation incurred by an authority in connection therewith; 'obligation' shall include
1610 bonds, notes, or any instrument creating an obligation to pay or reserve moneys and

1611 having an initial term of not more than 37 years; and 'facility' or 'facilities' ~~shall mean~~
 1612 means any of the buildings, structures, and facilities described in subparagraph (B) of this
 1613 paragraph and any associated parking areas or improvements originally owned or
 1614 operated incident to the ownership or operation of such facility used for any purpose or
 1615 purposes specified in subparagraph (B) of this paragraph by a building authority created
 1616 by local constitutional amendment."

1617 "(4.1) Notwithstanding any other provision of this subsection, a county (within the
 1618 territorial limits of the special district located within the county) or municipality within
 1619 a county in which a coliseum authority has been created by local Act of the General
 1620 Assembly and which authority is in existence on or before July 1, 1963, for the purpose
 1621 of owning or operating a facility, may levy a tax under this Code section at a rate of 7
 1622 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
 1623 (in each fiscal year during which the tax is collected under this paragraph) an amount
 1624 equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent for the
 1625 purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and
 1626 supporting a facility owned or operated by such coliseum authority; or (C) for some
 1627 combination of such purposes. Amounts so expended shall be expended only through a
 1628 contract or contracts with the state, a department of state government, a state authority,
 1629 a convention and visitors bureau authority created by local Act of the General Assembly
 1630 for a municipality, a local coliseum authority, or a private sector nonprofit organization,
 1631 or through a contract or contracts with some combination of such entities, except that
 1632 amounts expended for purpose (B) may be so expended in any otherwise lawful manner
 1633 without the necessity of a contract. The aggregate amount of all excise taxes imposed
 1634 under this paragraph and all sales and use taxes, and other taxes imposed by a county or
 1635 municipality, or both, shall not exceed ~~12~~ 13 percent. Any tax levied pursuant to this
 1636 paragraph shall terminate not later than December 31, 2028, provided that during any
 1637 period during which there remains outstanding any obligation which is incurred prior to
 1638 January 1, 1995, issued to fund a facility as contemplated by this paragraph, and secured
 1639 in whole or in part by a pledge of a tax authorized under this Code section, the powers
 1640 of the counties and municipalities to impose and distribute the tax imposed by this
 1641 paragraph shall not be diminished or impaired by the state, and no county or municipality
 1642 levying the tax imposed by this paragraph shall cease to levy the tax in any manner that
 1643 will impair the interest and rights of the holders of any such obligation. This proviso
 1644 shall be for the benefit of the holder of any such obligation and, upon the issuance of any
 1645 such obligation by a coliseum and exhibit hall authority, shall constitute a contract with
 1646 the holder of such obligations. Notwithstanding any other provision of this Code section
 1647 to the contrary, as used in this paragraph, the term: 'fund' ~~and~~ or 'funding' shall include

1648 the cost and expense of all things deemed necessary by a local coliseum authority for the
 1649 construction, renovation, and operation of a facility, including, but not limited to, the
 1650 study, operation, marketing, acquisition, construction, finance, development, extension,
 1651 enlargement, or improvement of land, waters, property, streets, highways, buildings,
 1652 structures, equipment, or facilities, and the repayment of any obligation incurred by a
 1653 local coliseum authority in connection therewith; 'obligation' shall include bonds, notes,
 1654 or any instrument creating an obligation to pay or reserve moneys incurred prior to
 1655 January 1, 1995, and having an initial term of not more than 30 years; and 'facility' shall
 1656 ~~mean~~ mean a coliseum or other facility and any associated parking areas or
 1657 improvements originally owned or operated incident to the ownership or operation of a
 1658 facility used for convention and trade show purposes or amusement purposes, educational
 1659 purposes, or a combination thereof and for fairs, expositions, or exhibitions in connection
 1660 therewith by a local coliseum authority."

1661 "(5.1) Notwithstanding any other provision of this subsection, a county (within the
 1662 territorial limits of the special district located within the county) and the municipalities
 1663 within a county in which a coliseum and exhibit hall authority has been created by local
 1664 Act of the General Assembly for a county and one or more municipalities therein, and
 1665 which local coliseum and exhibit hall authority is in existence on or before January 1,
 1666 1991, and which local coliseum and exhibit hall authority has not constructed or operated
 1667 any facility before January 1, 1991, may levy a tax under this Code section at a rate of 8
 1668 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
 1669 (in each fiscal year during which the tax is collected under this paragraph) an amount
 1670 equal to at least 62 1/2 percent of the total taxes collected at the rate of 8 percent for the
 1671 purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding,
 1672 supporting, acquiring, constructing, renovating, improving, and equipping buildings,
 1673 structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference
 1674 center, performing arts center, or any combination thereof, for convention, trade show,
 1675 athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events
 1676 and activities for similar and related purposes, acquiring the necessary property therefor,
 1677 both real and personal, and funding all expenses incident thereto, and supporting,
 1678 maintaining, and promoting such facilities owned, operated, or leased by or to the local
 1679 coliseum and exhibit hall authority or a downtown development authority; or (C) for
 1680 some combination of such purposes; provided, however, that at least 50 percent of the
 1681 total taxes collected at the rate of 8 percent shall be expended for the purposes specified
 1682 in subparagraph (B) of this paragraph. Amounts so expended shall be expended only
 1683 through a contract or contracts with the state, a department of state government, a state
 1684 authority, a convention and visitors bureau authority created by local Act of the General

1685 Assembly for a municipality, a local coliseum and exhibit hall authority, a downtown
 1686 development authority, or a private sector nonprofit organization or through a contract
 1687 or contracts with some combination of such entities, notwithstanding any provision of
 1688 paragraph (8) of this subsection to the contrary. The aggregate amount of all excise taxes
 1689 imposed under this paragraph and all sales and use taxes, and other taxes imposed by a
 1690 county or municipality, or both, shall not exceed ~~13~~ 14 percent; provided, however, that
 1691 any sales tax for educational purposes which is imposed pursuant to Article VIII, Section
 1692 VI, Paragraph IV of the Constitution shall not be included in calculating such limitation.
 1693 Any tax levied pursuant to this paragraph shall terminate not later than December 31,
 1694 2028, provided that during any period during which there remains outstanding any
 1695 obligation issued to fund a facility as contemplated by this paragraph, secured in whole
 1696 or in part by a pledge of a tax authorized under this Code section, the powers of the
 1697 counties and municipalities to impose and distribute the tax imposed by this paragraph
 1698 shall not be diminished or impaired by the state, and no county or municipality levying
 1699 the tax imposed by this paragraph shall cease to levy the tax in any manner that will
 1700 impair the interests and rights of the holder of any such obligation. This proviso shall be
 1701 for the benefit of the holder of any such obligation and, upon the issuance of any such
 1702 obligation by a local coliseum and exhibit hall authority or a downtown development
 1703 authority, shall constitute a contract with the holder of such obligation. Notwithstanding
 1704 any other provision of this Code section to the contrary, as used in this paragraph, the
 1705 term: 'fund' or 'funding' shall include the cost and expense of all things deemed necessary
 1706 by a local coliseum and exhibit hall authority or a downtown development authority for
 1707 the construction and operation of a facility or facilities, including, but not limited to, the
 1708 study, operation, marketing, acquisition, construction, financing, including the payment
 1709 of principal and interest on any obligation of the local coliseum and exhibit hall authority
 1710 or the downtown development authority and any obligation of the local coliseum and
 1711 exhibit hall authority or the downtown development authority to refund any prior
 1712 obligation of the local coliseum and exhibit hall authority or the downtown development
 1713 authority, development, extension, enlargement, or improvement of land, waters,
 1714 property, streets, highways, buildings, structures, equipment, or facilities, and the
 1715 repayment of any obligation incurred by an authority in connection therewith; 'obligation'
 1716 shall include bonds, notes, or any instrument creating an obligation to pay or reserve
 1717 moneys and having an initial term of not more than 37 years; 'facility' or 'facilities' shall
 1718 ~~mean~~ means any of the buildings, structures, and facilities described in subparagraph (B)
 1719 of this paragraph and any associated parking areas or improvements originally owned or
 1720 operated incident to the ownership or operation of such facility used for any purpose or
 1721 purposes specified in subparagraph (B) of this paragraph by a local coliseum and exhibit

1722 hall authority or a downtown development authority; and 'downtown development
1723 authority' ~~shall mean~~ means a downtown development authority created by local Act of
1724 the General Assembly for a municipality pursuant to a local constitutional amendment."

1725 **PART III**

1726 **SECTION 3-1.**

1727 The General Assembly recognizes that the communications industry has become increasingly
1728 competitive and that the distinctions among the providers of the various types of
1729 communications services have become blurred. The General Assembly desires to treat
1730 similar services consistently under the tax laws of this state. Accordingly, the General
1731 Assembly finds that it is no longer appropriate for the providers of certain types of
1732 communications services to be required to pay a myriad of local taxes, licenses, and fees
1733 while other communications services providers are not required to pay some or all of such
1734 taxes, licenses, and fees. The General Assembly finds, however, that it is in the best interests
1735 of the state and its political subdivisions that the tax revenues available to such political
1736 subdivisions not be diminished by the elimination of certain local taxes, licenses, and fees
1737 imposed on communications services providers and that a state level communications
1738 services tax imposed equitably on communications services is expected at a minimum to
1739 provide to each such political subdivision comparable tax revenues to the local taxes,
1740 licenses, and fees that should be eliminated. The General Assembly further finds that, in
1741 order to promote investment in Georgia's communications infrastructure and since the
1742 communications services sold will be taxed, the equipment purchased to provide such
1743 communications services should be exempt from state and local sales tax. The General
1744 Assembly further finds that a state-wide communications services tax in lieu of other taxes
1745 on communications would promote simplicity, uniformity, and efficiency in the
1746 administration of and compliance with the taxes on communications services which is in the
1747 best interests of the state. The General Assembly further finds that the sale, purchase, use,
1748 or provision of Internet access service should not be subject to any tax or fee imposed by this
1749 state, or any of its political subdivisions, to promote Internet access service availability for
1750 all Georgians and to encourage deployment of broadband infrastructure to underserved areas
1751 of this state.

1752 **SECTION 3-2.**

1753 This part of this Act shall be known and may be cited as the "Georgia Communications
1754 Services Tax Act."

1755 **SECTION 3-3.**

1756 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 1757 amended in Code Section 48-8-2, relating to definitions regarding sales and use tax, by
 1758 revising paragraphs (31), (34), (34.1), and (39) and by adding new paragraphs to read as
 1759 follows:

1760 "(4.1) 'Call center' means one or more locations that utilize telecommunications services
 1761 in one or more of the following activities: customer services, soliciting sales, reactivating
 1762 dormant accounts, conducting surveys or research, fundraising, collection of receivables,
 1763 receiving reservations, receiving orders, or taking orders."

