

House Bill 277 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 129<sup>th</sup>, Harbin of the 118<sup>th</sup>, Sheldon of the 105<sup>th</sup>, Burkhalter of the 50<sup>th</sup>, Shaw of the 176<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To enact the "Transportation Investment Act of 2010"; to provide for a short title; to amend  
 2 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
 3 so as to provide for certain powers and duties of the Department of Transportation; to  
 4 provide for certain responsibilities of the commissioner of transportation; to provide for  
 5 certain responsibilities of the director of planning; to suspend restrictions on the use by  
 6 public transit authorities of local sales and use tax proceeds; to change the membership of  
 7 the board of directors of the Metropolitan Atlanta Rapid Transit Authority; to provide for a  
 8 Georgia Coordinating Committee for Rural and Human Services Transportation; to amend  
 9 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as  
 10 to provide for legislative findings and intent; to provide for the creation of special districts;  
 11 to provide for a special district transportation sales and use tax in such special districts; to  
 12 provide for definitions; to provide for an exemption from the cap on the imposition of local  
 13 sales and use taxes; to provide for the development of an investment list of projects; to  
 14 provide for a referendum; to provide for the rate and manner of imposition of such tax; to  
 15 provide for collection and administration of such tax; to provide for use of the proceeds of  
 16 such tax; to provide for returns; to provide for distribution and expenditure of proceeds; to  
 17 provide for annual reporting; to provide for regional Citizens Review Panels; to provide for  
 18 tax credits; to provide for certain exemptions; to provide for the effect on any local sales and  
 19 use taxes; to provide for judicial actions; to amend Title 50 of the Official Code of Georgia  
 20 Annotated, relating to state government, so as to provide for the creation of the Transit  
 21 Governance Study Commission; to provide for related matters; to provide for effective dates;  
 22 to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

25 This Act shall be known and may be cited as the "Transportation Investment Act of 2010."

26 **SECTION 1.1.**

27 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
28 is amended by revising subsection (a) of Code Section 32-2-41, relating to the powers and  
29 duties of the commissioner of transportation, as follows:

30 "(a) As the chief executive officer of the department, the commissioner shall have direct  
31 and full control of the department. He or she shall possess, exercise, and perform all the  
32 duties, powers, and authority which may be vested in the department by law, except those  
33 duties, powers, and authority which are expressly reserved by law to the board or the  
34 director of planning. The commissioner's principal responsibility shall be the faithful  
35 implementation of transportation plans produced by the director of planning and approved  
36 by the Governor and the State Transportation Board, subject to the terms of such  
37 appropriations Acts as may be adopted from time to time. The commissioner shall also be  
38 responsible for the duties and activities assigned to the commissioner in Article 5 of  
39 Chapter 8 of Title 48. When the board is not in regular or called session, the commissioner  
40 shall perform, exercise, and possess all duties, powers, and authority of the board except:

- 41 (1) Approval of the advertising of nonnegotiated construction contracts; and  
42 (2) Approval of authority lease agreements.

43 The commissioner shall also have the authority to exercise the power of eminent domain  
44 and to execute all contracts, authority lease agreements, and all other functions except those  
45 that cannot legally be delegated to him or her by the board."

46 **SECTION 2.**

47 Said title is further amended by revising Code Section 32-2-43, relating to the responsibilities  
48 of the director of planning, as follows:

49 "32-2-43.

50 (a) There shall be a director of planning appointed by the Governor subject to approval by  
51 a majority vote of both the House Transportation Committee and the Senate Transportation  
52 Committee. The director shall serve during the term of the Governor by whom he or she  
53 is appointed and at the pleasure of the Governor. Before assuming the duties of his or her  
54 office, the director shall qualify by giving bond with a corporate surety licensed to do  
55 business in this state, such bond to be in the amount of \$500,000.00 and payable to the  
56 Governor and his or her successors in office. The bond shall be subject to the approval of  
57 the Governor and shall be conditioned on the faithful discharge of the duties of the office.  
58 The premium for the bond shall be paid out of the funds of the department.

59 (b) The director of planning's principal responsibility shall be the development of  
60 transportation plans, including the development of the state-wide strategic transportation  
61 plan and state-wide transportation improvement program and other comprehensive plans

62 pursuant to the provisions of Code Section 32-2-3 and Code Section 32-2-22, strategic  
 63 transportation plans pursuant to the provisions of Code Section 32-2-41.1, and benchmarks  
 64 and value engineering studies pursuant to the provisions of Code Section 32-2-41.2, in  
 65 consultation with the board, the Governor, and the commissioner. The director shall also  
 66 be responsible for the duties and activities assigned to the director in Article 5 of Chapter  
 67 8 of Title 48. The director shall be the director of the Planning Division of the department  
 68 and shall possess, exercise, and perform all the duties, powers, and authority which may  
 69 be vested in such division by law and are necessary or appropriate for such purpose, except  
 70 those duties, powers, and authority which are expressly reserved by law to the board or the  
 71 commissioner."

### 72 SECTION 3.

73 Said title is further amended by adding new Code sections immediately following Code  
 74 Section 32-9-12 to read as follows:

75 "32-9-13.

76 Provisions in all laws, whether general or local, including but not limited to the  
 77 Metropolitan Atlanta Rapid Transit Authority Act of 1965 approved March 10, 1965 (Ga.  
 78 L. 1965, p. 2243), as amended, that set forth restrictions on the use by public transit  
 79 authorities of annual proceeds from local sales and use taxes shall be suspended for the  
 80 period beginning on the effective date of this Code section and continuing for three years.  
 81 The greater discretion over such funds shall not abrogate the obligation of the public transit  
 82 authority to comply with federal and state safety regulations and guidelines. Newly  
 83 unrestricted funds shall be utilized, subject to total funding, to maintain the level of service  
 84 for the transit system as it existed on January 1, 2010. Furthermore, except as had been  
 85 previously contracted to by the public transit authority prior to January 1, 2010, no funds  
 86 newly unrestricted during this suspended period shall be used by a public transit authority  
 87 to benefit any person or other entity for any of the following: annual cost-of-living or merit  
 88 based salary raises or increases in hourly wages; increased overtime due to