1764 "(5.1) 'Communications services' means telecommunications services, ancillary services,
 1765 and video programming services. The term shall not include Internet access service."

1766 "(11.2) 'Digital code' means a code which provides a purchaser with a right to obtain one
 1767 or more such products having the same tax treatment. A digital code may be obtained by
 1768 any means, including e-mail or by tangible means regardless of its designation as 'song
 1769 code,' 'video code,' or 'book code.'

1770 (11.3) 'Digital audio works' means works that result from the fixation of a series of
 1771 musical, spoken, or other sounds, including ringtones. For purposes of the definition of
 1772 'digital audio works,' 'ringtones' means digitized sound files that are downloaded onto a
 1773 device and that may be used to alert the customer with respect to a communication.

1774 (11.4) 'Digital audio-visual works' means a series of related images which, when shown
 1775 in succession, impart an impression of motion, together with accompanying sounds, if
 1776 any.

1777 (11.5) 'Digital books' means works that are generally recognized in the ordinary and
 1778 usual sense as books.

1779 (11.6) 'Direct broadcast satellite service' means the distribution or broadcasting of video
 1780 programming or service by satellite directly to a subscriber's or customer's receiving
 1781 equipment."

1782 "(16.1) 'Internet access service' means a service that enables users to connect to the
 1783 Internet to access content, information, or other services offered over the Internet, without
 1784 regard to whether such service is referred to telecommunications, communications,
 1785 transmission, or similar service, and without regard to whether a provider of such service
 1786 is subject to regulation by the Georgia Public Service Commission or the Federal
 1787 Communications Commission. The term includes the purchase, use, or sale of
 1788 communications services by a provider of Internet access service to the extent such
 1789 communications services are purchased, used, or sold to provide Internet access service,
 1790 regardless of the level of such service, or to otherwise enable users to access content,
 1791 information, or other services offered over the Internet."

1792 "(18.1) 'Mobile telecommunications service' has the same meaning given to such term
 1793 in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L. 106-252."

1794 "(31) 'Retail sale' or a 'sale at retail' means any sale, lease, or rental for any purpose other
 1795 than for resale, sublease, or subrent. Sales for resale must be made in strict compliance
 1796 with the commissioner's rules and regulations. Any dealer making a sale for resale which
 1797 is not in strict compliance with the commissioner's rules and regulations shall be liable
 1798 for and shall pay the tax. The terms 'retail sale' or 'sale at retail' include but are not
 1799 limited to the following:

1800 (A) Except as otherwise provided in this chapter, the sale of natural or artificial gas,
 1801 oil, electricity, solid fuel, transportation, ~~local telephone services~~ prepaid calling service
 1802 and prepaid wireless calling service, alcoholic beverages, and tobacco products, when
 1803 made to any purchaser for purposes other than resale. Sales of communications
 1804 services other than prepaid calling service and prepaid wireless calling service shall not
 1805 be retail sales or sales at retail for purposes of this chapter and shall not be subject to
 1806 the tax imposed by this chapter;

1807 (B) The sale or charges for any room, lodging, or accommodation furnished to
 1808 transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which
 1809 rooms, lodgings, or accommodations are regularly furnished to transients for a
 1810 consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied
 1811 for a period of 90 continuous days or more;

1812 (C) Sales of tickets, fees, or charges made for admission to, or voluntary contributions
 1813 made to places of, amusement, sports, or entertainment including, but not limited to:

1814 (i) Billiard and pool rooms;

1815 (ii) Bowling alleys;

1816 (iii) Amusement devices;

1817 (iv) Musical devices;

1818 (v) Theaters;

1819 (vi) Opera houses;

1820 (vii) Moving picture shows;

1821 (viii) Vaudeville;

1822 (ix) Amusement parks;

1823 (x) Athletic contests including, but not limited to, wrestling matches, prize fights,
 1824 boxing and wrestling exhibitions, football games, and baseball games;

1825 (xi) Skating rinks;

1826 (xii) Race tracks;

1827 (xiii) Public bathing places;

1828 (xiv) Public dance halls; and

1829 (xv) Any other place at which any exhibition, display, amusement, or entertainment
1830 is offered to the public or any other place where an admission fee is charged;

1831 (D) Charges made for participation in games and amusement activities;

1832 (E) Sales of tangible personal property to persons for resale when there is a likelihood
1833 that the state will lose tax funds due to the difficulty of policing the business operations
1834 because:

1835 (i) Of the operation of the business;

1836 (ii) Of the very nature of the business;

1837 (iii) Of the turnover of so-called independent contractors;

1838 (iv) Of the lack of a place of business in which to display a certificate of registration;

1839 (v) Of the lack of a place of business in which to keep records;

1840 (vi) Of the lack of adequate records;

1841 (vii) The persons are minors or transients;

1842 (viii) The persons are engaged in essentially service businesses; or

1843 (ix) Of any other reasonable reason.

1844 The commissioner may promulgate rules and regulations requiring vendors of persons
1845 described in this subparagraph to collect the tax imposed by this article on the retail
1846 price of the tangible personal property. The commissioner shall refuse to issue
1847 certificates of registration and may revoke certificates of registration issued in violation
1848 of his rules and regulations; or

1849 ~~(F) Charges, which applied to sales of telephone service, made for local exchange~~
1850 ~~telephone service, except coin operated telephone service, except as otherwise provided~~
1851 ~~in subparagraph (G) of this paragraph; or In the case of any bundled transaction:~~

1852 ~~(G)(i)~~ (i) If the price is attributable to products or services that are taxable and products
1853 or services that are nontaxable, the portion of the price attributable to the nontaxable
1854 products or services may be subject to tax unless the provider can identify by
1855 reasonable and verifiable standards such portion from its books and records that are
1856 kept in the regular course of business for other purposes, including, but not limited to,
1857 nontax purposes.

1858 (ii) If the price is attributable to products or services that are subject to tax at different
1859 tax rates or subject to different taxes, the total price may be treated as attributable to
1860 the products or services subject to tax at the ~~highest tax~~ higher rate or the higher-rate
1861 tax unless the provider can identify by reasonable and verifiable standards the portion
1862 of the price attributable to the products or services subject to tax at the lower rate or
1863 the lower-rate tax from the provider's books and records that are kept in the regular
1864 course of business for other purposes, including, but not limited to, nontax purposes."

- 1865 "(34)(A) 'Sales price' applies to the measure subject to sales tax and means the total
1866 amount of consideration, including cash, credit, property, and services, for which
1867 personal property or services are sold, leased, or rented, valued in money, whether
1868 received in money or otherwise without any deduction for the following:
- 1869 (i) The seller's cost of the property sold;
 - 1870 (ii) The cost of materials used, labor, or service cost, interest, losses, all costs of
1871 transportation to the seller, all taxes imposed on the seller, and any other expense of
1872 the seller;
 - 1873 (iii) Charges by the seller for any services necessary to complete the sale; and
 - 1874 (iv) Delivery charges.
- 1875 (B) Sales price shall not include:
- 1876 (i) Discounts, including cash, term, or coupons that are not reimbursed by a third
1877 party that are allowed by a seller and taken by a purchaser on a sale;
 - 1878 (ii) Interest, financing, and carrying charges from credit extended on the sale of
1879 personal property or services, if the amount is separately stated on the invoice, bill of
1880 sale, or similar document given to the purchaser;
 - 1881 (iii) Any taxes legally imposed directly on the consumer that are separately stated on
1882 the invoice, bill of sale, or similar document given to the purchaser;
 - 1883 (iv) Installation charges if they are separately stated on the invoice, billing, or similar
1884 document given to the purchaser;
 - 1885 (v) Telecommunications nonrecurring charges if they are separately stated on the
1886 invoice, billing, or similar document; and
 - 1887 (vi) Credit for any trade-in.
- 1888 (C) Sales price shall include consideration received by the seller from third parties if:
- 1889 (i) The seller actually receives consideration from a party other than the purchaser
1890 and the consideration is directly related to a price reduction or discount on the sale;
 - 1891 (ii) The seller has an obligation to pass the price reduction or discount through to the
1892 purchaser;
 - 1893 (iii) The amount of the consideration attributable to the sale is fixed and determinable
1894 by the seller at the time of the sale of the item to the purchaser; and
 - 1895 (iv) One of the following criteria is met:
 - 1896 (I) The purchaser presents a coupon, certificate, or other documentation to the seller
1897 to claim a price reduction or discount where the coupon, certificate, or
1898 documentation is authorized, distributed, or granted by a third party with the
1899 understanding that the third party will reimburse any seller to whom the coupon,
1900 certificate, or documentation is presented;

1901 (II) The purchaser identifies himself or herself to the seller as a member of a group
 1902 or organization entitled to a price reduction or discount; provided, however, that a
 1903 preferred customer card that is available to any patron shall not constitute
 1904 membership in such a group; or

1905 (III) The price reduction or discount is identified as a third-party price reduction or
 1906 discount on the invoice received by the purchaser or on a coupon, certificate, or
 1907 other documentation presented by the purchaser."

1908 "(34.1) ~~Reserved~~ 'Specified digital products' means electronically transferred digital
 1909 audio-visual works, digital audio works, and digital books."

1910 "(39) 'Telecommunications ~~service~~ services' means the electronic transmission,
 1911 conveyance, or routing of voice, data, audio, video, or any other information or signals
 1912 to a point, or between or among points. The term telecommunications ~~service~~ services
 1913 includes such transmission, conveyance, or routing in which computer processing
 1914 applications are used to act on the form, code, or protocol of the content for purposes of
 1915 transmission, conveyance, or routing without regard to whether such ~~service is~~ services
 1916 are referred to as voice over Internet protocol services or ~~is~~ are classified by the Federal
 1917 Communications Commission as enhanced or value added. Telecommunications ~~service~~
 1918 services shall not include:

1919 (A) Data processing and information services that allow data to be generated, acquired,
 1920 stored, processed, or retrieved and delivered by an electronic transmission to a
 1921 purchaser where such purchaser's primary purpose for the underlying transaction is the
 1922 processed data or information;

1923 (B) Installation or maintenance of wiring or equipment on a customer's premises;

1924 (C) Tangible personal property;

1925 (D) Advertising, including but not limited to directory advertising;

1926 (E) Billing and collection services provided to third parties;

1927 (F) Internet access service;

1928 (G) ~~Radio and television audio and video~~ Video programming services, ~~regardless of~~
 1929 ~~the medium, including the furnishing of transmission, conveyance, and routing of such~~
 1930 ~~services by the programming service provider. Radio and television audio and video~~
 1931 ~~programming services shall include but not be limited to cable service as defined in 47~~
 1932 ~~U.S.C. Section 522(6) and audio and video programming services delivered by~~
 1933 ~~commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3;~~

1934 (H) Ancillary services; or

1935 (I) Digital products delivered electronically, including but not limited to software,
 1936 music, video, reading materials, or ring tones."

1937 "(39.2) 'Transferred electronically' means obtained by the purchaser by means other than
 1938 tangible storage media. For purposes of this Code section, it is not necessary that a copy
 1939 of the product be physically transferred to the purchaser. A product will be considered
 1940 to have been transferred electronically to a purchaser if the purchaser has access to the
 1941 product."

1942 "(42.1) 'Video programming services' means the sale, offering, transmission, conveyance,
 1943 or routing of audio or video programming services for purchase by subscribers or
 1944 customers, regardless of the medium, technology, or method of display, including the
 1945 furnishing of transmission, conveyance, and routing of such programming by the
 1946 programming services provider. Such term shall include, but not be limited to:

1947 (A) Cable service, as defined in Section 602(6) of the Communications Act of 1934
 1948 (47 U.S.C. Section 522);

1949 (B) Interactive on-demand service, as defined in Section 602(12) of such Act
 1950 (47 U.S.C. Section 522);

1951 (C) The provision of video programming by a multichannel video programming
 1952 distributor, as defined in paragraphs (20) and (13) of Section 602 of such Act
 1953 (47 U.S.C. Section 522);

1954 (D) The distribution of audio or video programming by providers of mobile service,
 1955 as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, when such
 1956 service is offered for purchase by subscribers or customers of such service;

1957 (E) Digital audio works sold to an end user with rights of less than permanent use,
 1958 regardless of whether the end user is required to make continued payments for such
 1959 rights; and

1960 (F) Digital audio-visual works sold to an end user with rights of less than permanent
 1961 use, regardless of whether the end user is required to make continued payments for such
 1962 rights."

1963 **SECTION 3-4.**

1964 Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales
 1965 and use taxes, by replacing "; or" with a semicolon at the end of paragraph (94), by replacing
 1966 the period at the end of paragraph (95) with "; or", and by adding new paragraphs to read as
 1967 follows:

1968 "(96) The sale of any products or services purchased by a communications services
 1969 provider for further commercial broadcast, rebroadcast, transmission, or retransmission,
 1970 in whole or in part, to another person as such product or as communications services.

1971 (97)(A) Sales of equipment used in the business of providing communications services
 1972 in this state.

1973 (B) The term 'equipment used in the business of providing communications services'
 1974 means all equipment, machinery, software, or other infrastructure that is used in whole
 1975 or in part in producing, broadcasting, distributing, sending, receiving, storing,
 1976 transmitting, retransmitting, amplifying, switching, or routing communications services
 1977 or Internet access services, including the monitoring, testing, maintaining, enabling, or
 1978 facilitating of such equipment, machinery, software, or other infrastructure. Such term
 1979 includes, but is not limited to, wires, cables, antennas, poles, switches, routers,
 1980 amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, power
 1981 equipment, backup power equipment, diagnostic equipment, storage devices, modems,
 1982 and other general central office equipment, such as channel cards, frames, and
 1983 cabinets."

1984 **SECTION 3-5.**

1985 Said Title 48 is further amended by revising Code Section 48-8-32, relating to collectability
 1986 and rates of sales and use tax, as follows:

1987 "48-8-32.

1988 ~~The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of~~
 1989 ~~the purchase price at the time of purchase, as the case may be,~~ shall be collectable at the
 1990 rate specified in Code Section 48-8-30 from all persons engaged as dealers in the sale at
 1991 retail, or in the use, consumption, distribution, or storage for use or consumption in this
 1992 state of tangible personal property, prepaid calling service, and prepaid wireless calling
 1993 service."

1994 **SECTION 3-6.**

1995 Said Title 48 is further amended in Code Section 48-8-39, relating to the effect of certain use
 1996 of sales tax certificates, by revising subsection (a) as follows:

1997 "(a) If a purchaser who gives a certificate stating that property is purchased for resale
 1998 makes any use of the property other than retention, demonstration, or display while holding
 1999 it for sale in the regular course of business, the use shall be deemed a retail sale by the
 2000 purchaser as of the time the property is first used by ~~him~~ the purchaser, and the purchase
 2001 price of the property to ~~him~~ the purchaser shall be deemed the gross receipts from the retail
 2002 sale. If the sole use of the property other than retention, demonstration, or display in the
 2003 regular course of business is the rental of the property while holding it for sale or the
 2004 transportation of persons for hire while holding the property for sale, the purchaser may
 2005 elect to include in ~~his~~ the purchaser's gross receipts either the amount of the rental charged
 2006 or the total amount of the charges made by ~~him~~ the purchaser for the transportation rather
 2007 than the cost of the property to ~~him~~ the purchaser. If the sole use of the property by a

2008 purchaser, other than retention, demonstration, or display in the regular course of business,
 2009 is the transfer of such property, either free of charge or at a sale price not exceeding the
 2010 purchase price of the property, to another person in conjunction with such other person
 2011 entering into a contract to purchase communications services subject to the tax imposed
 2012 under Chapter 18 of this title, then such use shall be treated as a retail sale to such other
 2013 person for no consideration, in the case of a transfer that is free of charge, or for the sale
 2014 price collected with respect to such transfer."

2015 **SECTION 3-7.**

2016 Said Title 48 is further amended in Code Section 48-8-42, relating to credit for taxes paid in
 2017 other states, by adding a new subsection to read as follows:

2018 "(c) Any communications services provider that erroneously but in good faith pays the tax
 2019 imposed by Chapter 18 of this title on an item of tangible personal property or a service
 2020 subject to the tax imposed by this chapter shall be allowed a credit against the tax imposed
 2021 by this chapter to the extent of the amount of such tax paid."

2022 **SECTION 3-8.**

2023 Said Title 48 is further amended by repealing subsection (e) of Code Section 48-8-77,
 2024 relating to sourcing of local telecommunications services.

2025 **SECTION 3-9.**

2026 Said Title 48 is further amended by adding a new Code section to read as follows:

2027 "48-8-78.

2028 (a) As used in this chapter and Chapter 18 of this title, the term:

2029 (1) 'Air-to-ground radiotelephone service' means a radio service, as that term is defined
 2030 in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio
 2031 telecommunications services for hire to subscribers in an aircraft.

2032 (2) 'Call-by-call basis' means any method of charging for telecommunications services
 2033 where the price is measured by individual calls.

2034 (3) 'Communications channel' means a physical or virtual path of communications over
 2035 which signals are transmitted between or among customer channel termination points.

2036 (4) 'Customer' means the person or entity that contracts with the seller of
 2037 telecommunications services. If the end user of the telecommunications services is not
 2038 the contracting party, the end user of the telecommunications services is the customer of
 2039 the telecommunications services but only for the purpose of sourcing sales of
 2040 telecommunications services. The term customer shall not include a reseller of
 2041 telecommunications services or for mobile telecommunications service of a serving

2042 carrier under an agreement to serve the customer outside the home service provider's
 2043 licensed service area.

2044 (5) 'Customer channel termination point' means, in the context of a private
 2045 communications service, the location where the customer either inputs or receives
 2046 communications.

2047 (6) 'End user' means the person who utilizes a telecommunications service. In the case
 2048 of an entity, the term end user means the individual who utilizes a service on behalf of
 2049 the entity.

2050 (7) 'Home service provider' has the same meaning given to such term in Section 124(5)
 2051 of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4 U.S.C. Section 124(5).

2052 (8) 'Postpaid calling service' means a telecommunications service obtained by making
 2053 a payment on a call-by-call basis either through the use of a credit card or payment
 2054 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made
 2055 to a telephone number which is not associated with the origination or termination of the
 2056 telecommunications service. A postpaid calling service includes a telecommunications
 2057 service, except a prepaid wireless calling service, that would be a prepaid calling service,
 2058 except that the right provided is not exclusively to access telecommunications services.

2059 (9) 'Private communications service' means a telecommunications service that entitles
 2060 the customer to exclusive or priority use of a communications channel or group of
 2061 channels between or among termination points, regardless of the manner in which such
 2062 channel or channels are connected, and includes switching capacity, extension lines,
 2063 stations, and any other associated services that are provided in connection with the use
 2064 of such channel or channels.

2065 (10) 'Service address' means:

2066 (A) The location of the telecommunications equipment to which a customer's call is
 2067 charged and from which the call originates or terminates, regardless of where the call
 2068 is billed or paid;

2069 (B) If the location under subparagraph (A) of this paragraph is not known, the term
 2070 service address means the origination point of the signal of the telecommunications
 2071 service first identified by either the seller's telecommunications system or, in
 2072 information received by the seller from its service provider, where the system used to
 2073 transport such signal is not that of the seller; or

2074 (C) If the locations under both subparagraphs (A) and (B) of this paragraph are not
 2075 known, the term service address means the location of the customer's place of primary
 2076 use.

2077 (b) The provisions of this Code section are solely for the purposes of sourcing
 2078 communications services, the taxability of which is governed by this chapter with respect

2079 to prepaid calling services and prepaid wireless calling services and Chapter 18 of this title
 2080 with respect to all other communications services.

2081 (c) The following sourcing rules shall apply to telecommunications services:

2082 (1) Except as otherwise provided in paragraph (4) of this subsection, telecommunications
 2083 services sold on a call-by-call basis shall be sourced to this state if either of the following
 2084 occurs:

2085 (A) The call both originates and terminates in this state; or

2086 (B) The call either originates in this state or terminates in this state, and the service
 2087 address associated with the call is located in this state;

2088 (2) Except as otherwise provided in paragraph (4) of this subsection, telecommunications
 2089 services sold on a basis other than a call-by-call basis shall be sourced to this state if the
 2090 telecommunications service is charged to a customer whose place of primary use is
 2091 located in this state;

2092 (3) Except as otherwise provided in paragraph (4) of this subsection, mobile
 2093 telecommunications services provided by a customer's home service provider shall be
 2094 sourced to this state if the customer's place of primary use is located in this state; and

2095 (4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the
 2096 following rules shall apply:

2097 (A) Air-to-ground radiotelephone service shall be sourced to this state if the customer's
 2098 place of primary use is located in this state;

2099 (B) Postpaid calling service shall be sourced to this state if the origination point of the
 2100 telecommunications signal is located in this state, as first identified by either of the
 2101 following:

2102 (i) The seller's telecommunications system; or

2103 (ii) Information received by the seller from its service provider, where the system
 2104 used to transport such signal is not that of the seller;

2105 (C) Private communications service shall be sourced to this state under the following
 2106 rules:

2107 (i) Service for a separate charge related to a customer channel termination point shall
 2108 be sourced to this state if the customer channel termination point is located in this
 2109 state;

2110 (ii) Service for a separate charge for the use of a channel that is exclusively between
 2111 two channel termination points located in this state shall be sourced to this state; and

2112 (iii) Where channel termination points of a channel are located both within and
 2113 outside this state:

2114 (I) Fifty percent of any separate charge for a segment of a channel between two
 2115 such channel termination points; and

2116 (II) To the extent that the charge for any segment or segments of a channel is not
 2117 separately billed, an amount equal to the total charge for such channel segment or
 2118 segments multiplied by a fraction, the numerator of which is the number of channel
 2119 termination points located in this state and the denominator of which is the total
 2120 number of channel termination points; and

2121 (D) A sale of prepaid calling service or a sale of prepaid wireless calling service shall
 2122 be sourced in accordance with subsection (b) of Code Section 48-8-77; provided,
 2123 however, that in the case of a sale of prepaid wireless calling service, the rule provided
 2124 in subparagraph (b)(1)(E) of Code Section 48-8-77 shall include as an option the
 2125 location associated with the mobile telephone number.

2126 (d) All communications services other than telecommunications services shall be sourced
 2127 to the customer's place of primary use if located in this state."

2128 **SECTION 3-10.**

2129 Said Title 48 is further amended by adding a new chapter to read as follows:

2130 "CHAPTER 18

2131 48-18-1.

2132 (a) Except as otherwise provided in this Code section, there is imposed on the sales price,
 2133 as defined in paragraph (34) of Code Section 48-8-2, paid for the retail purchase of
 2134 communications services, as defined in paragraph (5.1) of Code Section 48-8-2, that are
 2135 sourced to this state under Code Section 48-8-78 the following:

2136 (1) A state tax on direct broadcast satellite service at the rate of 7 percent;

2137 (2) A state tax on communications services other than direct broadcast satellite service
 2138 at a rate of 5 percent; and

2139 (3)(A) A local tax on communications services other than direct broadcast satellite
 2140 service at the rate of 2 percent.

2141 (B) Where a county fails to comply with the requirements of subsection (e) of Code
 2142 Section 48-18-5, then the tax imposed by this paragraph within the unincorporated area
 2143 of such county shall be an additional 2 percent state tax on communications services
 2144 other than direct broadcast satellite service.

2145 (C) Where a municipality located in a county described in subparagraph (B) of this
 2146 paragraph fails to comply with the requirements of subsection (e) of Code Section
 2147 48-18-5, then the tax imposed by this paragraph within such municipality shall be an
 2148 additional 2 percent state tax on communications services other than direct broadcast
 2149 satellite services.

2150 (b) It is the intent of the legislature that a total combined state and local tax rate of 7
 2151 percent shall be imposed on all communications services throughout the state.

2152 (c) The tax imposed by this chapter shall be paid by the person paying for such
 2153 communications services and shall be collected from such person by the retailer and
 2154 remitted to the department pursuant to Code Section 48-18-5.

2155 (d) No sale of communications services shall be taxable to the person furnishing the
 2156 communications services which is not taxable to the purchaser of the communications
 2157 services.

2158 (e) The sales price paid for the retail purchase of communications services shall not
 2159 include amounts paid for or attributable to:

2160 (1) Communications services which are resold, used as a component part of, or
 2161 integrated into a communications service provided to the ultimate retail purchaser who
 2162 originates or terminates the taxable end-to-end communication, including, but not limited
 2163 to, carrier access charges, right of access charges, interconnection charges paid by the
 2164 providers of mobile telecommunications services or other communications services,
 2165 charges paid by cable or video service providers for the transmission of video or other
 2166 programming by another communications services provider over facilities owned or
 2167 operated by such other communications services provider, charges for the sale of
 2168 unbundled network elements, and charges for use of intercompany facilities;

2169 (2) Coin operated telephone service;

2170 (3) Communications services provided to any person or entity exempt from the tax
 2171 imposed by Chapter 8 of this title;

2172 (4) Discounts, bad debts, taxes, or any other deduction to the extent allowed as a
 2173 deduction under Chapter 8 of this title;

2174 (5) Prepaid calling service, prepaid wireless calling service, tangible personal property,
 2175 or services subject to tax pursuant to Chapter 8 of this title; or

2176 (6) Communications services or transactions among entities under 50 percent or greater,
 2177 direct or indirect, common control.

2178 (f) A retailer of communications services may combine the taxes due under this chapter
 2179 and Chapter 8 of this title as a single line item on the retailer's invoice to a purchaser of
 2180 communications services.

2181 48-18-2.

2182 (a) Notwithstanding any provision of law to the contrary, with respect to sales of
 2183 telecommunications services to any person for use in the operation of one or more call
 2184 centers, the state tax imposed by this chapter shall not exceed \$12,500.00 per calendar year
 2185 and the local tax imposed by this chapter shall not exceed \$12,500.00 per calendar year.

2186 (b) The limitation set forth in subsection (a) of this Code section shall apply only to
2187 holders of a direct payment number issued by the department. In order to obtain such
2188 direct payment number, the applicant shall establish that the applicant satisfies the criteria
2189 for a call center as defined in paragraph (4.1) of Code Section 48-8-2.

2190 (c) The department shall not issue any refunds of taxes paid prior to receiving a direct
2191 payment number.

2192 (d) All entities wholly owned by the same person or entity shall be considered a single
2193 person.

2194 48-18-3.

2195 (a) To prevent multistate taxation of a communications service subject to taxation under
2196 this chapter, any taxpayer, upon proof that such taxpayer has paid a tax in another state on
2197 such service, shall be allowed a credit against the tax imposed by this chapter to the extent
2198 of the amount of such tax paid in such other state.

2199 (b) Any communications services provider that erroneously but in good faith pays the tax
2200 imposed by Chapter 8 of this title on the provision of communications services shall be
2201 allowed credit against the tax imposed by this chapter to the extent of the amount of such
2202 tax paid.

2203 48-18-4.

2204 All procedural and administrative provisions of Chapters 2 and 8 of this title, including
2205 those which set forth the limitations periods and procedures for assessment, collection,
2206 refunds, and credits, and those which fix penalties and interest for nonpayment of tax and
2207 for noncompliance with the provisions of this title, and all other requirements and duties
2208 imposed upon the taxpayer, shall apply to all taxpayers liable for the communications
2209 services tax imposed under the provisions of this chapter and to all providers of
2210 communications services required to collect and remit such taxes. In addition, all
2211 definitions, sourcing rules, customer remedy rules, and bundled transaction rules, which
2212 have been enacted in compliance with the Streamlined Sales and Use Tax Agreement and
2213 codified in Chapter 8 of this title, shall apply to the communications services tax imposed
2214 under the provisions of this chapter. The commissioner shall exercise all power and
2215 authority and perform all duties with respect to persons obligated under this chapter as are
2216 provided in Chapters 2 and 8 of this title, except where there is a conflict, in which case,
2217 the provisions of this chapter shall control. The commissioner may from time to time make
2218 such rules and regulations not inconsistent with this chapter as may be deemed necessary
2219 to carry out its provisions.

2220 48-18-5.

2221 (a) A communications services provider shall be permitted to deduct and retain 2 percent
 2222 of the total communications services tax that is collected and remitted by the provider on
 2223 a timely basis to the department.

2224 (b) The tax imposed by Code Section 48-18-1, including any penalties or interest
 2225 attributable to the nonpayment of such tax or for noncompliance with the provisions of this
 2226 chapter, shall be collected by the department and shall be accounted for separately from all
 2227 other taxes. One percent of the amounts collected shall be paid into the general fund of the
 2228 state treasury in order to defray the costs of administration.

2229 (c)(1) The remaining amounts collected pursuant to paragraphs (1) and (2) of subsection
 2230 (a) of Code Section 48-18-1 shall be credited in the same manner as the state sales and
 2231 use taxes collected pursuant to Article 1 of Chapter 8 of this title.

2232 (2) The remaining amounts collected pursuant to paragraph (3) of subsection (a) of Code
 2233 Section 48-18-1 shall be distributed as follows:

2234 (A) Each municipality or county that has complied with the requirements of
 2235 subsection (e) of this Code section shall receive an amount equal to the average
 2236 monthly revenues that were received from communications services providers during
 2237 2013 by such municipality or county pursuant to taxes, charges, and fees, other than
 2238 local option sales taxes prohibited by Code Section 48-8-6, which were validly imposed
 2239 and in effect during that time. All or part of the proceeds received by a county pursuant
 2240 to this subparagraph may be expended for services provided within the unincorporated
 2241 area of the county including within any special district created by a county for the
 2242 provision of services in all or parts of the unincorporated area of the county; and

2243 (B) The amount remaining after the distributions required by subparagraph (A) of this
 2244 paragraph shall be distributed as follows:

2245 (i) Each municipality that has complied with the requirements of subsection (e) of
 2246 this Code section shall receive an amount equal to such remaining amount multiplied
 2247 by a fraction, the numerator of which is the population in such municipality and the
 2248 denominator of which is the total population of this state, using the most recent annual
 2249 estimates of the population of cities and counties in Georgia as prepared by the United
 2250 States Bureau of the Census; and

2251 (ii) Each county that has complied with the requirements of subsection (e) of this
 2252 Code section shall receive an amount equal to such remaining amount multiplied by
 2253 a fraction, the numerator of which is the sum of the population within the
 2254 unincorporated areas of such county and the denominator of which is the total
 2255 population of this state, using the most recent annual estimates of the population of
 2256 cities and counties in Georgia as prepared by the United States Bureau of the Census.

2257 (d)(1) Each county and municipality that received in 2013 taxes, charges, or fees, other
2258 than local option sales taxes prohibited by Code Section 48-8-6, which were validly
2259 imposed and in effect during that time shall report the amounts of such taxes, charges, or
2260 fees received in 2013 to the department by October 31, 2014.

2261 (2) Each communications services provider that paid in 2013 taxes, charges, or fees,
2262 other than local option sales taxes prohibited by Code Section 48-8-6, shall report the
2263 amount of such taxes, charges, or fees paid in 2013 to the department by October 31,
2264 2014.

2265 (3) The department shall be charged with reviewing such data from all political
2266 subdivisions and communications services providers to ensure accuracy and to reconcile
2267 the data based on the best information available.

2268 (e) Each county and municipality shall impose by ordinance or resolution a local tax on
2269 communications services other than direct broadcast satellite service pursuant to paragraph
2270 (3) of subsection (a) of Code Section 48-18-1 under the following conditions:

2271 (1) On or before December 31 of the year prior to enactment, the county or municipality
2272 shall file with the department a certified copy of the pertinent parts of all ordinances,
2273 resolutions, and amendments thereto which levy the 3.5 percent tax on communications
2274 services other than direct broadcast satellite service;

2275 (2) Such ordinance shall have an effective date of January 1 of the following year;

2276 (3) The filing required by this subsection shall be a condition to the imposition of the
2277 local tax pursuant to paragraph (3) of subsection (a) of Code Section 48-18-1 by a county
2278 or a municipality; and

2279 (4) If a county or municipality does not file with the department a certified copy of the
2280 pertinent parts of all ordinances, resolutions, and amendments thereto which levy the 3.5
2281 percent tax on communications services other than direct broadcast satellite service as
2282 required in paragraph (1) of this subsection, or if a county or municipality does not
2283 provide the department with the amounts of taxes, charges, or fees received in 2013, as
2284 required in paragraph (1) of subsection (d) of this Code section, the department shall
2285 upon receipt of such information distribute such funds on the first day of the next
2286 succeeding calendar quarter.

2287 (f) Other than for purposes of collecting and remitting certain enhanced 9-1-1 charges,
2288 providers of communications services shall not be required to identify, report, or source
2289 communications services or communications services tax on the county or municipal level.

2290 (g) The state auditor shall annually review the disbursements pursuant to paragraph (2) of
2291 subsection (c) of this Code section for each fiscal year. The state auditor shall issue such
2292 state auditor's findings to the Governor on or before December 31 of each year, and a copy
2293 shall be posted on the state auditor's website.

2294 48-18-6.

2295 (a)(1) For purposes of this subsection, the term 'providers of communications services'
 2296 shall include parties providing infrastructure directly involved in the transmission,
 2297 receipt, or processing of radio waves or electrical signals used in the provision or
 2298 provisioning of communications services. Infrastructure shall include, but not be limited
 2299 to, towers, poles, and other structures of whatever kind to which are attached antennas
 2300 or other equipment for the transmission or receipt of radio waves or electrical signals, as
 2301 well as fixtures necessary to affix antennas or other equipment to such towers, poles, or
 2302 structures. Infrastructure shall not include residences or commercial or industrial
 2303 buildings. Parties providing infrastructure are considered providers of communications
 2304 services only to the extent of their provision or provisioning of such infrastructure.

2305 (2) Except as provided in paragraph (4) of this subsection, no county, municipality, or
 2306 other political subdivision of this state shall:

2307 (A) Levy any tax, charge, fee, or other imposition on or with respect to
 2308 communications services, or collect any such tax, charge, fee, or other imposition, from
 2309 providers of communications services;

2310 (B) Require any provider of communications services, including, but not limited to,
 2311 cable service providers or other video programming service providers, to enter into or
 2312 extend the term of a franchise or other agreement which requires the payment of a tax,
 2313 charge, fee, or other imposition; or

2314 (C) Adopt or enforce any provision of any ordinance or agreement to the extent that
 2315 such provision obligates a provider of communications services to pay to the county
 2316 and municipality a tax, charge, fee, or other imposition.

2317 (3) For purposes of this subsection, a tax, charge, fee, or other imposition includes any
 2318 amount or in-kind payment of property or services which is required by ordinance or
 2319 agreement to be paid or furnished to a political subdivision by or through a provider of
 2320 communications services in its capacity as a provider of communications services,
 2321 regardless of whether such tax, charge, fee, or in-kind payment of property or services
 2322 is:

2323 (A) Designated as a franchise fee, excise tax, sales tax, services tax, user fee,
 2324 occupancy fee, occupational or business license tax or fee, subscriber charge, tower fee,
 2325 base station fee, or otherwise;

2326 (B) Measured by the amounts charged or received for services, the type of equipment
 2327 or facilities deployed, or otherwise;

2328 (C) Intended as compensation for the use of public rights of way, the right to conduct
 2329 business, or otherwise; or

2330 (D) Permitted or required to be separately stated on the customer's bill.

2331 (4) This subsection shall not apply to:
 2332 (A) Ad valorem taxes levied pursuant to Chapter 5 of this title;
 2333 (B) Emergency telephone surcharges;
 2334 (C) Amounts charged for the rental or other use of property owned by a public body
 2335 which is not in the public rights of way to a provider of communications services for
 2336 any purpose, including, but not limited to, the placement or attachment of equipment
 2337 used in the provision of communications services;
 2338 (D) Amounts charged for the rental of space on a utility pole or tower owned by a
 2339 political subdivision of this state, whether in the public right of way or not, for the
 2340 attachment of equipment used in the provision of communications services;
 2341 (E) Permit fees generally imposed and applicable to a majority of all other businesses,
 2342 which are not related to placing or maintaining facilities in or on public roads or rights
 2343 of way;
 2344 (F) Taxes, charges, and fees which are ordinary and generally applicable which are
 2345 validly levied and required to be paid by a person in a capacity other than its capacity
 2346 as a provider of communications services. Such taxes, charges, and fees include, by
 2347 way of example, and are not limited to, taxes, charges, and fees for water, sewer,
 2348 electricity, sanitation, police, fire, or other such services, or any special district,
 2349 community improvement district, or similar such district services, or any taxes, fees,
 2350 or assessments imposed to pay bonded indebtedness;
 2351 (G) Taxes imposed pursuant to paragraph (3) of subsection (a) of Code Section
 2352 48-18-1;
 2353 (H) Zoning, construction, and similar application fees, provided such fees do not
 2354 exceed the lower of either the actual direct cost incurred by the county or municipality
 2355 in the review of such applications or the amount generally imposed by the county or
 2356 municipality for zoning, construction, and similar applications; and
 2357 (I) Any civil penalties or fines, any criminal penalties or fines, or both.
 2358 (5) This subsection shall not preempt the provisions of Code Section 25-9-6 or 25-9-13
 2359 and shall not be construed to prohibit a municipality or county from seeking to recover
 2360 the actual direct cost of repairing damage to public streets caused by a communications
 2361 services provider's installation or repair of its facilities.
 2362 (b) In establishing guidelines and conditions for placing, constructing, repairing, or
 2363 maintaining communications lines or facilities over, on, under, through, or along any public
 2364 highways, public roads, public streets, or other public places or rights of way, neither the
 2365 state nor any agency or political subdivision thereof shall discriminate between or among
 2366 communications services providers in violation of Section 253(c) of the Communications
 2367 Act of 1934, 47 U.S.C. Section 253(c).

2368 **SECTION 3-11.**

2369 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 2370 in Code Section 36-76-2, relating to definitions regarding expedited franchising of cable and
 2371 video services, by revising paragraphs (1) and (8) as follows:

2372 ~~"(1) 'Advertising and home shopping services revenues' means the amount of a cable~~
 2373 ~~service provider or video service provider's nonsubscriber revenues from advertising~~
 2374 ~~disseminated through cable service or video service and home shopping services. The~~
 2375 ~~amount of such revenues that are allocable to a municipality or county shall be equal to~~
 2376 ~~the total amount of the cable service provider or video service provider's revenue received~~
 2377 ~~from such advertising and home shopping services multiplied by the ratio of the number~~
 2378 ~~of such provider's subscribers located in such municipality or in the unincorporated area~~
 2379 ~~of such county to the total number of such provider's subscribers. Such ratio shall be~~
 2380 ~~based on the number of such provider's subscribers as of January 1 of the current year,~~
 2381 ~~except that in the first year in which services are provided, such ratio shall be computed~~
 2382 ~~as of the earliest practical date Reserved."~~

2383 ~~"(8) 'Gross revenues' means all revenues received from subscribers for the provision of~~
 2384 ~~cable service or video service, including franchise fees for cable service providers and~~
 2385 ~~video service providers, and advertising and home shopping services revenues and shall~~
 2386 ~~be determined in accordance with generally accepted accounting principles. Gross~~
 2387 ~~revenues shall not include:~~

2388 ~~(A) Amounts billed and collected as a line item on the subscriber's bill to recover any~~
 2389 ~~taxes, surcharges, or governmental fees that are imposed on or with respect to the~~
 2390 ~~services provided or measured by the charges, receipts, or payments therefor; provided,~~
 2391 ~~however, that for purposes of this Code section, such tax, surcharge, or governmental~~
 2392 ~~fee shall not include any ad valorem taxes, net income taxes, or generally applicable~~
 2393 ~~business or occupation taxes not measured exclusively as a percentage of the charges,~~
 2394 ~~receipts, or payments for services;~~

2395 ~~(B) Any revenue, such as bad debt, not actually received, even if billed;~~

2396 ~~(C) Any revenue received by any affiliate or any other person in exchange for~~
 2397 ~~supplying goods or services used by the provider to provide cable service or video~~
 2398 ~~programming;~~

2399 ~~(D) Any amounts attributable to refunds, rebates, or discounts;~~

2400 ~~(E) Any revenue from services provided over the network that are associated with or~~
 2401 ~~classified as noncable or nonvideo services under federal law, including, without~~
 2402 ~~limitation, revenues received from telecommunications services, information services~~
 2403 ~~other than cable service or video service, Internet access services, or directory or~~
 2404 ~~Internet advertising revenue, including, without limitation, yellow pages, white pages,~~

2405 ~~banner advertisements, and electronic publishing advertising. Where the sale of any~~
 2406 ~~such noncable or nonvideo service is bundled with the sale of one or more cable~~
 2407 ~~services or video services and sold for a single nonitemized price, the term 'gross~~
 2408 ~~revenues' shall include only those revenues that are attributable to cable service or video~~
 2409 ~~service based on the provider's books and records; such revenues shall be allocated in~~
 2410 ~~a manner consistent with generally accepted accounting principles;~~
 2411 ~~(F) Any revenue from late fees not initially booked as revenues, returned check fees,~~
 2412 ~~or interest;~~
 2413 ~~(G) Any revenue from sales or rental of property, except such property as the~~
 2414 ~~subscriber shall be required to buy or rent exclusively from the cable service provider~~
 2415 ~~or video service provider to receive cable service or video service;~~
 2416 ~~(H) Any revenue received from providing or maintaining inside wiring;~~
 2417 ~~(I) Any revenue from sales for resale with respect to which the purchaser shall be~~
 2418 ~~required to pay a franchise fee, provided the purchaser certifies in writing that it shall~~
 2419 ~~resell the service and pay a franchise fee with respect thereto; or~~
 2420 ~~(J) Any amounts attributable to a reimbursement of costs including, but not limited to,~~
 2421 ~~the reimbursements by programmers of marketing costs incurred for the promotion or~~
 2422 ~~introduction of video programming Reserved."~~

2423

SECTION 3-12.

2424 Said Title 36 is further amended by revising subsection (c) and paragraphs (4) and (8) of
 2425 subsection (g) of Code Section 36-76-4, relating to application process for a state franchise,
 2426 as follows:

2427 "(c) The application for a state franchise shall consist of an affidavit signed by an officer
 2428 or general partner of the applicant that contains each of the following:

2429 (1) An affirmative declaration that the applicant shall comply with all applicable federal
 2430 and state laws and regulations, including municipal and county ordinances and
 2431 regulations regarding the placement and maintenance of facilities in the public right of
 2432 way that are generally applicable to all users of the public right of way and specifically
 2433 including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act';

2434 (2) A description of the applicant's service area, which description shall be sufficiently
 2435 detailed so as to allow a local government to respond to subscriber inquiries, including
 2436 the name of each municipal or county governing authority within the service area. For
 2437 the purposes of this paragraph, an applicant may, in lieu of or as a supplement to a written
 2438 description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that
 2439 fairly depicts the service area by making reference to the municipal or county governing
 2440 authority to be served. If the ~~geographical~~ geographic area is less than an entire

2441 municipality or county, the map shall describe the boundaries of the geographic area to
 2442 be served in clear and concise terms;

2443 (3) The location of the applicant's principal place of business, the name or names of the
 2444 principal executive officer or officers of the applicant, information concerning payment
 2445 locations or addresses, and general information concerning equipment returns; and

2446 (4) Certification that the applicant is authorized to conduct business in the State of
 2447 Georgia and that the applicant possesses satisfactory financial and technical capability
 2448 to provide cable service or video service and a description of such capabilities. Such
 2449 certification shall not be required from an incumbent service provider or any cable
 2450 service provider or video service provider that has wireline facilities located in the public
 2451 right of way as of January 1, 2008; ~~and~~

2452 ~~(5) Notice to the affected local governing authority of its right to designate a franchise~~
 2453 ~~fee pursuant to Code Section 36-76-6."~~

2454 ~~"(4) An incumbent service provider that elects to terminate a franchise under this~~
 2455 ~~subsection shall continue to provide PEG access support, as such existed on January 1,~~
 2456 ~~2007, under the same terms as the terminated local franchise had it not been terminated~~
 2457 ~~until the local franchise would have expired under its own terms Reserved."~~

2458 "(8) Each holder of a state franchise shall have the obligation to provide access to the
 2459 same number of PEG channels pursuant to Code Section 36-76-8 ~~and the additional PEG~~
 2460 ~~support cash payments specified in this paragraph for PEG access facilities in a service~~
 2461 ~~area as the incumbent service provider with the most subscribers in such service area as~~
 2462 ~~of January 1, 2007, which obligation shall continue until the local franchise would have~~
 2463 ~~expired under its own terms as specified in paragraph (4) of this subsection; provided,~~
 2464 ~~however, that if a local franchise would have expired before July 1, 2012, the holder of~~
 2465 ~~a state franchise shall continue to provide access to the same number of PEG channels~~
 2466 ~~until July 1, 2012, as provided in paragraph (5) of this subsection. To the extent such~~
 2467 ~~incumbent service provider provides PEG access support during said period in the form~~
 2468 ~~of periodic payments to the municipal or county governing authority equal to a~~
 2469 ~~percentage of gross revenue or a prescribed per subscriber amount, the state franchise~~
 2470 ~~holder shall be obligated to make the same periodic payments to the governing authority~~
 2471 ~~at the same time and equal to the same percentage of gross revenue or prescribed per~~
 2472 ~~subscriber amount. To the extent such incumbent service provider provides PEG access~~
 2473 ~~support to the applicable governing authority during said period in the form of a lump~~
 2474 ~~sum payment that remains unsatisfied as of January 1, 2008, the holder of a state~~
 2475 ~~franchise shall be obligated to provide a lump sum payment to said authority based on its~~
 2476 ~~proportion of the total number of cable service and video service subscribers of all service~~
 2477 ~~providers in such service area. No payments shall be due under this paragraph until the~~

2478 ~~municipality or county notifies the respective providers, in writing, of the percentage of~~
 2479 ~~gross revenues, the per subscriber amount, or the lump sum payment amount and the~~
 2480 ~~expiration date of the local franchise obtaining such obligations. The holder of a state~~
 2481 ~~franchise may designate that portion of the subscriber's bill attributable to any fee~~
 2482 ~~imposed pursuant to this paragraph as a separate item on the bill and recover such amount~~
 2483 ~~from the subscriber."~~

2484 **SECTION 3-13.**

2485 Said Title 36 is further amended by revising Code Section 36-76-6, relating to franchise fees,
 2486 as follows:

2487 "36-76-6.

2488 ~~(a)(1) The holder of a state franchise, whether a cable service provider or a video service~~
 2489 ~~provider, shall pay to each affected local governing authority which complies with this~~
 2490 ~~Code section a franchise fee which shall not exceed the maximum percentage rate~~
 2491 ~~permitted in 47 U.S.C. Section 542(b) of such holder's gross revenues received from the~~
 2492 ~~provision of cable service or video service to subscribers located within such holder's~~
 2493 ~~service area.~~

2494 ~~(2) Each affected local governing authority or its authorized designee shall provide~~
 2495 ~~written notice to the Secretary of State and each applicant for or holder of a state~~
 2496 ~~franchise with a service area located within that affected local governing authority's~~
 2497 ~~jurisdiction of the franchise fee rate that applies to the applicant for or holder of such state~~
 2498 ~~franchise. The applicant for or holder of a state franchise shall start assessing the~~
 2499 ~~franchise fee within 15 days of receipt of written notice from the affected local governing~~
 2500 ~~authority or its authorized designee and shall not be required to pay such franchise fee~~
 2501 ~~until the expiration of 15 days after receipt of such written notice. Any incumbent service~~
 2502 ~~provider who obtains a state franchise under paragraph (1) of subsection (g) of Code~~
 2503 ~~Section 36-76-4 shall pay its existing franchise fee during the 15-day period after receipt~~
 2504 ~~of written notice of the new fee. The franchise fee rate shall be uniformly applicable to~~
 2505 ~~all cable service providers and video service providers that obtain a state franchise within~~
 2506 ~~the affected local governing authority. For purposes of this Code section, an authorized~~
 2507 ~~designee is an agent authorized by charter or other act of the affected local governing~~
 2508 ~~authority.~~

2509 ~~(3) Any affected local governing authority may change the franchise fee applicable to~~
 2510 ~~holders of a state franchise once every two years. The affected local governing authority~~
 2511 ~~or its authorized designee shall provide written notice to the Secretary of State and the~~
 2512 ~~applicants for or holders of a state franchise with a service area within that affected local~~
 2513 ~~governing authority's jurisdiction of the new franchise fee rate. The holder of a state~~

2514 ~~franchise shall start assessing the new franchise fee within 45 days of receipt of written~~
2515 ~~notice of the change from the affected local governing authority or its authorized~~
2516 ~~designee. The franchise fee rate shall be uniformly applicable to all cable service~~
2517 ~~providers and video service providers that obtain a state franchise within the affected~~
2518 ~~local governing authority's jurisdiction.~~

2519 ~~(b) Such franchise fee shall be paid directly to each affected local governing authority~~
2520 ~~within 30 days after the last day of each calendar quarter. Such payment shall be~~
2521 ~~considered complete if accompanied by a statement showing, for the quarter covered by~~
2522 ~~the payment:~~

2523 ~~(1) The aggregate amount of the state franchise holder's gross revenues, specifically~~
2524 ~~identifying subscriber and advertising and home shopping services revenues under this~~
2525 ~~chapter insofar as the franchise holder's existing billing systems include such capability,~~
2526 ~~attributable to such municipality or unincorporated areas of the county; and~~

2527 ~~(2) The amount of the franchise fee payment due to such municipality or county.~~

2528 ~~In the event that franchise fees are not paid on or before the dates specified above, then the~~
2529 ~~affected local governing authority shall provide written notice to the franchise holder~~
2530 ~~giving the cable service provider or video service provider 15 days from the date of the~~
2531 ~~franchise holder's receipt of such notice to cure any such nonpayment. In the event~~
2532 ~~franchise fees are not remitted to the affected local government authority postmarked on~~
2533 ~~or before the expiration of the 15 day cure period, then the holder of the state franchise~~
2534 ~~shall pay interest thereon at a rate of 1 percent per month to the affected local governing~~
2535 ~~authority. If the 15 day cure period expires on Saturday, Sunday, or a legal holiday, the~~
2536 ~~due date shall be the next business day. Moreover, the franchise holder shall not be~~
2537 ~~assessed interest on late payments if franchise payments were submitted in error to a~~
2538 ~~neighboring local governing authority.~~

2539 ~~(c) Each affected local governing authority may, no more than once annually, audit the~~
2540 ~~business records of the state franchise holder to the extent necessary to ensure payment in~~
2541 ~~accordance with this Code section. For purposes of this subsection, an audit shall be~~
2542 ~~defined as a comprehensive review of the records of the holder of a state franchise. Once~~
2543 ~~any audited period of a state franchise holder has been the subject of a requested audit, such~~
2544 ~~audited period of such state franchise holder shall not again be the subject of any audit. In~~
2545 ~~the event of a dispute concerning the amount of the franchise fee due to an affected local~~
2546 ~~governing authority under this Code section, an action may be brought in a court of~~
2547 ~~competent jurisdiction by an affected local governing authority seeking to recover an~~
2548 ~~additional amount alleged to be due or by a state franchise holder seeking a refund of an~~
2549 ~~alleged overpayment; provided, however, that any such action shall be brought within three~~
2550 ~~years following the end of the quarter to which the disputed amount relates. Such time~~

2551 period may be extended by written agreement between the state issued franchise holder and
2552 such affected local governing authority. Each party shall bear the party's own costs
2553 incurred in connection with any such examination or dispute. In the event that an affected
2554 local governing authority files an action to recover alleged underpayments of franchise fees
2555 and a court of competent jurisdiction determines the cable service provider or video service
2556 provider has underpaid franchise fees due for any 12 month period by 10 percent or more,
2557 the cable service provider or video service provider may be required to pay the affected
2558 local governing authority its reasonable costs associated with the audit along with any
2559 franchise fee underpayments; provided, however, late payments shall not apply.

2560 (d) ~~The statements made pursuant to subsection (b) of this Code section and any records~~
2561 ~~or information furnished or disclosed by a cable service provider or video service provider~~
2562 ~~to an affected local governing authority pursuant to subsection (c) of this Code section shall~~
2563 ~~be exempt from public inspection under Article 4 of Chapter 18 of Title 50.~~

2564 (e) ~~No acceptance of any payment shall be construed as a release or as an accord and~~
2565 ~~satisfaction of any claim an affected local governing authority may have for further or~~
2566 ~~additional sums payable as a franchise fee.~~

2567 (f) ~~Any amounts overpaid by the holder of a state franchise shall be deducted from future~~
2568 ~~franchise payments.~~

2569 (g) ~~The holder of a state franchise may designate that portion of a subscriber's bill~~
2570 ~~attributable to any franchise fee imposed pursuant to this Code section as a separate item~~
2571 ~~on the bill and recover such amount from the subscriber; provided, however, that such~~
2572 ~~separate listing shall be referred to as a 'franchise' or a 'franchise fee.'~~

2573 (h) ~~No affected local governing authority shall levy any additional tax, license, fee,~~
2574 ~~surcharge, or other assessment on a cable service provider or video service provider for or~~
2575 ~~with respect to the use of any public right of way other than the franchise fee authorized~~
2576 ~~by this Code section. Nor shall an affected local governing authority levy any other tax,~~
2577 ~~license, fee, or assessment on a cable service provider or video service provider or its~~
2578 ~~subscribers that is not generally imposed and applicable to a majority of all other~~
2579 ~~businesses. The franchise fee authorized by this Code section shall be in lieu of any permit~~
2580 ~~fee, encroachment fee, degradation fee, or other fee that could otherwise be assessed on a~~
2581 ~~state issued franchise holder for the holder's occupation or work within the public right of~~
2582 ~~way; provided, however, that nothing in this Code section shall restrict the right of any~~
2583 ~~municipal or county governing authority to impose ad valorem taxes, sales taxes, or other~~
2584 ~~taxes lawfully imposed on a majority of all other businesses within such municipality or~~
2585 ~~county~~ Reserved."

SECTION 3-14.

2586

2587 Said Title 36 is further amended in Code Section 36-76-10, relating to limitations on
2588 requirements for state franchise holders, by revising paragraph (4) as follows:

2589 "(4) The enactment and enforcement of lawful and reasonable laws and rules and
2590 municipal or county ordinances and regulations concerning excavation, permitting,
2591 bonding requirements, indemnification requirements, and placement and maintenance of
2592 facilities in any public right of way that are generally applicable to all users of any public
2593 right of way, ~~except to the extent specifically precluded by subsection (h) of Code~~
2594 ~~Section 36-76-6; and"~~

SECTION 3-15.

2595

2596 Title 46 of the Official Code of Georgia Annotated, relating to public utilities, is amended
2597 by revising Code Section 46-5-1, relating to exercise of eminent domain by telephone
2598 companies, as follows:

2599 "46-5-1.

2600 (a)(1) Any telephone company chartered by the laws of this or any other state shall have
2601 the right to construct, maintain, and operate its lines and facilities upon, under, along, and
2602 over the public roads and highways and rights of way of this state with the approval of
2603 the county or municipal authorities in charge of such roads, highways, and rights of way.
2604 The approval of such municipal authorities shall be limited to the process set forth in
2605 paragraph (3) of subsection (b) of this Code section, and the approval of the county shall
2606 be limited to the permitting process set forth in subsection (c) of this Code section. ~~Upon~~
2607 ~~making due compensation, as defined for municipal authorities in paragraph (9) of~~
2608 ~~subsection (b) of this Code section and as provided for counties in subsection (c) of this~~
2609 ~~Code section,~~ a A telephone company shall have the right to construct, maintain, and
2610 operate its lines through or over any lands of this state; on, along, and upon the right of
2611 way and structures of any railroads; and, where necessary, under or over any private
2612 lands; and, to that end, a telephone company may have and exercise the right of eminent
2613 domain.

2614 (2) Notwithstanding any other law, a municipal authority or county shall not:

2615 (A) Require any telephone company to apply for or enter into an individual license,
2616 franchise, or other agreement with such municipal authority or county; or

2617 (B) Impose any occupational license tax or fee as a condition of placing or maintaining
2618 lines and facilities in its public roads and highways or rights of way, except as
2619 specifically set forth in this Code section.

2620 (3) A county or municipal authority shall not impose any occupational license, tax, fee,
2621 regulation, obligation, or requirement upon the provision of the services described in

2622 paragraphs (1) and (2) of Code Section 46-5-221, ~~including any occupational license, tax,~~
 2623 ~~fee, regulation, obligation, or requirement specifically set forth in any part of this chapter~~
 2624 ~~other than Part 4.~~

2625 (4) Whenever a telephone company exercises its powers under paragraph (1) of this
 2626 subsection, the posts, arms, insulators, and other fixtures of its lines shall be erected,
 2627 placed, and maintained so as not to obstruct or interfere with the ordinary use of such
 2628 railroads or public roads and highways, or with the convenience of any landowners, more
 2629 than may be unavoidable. Any lines constructed by a telephone company on the right of
 2630 way of any railroad company shall be subject to relocation so as to conform to any uses
 2631 and needs of such railroad company for railroad purposes. Such fixtures, posts, and wires
 2632 shall be erected at such distances from the tracks of said railroads as will prevent any and
 2633 all damage to said railroad companies by the falling of said fixtures, posts, or wires upon
 2634 said railroad tracks; and such telephone companies shall be liable to said railroad
 2635 companies for all damages resulting from a failure to comply with this Code section.

2636 (5) No county or municipal authority shall impose upon a telephone company any
 2637 build-out requirements on network construction or service deployment, and, to the extent
 2638 that a telephone company has elected alternative regulation pursuant to Code Section
 2639 46-5-165, such company may satisfy its obligations pursuant to paragraph (2) of Code
 2640 Section 46-5-169 by providing communications ~~service~~ services, at the company's option,
 2641 through any affiliated companies and through the use of any technology or service
 2642 arrangement; provided, however, that such company shall remain subject to its
 2643 obligations as set forth in paragraphs (4) and (5) of Code Section 46-5-169. The
 2644 obligations required pursuant to paragraph (2) of Code Section 46-5-169 shall not apply
 2645 to a telephone company that has elected alternative regulation pursuant to Code Section
 2646 46-5-165 and does not receive distributions from the Universal Access Fund as provided
 2647 for in Code Section 46-5-167.

2648 (b)(1) Except as set forth in paragraph (6) of this subsection, any telephone company that
 2649 places or seeks to place lines and facilities in the public roads and highways or rights of
 2650 way of a municipal authority shall provide to such municipal authority the following
 2651 information:

2652 (A) The name, address, and telephone number of a principal office and local agent of
 2653 such telephone company;

2654 (B) Proof of certification from the Georgia Public Service Commission of such
 2655 telephone company to provide telecommunications services in this state;

2656 (C) Proof of insurance or self-insurance of such telephone company adequate to defend
 2657 and cover claims of third parties and of municipal authorities;

2658 (D) A description of the telephone company's service area, which description shall be
2659 sufficiently detailed so as to allow a municipal authority to respond to subscriber
2660 inquiries. For the purposes of this paragraph, a telephone company may, in lieu of or
2661 as a supplement to a written description, provide a map on 8 1/2 by 11 inch paper that
2662 is clear and legible and that fairly depicts the service area within the boundaries of the
2663 municipal authority. If such service area is less than the boundaries of an entire
2664 municipal authority, the map shall describe the boundaries of the geographic area to be
2665 served in clear and concise terms;

2666 (E) A description of the services to be provided;

2667 (F) An affirmative declaration that the telephone company shall comply with all
2668 applicable federal, state, and local laws and regulations, including municipal ordinances
2669 and regulations, regarding the placement and maintenance of facilities in the public
2670 rights of way that are reasonable, nondiscriminatory, and applicable to all users of the
2671 public rights of way, including the requirements of Chapter 9 of Title 25, the 'Georgia
2672 Utility Facility Protection Act'; and

2673 (G) A statement in bold type at the top of the application as follows: 'Pursuant to
2674 paragraph (2) of subsection (b) of Code Section 46-5-1 of the Official Code of Georgia
2675 Annotated, the municipal authority shall notify the applicant of any deficiencies in this
2676 application within 15 business days of receipt of this application.'

2677 (2) If an application is incomplete, the municipal authority shall notify the telephone
2678 company within 15 business days of the receipt of such application; such notice shall
2679 specifically identify all application deficiencies. If no such notification is given within
2680 15 business days of the receipt of an application, such application shall be deemed
2681 complete.

2682 (3) Within 60 calendar days of the receipt of a completed application, the municipal
2683 authority may adopt such application by adoption of a resolution or ordinance or by
2684 notification to the telephone company. The failure of a municipal authority to adopt an
2685 application within 60 calendar days of the receipt of a completed application shall
2686 constitute final adoption of such application.

2687 (4) If it modifies its service area or provisioned services identified in the original
2688 application, the telephone company shall notify the municipal authority of changes to the
2689 service area or the services provided. Such notice shall be given at least 20 days prior to
2690 the effective date of such change. Such notification shall contain a geographic
2691 description of the new service area or areas and new services to be provided within the
2692 jurisdiction of the affected municipal authority, if any. The municipal authority shall
2693 provide to all telephone companies located in its rights of way written notice of

2694 annexations and changes in municipal corporate boundaries which, for the purposes of
2695 this Code section, shall become effective 30 days following receipt.

2696 (5) An application adopted pursuant to this Code section may be terminated by a
2697 telephone company by submitting a notice of termination to the affected municipal
2698 authority. For purposes of this Code section, such notice shall identify the telephone
2699 company, the affected service area, and the effective date of such termination, which shall
2700 not be less than 60 calendar days from the date of filing the notice of termination.

2701 (6) Any telephone company that has previously obtained permits for the placement of
2702 its facilities, has specified the name of such telephone company in such permit
2703 application, has previously placed its facilities in any public right of way, and has paid
2704 and continues to pay any applicable municipal authority's ~~occupational license taxes,~~
2705 ~~permit fees, franchise fees,~~ except as set forth in paragraph (8) of this subsection, or, if
2706 applicable, county permit fees shall be deemed to have complied with this Code section
2707 without any further action on the part of such telephone company except as set forth in
2708 paragraphs (8), ~~(9), (11), and (17)~~ (10) of this subsection.

2709 (7) Any telephone company that has placed lines and facilities in the public roads and
2710 highways or rights of way of a municipal authority without first obtaining permits or
2711 otherwise notifying the appropriate municipal authority of its presence in the public roads
2712 and highways or rights of way shall provide the information required by paragraph (1)
2713 of this subsection, if applicable, to such municipal authority on or before October 1, 2008.
2714 As of October 1, 2008, if any telephone company, other than those who meet the
2715 requirements of paragraph (6) of this subsection, has failed or fails to provide the
2716 information required by paragraph (1) of this subsection to the municipal authority in
2717 which its lines or facilities are located, such municipal authority shall provide written
2718 notice to such telephone company giving that company 15 calendar days from the date
2719 of receipt of such notice to comply with this subsection. In the event the 15 calendar day
2720 cure period expires without compliance, such municipal authority may petition the
2721 Georgia Public Service Commission which shall, after an opportunity for a hearing, order
2722 the appropriate relief.

2723 (8)(A) In the event any telephone company has an existing, valid municipal franchise
2724 agreement as of January 1, 2008, the terms and conditions of such existing franchise
2725 agreement, with the exception of any imposition of taxes, charges, or fees prohibited
2726 pursuant to Code Section 48-18-6, shall only remain effective and enforceable until the
2727 expiration of the existing agreement or December 31, ~~2012~~ 2015, whichever shall first
2728 occur.

2729 ~~(B) In the event any telephone company is paying an existing occupational license tax~~
2730 ~~or fee, based on actual recurring local services revenues, as of January 1, 2008, such~~

2731 ~~payment shall be considered the payment of due compensation without further action~~
 2732 ~~on the part of the municipal authority. In the event that the rate of such existing tax or~~
 2733 ~~fee exceeds 3 percent of actual recurring local service revenues, that rate shall remain~~
 2734 ~~effective until December 31, 2012; thereafter, the payment by such telephone company~~
 2735 ~~at the rate of 3 percent shall be considered the payment of due compensation without~~
 2736 ~~further action on the part of the municipal authority.~~

2737 ~~(9) As used in this Code section, 'due compensation' for a municipal authority means an~~
 2738 ~~amount equal to no more than 3 percent of actual recurring local service revenues~~
 2739 ~~received by such company from its retail, end user customers located within the~~
 2740 ~~boundaries of such municipal authority. 'Actual recurring local service revenues' means~~
 2741 ~~those revenues customarily included in the Uniform System of Accounts as prescribed~~
 2742 ~~by the Federal Communications Commission for Class 'A' and 'B' companies; provided,~~
 2743 ~~however, that only the local service portion of the following accounts shall be included:~~

2744 ~~(A) Basic local service revenue, as defined in 47 C.F.R. 32.5000;~~

2745 ~~(B) Basic area revenue, as defined in 47 C.F.R. 32.5001;~~

2746 ~~(C) Optional extended area revenue, as defined in 47 C.F.R. 32.5002;~~

2747 ~~(D) Public telephone revenue, as defined in 47 C.F.R. 32.5010;~~

2748 ~~(E) Local private line revenue, as defined in 47 C.F.R. 35.5040; provided, however,~~
 2749 ~~that the portion of such accounts attributable to audio and video program transmission~~
 2750 ~~service where both terminals of the private line are within the corporate limits of the~~
 2751 ~~municipal authority shall not be included;~~

2752 ~~(F) Other local exchange revenue, as defined in 47 C.F.R. 32.5060;~~

2753 ~~(G) Local exchange service, as defined in 47 C.F.R. 32.5069;~~

2754 ~~(H) Network access revenue, as defined in 47 C.F.R. 32.5080;~~

2755 ~~(I) Directory revenue, as defined in 47 C.F.R. 32.5320; provided, however, that the~~
 2756 ~~portion of such accounts attributable to revenue derived from listings in portion of~~
 2757 ~~directories not considered white pages shall not be included;~~

2758 ~~(J) Nonregulated operating revenue, as defined in 47 C.F.R. 32.5280; provided,~~
 2759 ~~however, that the portion of such accounts attributable to revenues derived from private~~
 2760 ~~lines shall not be included; and~~

2761 ~~(K) Uncollectible revenue, as defined in 47 C.F.R. 32.5300.~~

2762 ~~Any charge imposed by a municipal authority shall be assessed in a nondiscriminatory~~
 2763 ~~and competitively neutral manner.~~

2764 ~~(10) Any due compensation paid to municipal authorities pursuant to paragraph (9) of~~
 2765 ~~this subsection shall be in lieu of any other permit fee, encroachment fee, degradation fee,~~
 2766 ~~disruption fee, business license tax, occupational license tax, occupational license fee, or~~
 2767 ~~other fee otherwise permitted pursuant to the provisions of subparagraph (A) of paragraph~~

2768 ~~(7) of Code Section 36-34-2 or Code Section 32-4-92 et seq. or any other provision of~~
2769 ~~law regardless of nomenclature.~~

2770 ~~(11) A telephone company with facilities in the public rights of way of a municipal~~
2771 ~~authority shall begin assessing due compensation, as defined in subsection (a) of this~~
2772 ~~Code section, on subscribers on the date that service commences unless such company~~
2773 ~~is currently paying a municipal authority's occupational license tax. Such due~~
2774 ~~compensation shall be paid directly to each affected municipal authority within 30~~
2775 ~~calendar days after the last day of each calendar quarter. In the event that due~~
2776 ~~compensation is not paid on or before 30 calendar days after the last day of each calendar~~
2777 ~~quarter, the affected municipal authority shall provide written notice to such telephone~~
2778 ~~company, giving such company 15 calendar days from the date such company receives~~
2779 ~~such notice to cure any such nonpayment. In the event the due compensation remitted~~
2780 ~~to the affected municipal authority is not postmarked on or before the expiration of the~~
2781 ~~15-day cure period, such company shall pay interest thereon at a rate of 1 percent per~~
2782 ~~month to the affected municipal authority. If the 15 day cure period expires on a~~
2783 ~~Saturday, a Sunday, or a state legal holiday, the due date shall be the next business day.~~
2784 ~~A telephone company shall not be assessed any interest on late payments if due~~
2785 ~~compensation was submitted in error to a neighboring municipal authority.~~

2786 ~~(12) Each municipal authority may, no more than once annually, audit the business~~
2787 ~~records of a telephone company to the extent necessary to ensure payment in accordance~~
2788 ~~with this Code section. As used in this Code section, 'audit' means a comprehensive~~
2789 ~~review of the records of a company which is reasonably related to the calculation and~~
2790 ~~payment of due compensation. Once any audited period of a company has been the~~
2791 ~~subject of a requested audit, such audited period of such company shall not again be the~~
2792 ~~subject of any audit. In the event of a dispute concerning the amount of due~~
2793 ~~compensation due to an affected municipal authority under this Code section, an action~~
2794 ~~may be brought in a court of competent jurisdiction by an affected municipal authority~~
2795 ~~seeking to recover an additional amount alleged to be due or by a company seeking a~~
2796 ~~refund of an alleged overpayment; provided, however, that any such action shall be~~
2797 ~~brought within three years following the end of the quarter to which the disputed amount~~
2798 ~~relates, although such time period may be extended by written agreement between the~~
2799 ~~company and such affected municipal authority. Each party shall bear the party's own~~
2800 ~~costs incurred in connection with any dispute. The auditing municipal authority shall~~
2801 ~~bear the cost of the audit, provided, however, that if an affected municipal authority files~~
2802 ~~an action to recover alleged underpayments of due compensation and a court of~~
2803 ~~competent jurisdiction determines the company has underpaid due compensation due for~~
2804 ~~any 12-month period by 10 percent or more, such company shall be required to pay such~~

2805 ~~municipal authority's reasonable costs associated with such audit along with any due~~
 2806 ~~compensation underpayments, provided, further, that late payments shall not apply. All~~
 2807 ~~undisputed amounts due to a municipal authority resulting from an audit shall be paid to~~
 2808 ~~the municipal authority within 45 days, or interest shall accrue.~~

2809 ~~(13)(9) The information provided pursuant to paragraph (1) of this subsection and any~~
 2810 ~~records or information furnished or disclosed by a telephone company to an affected~~
 2811 ~~municipal authority pursuant to paragraph (12) of this subsection shall be exempt from~~
 2812 ~~public inspection under Article 4 of Chapter 18 of Title 50. It shall be the duty of such~~
 2813 ~~telephone company to mark all such documents as exempt from Article 4 of Chapter 18~~
 2814 ~~of Title 50, and the telephone company shall defend, indemnify, and hold harmless any~~
 2815 ~~municipal authority and any municipal officer or employee in any request for, or in any~~
 2816 ~~action seeking, access to such records.~~

2817 ~~(14) No acceptance of any payment shall be construed as a release or as an accord and~~
 2818 ~~satisfaction of any claim an affected municipal authority may have for further or~~
 2819 ~~additional sums payable as due compensation.~~

2820 ~~(15) Any amounts overpaid by a company as due compensation shall be deducted from~~
 2821 ~~future due compensation owed.~~

2822 ~~(16) A telephone company paying due compensation pursuant to this Code section may~~
 2823 ~~designate that portion of a subscriber's bill attributable to such charge as a separate line~~
 2824 ~~item of the bill and recover such amount from the subscriber.~~

2825 ~~(17)(10) Nothing in this Code section shall affect the authority of a municipal authority~~
 2826 ~~to require telephone companies accessing the public roads and highways and rights of~~
 2827 ~~way of a municipal authority to obtain permits and otherwise comply with the reasonable~~
 2828 ~~regulations established pursuant to paragraph (10) of subsection (a) of Code Section~~
 2829 ~~32-4-92.~~

2830 ~~(18) If a telephone company does not have retail, end user customers located within the~~
 2831 ~~boundaries of a municipal authority, then the payment by such company at the same rates~~
 2832 ~~that such payments were being made as of January 1, 2008, to a municipal authority for~~
 2833 ~~the use of its rights of way shall be considered the payment of due compensation;~~
 2834 ~~provided, however, that at the expiration date of any existing agreement for use of such~~
 2835 ~~municipal rights of way or December 31, 2012, whichever is earlier, the payment at rates~~
 2836 ~~in accordance with the rates set by regulations promulgated by the Department of~~
 2837 ~~Transportation shall be considered the payment of due compensation. Provided, further,~~
 2838 ~~that if a telephone company begins providing service after January 1, 2008, and such~~
 2839 ~~telephone company does not have retail, end user customers located within the~~
 2840 ~~boundaries of a municipal authority, the payment by such company at rates in accordance~~
 2841 ~~with the rates set by regulations promulgated by the Department of Transportation to a~~

2842 ~~municipal authority for the use of its rights of way shall be considered the payment of due~~
 2843 ~~compensation.~~

2844 ~~(19) Nothing in this Code section shall be construed to affect any franchise fee payments~~
 2845 ~~which were in dispute on or before January 1, 2008.~~

2846 (c) If a telephone company accesses the public roads and highways and rights of way of
 2847 a county and such county requires such telephone company to pay due compensation, such
 2848 due compensation shall be limited to an administrative cost recoupment fee which shall not
 2849 exceed such county's direct, actual costs incurred in its permitting process, including
 2850 issuing and processing permits, plan reviews, physical inspection and direct administrative
 2851 costs; and such costs shall be demonstrable and shall be equitable among applicable users
 2852 of such county's roads and highways or rights of way. Permit fees shall not include the
 2853 costs of highway or rights of way acquisition or any general administrative, management,
 2854 or maintenance costs of the roads and highways or rights of way and shall not be imposed
 2855 for any activity that does not require the physical disturbance of such public roads and
 2856 highways or rights of way or does not impair access to or full use of such public roads and
 2857 highways or rights of way. Nothing in this Code section shall affect the authority of a
 2858 county to require a telephone company to comply with reasonable regulations for
 2859 construction of telephone lines and facilities in public highways or rights of way pursuant
 2860 to the provisions of paragraph (6) of Code Section 32-4-42."

2861 **PART IV**

2862 **SECTION 4-1.**

2863 (a) This Act shall become effective on January 1, 2016, and shall be applicable to all taxable
 2864 years beginning on or after that date.

2865 (b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not
 2866 be affected by the passage of this Act and shall continue to be governed by the provisions of
 2867 the Official Code of Georgia Annotated as it existed immediately prior to the effective date
 2868 of this Act.

2869 (c) This Act shall not abate any prosecution, punishment, penalty, administrative
 2870 proceedings or remedies, or civil action related to any violation of law committed prior to
 2871 January 1, 2016.

2872 **SECTION 4-2.**

2873 All laws and parts of laws in conflict with this Act are repealed.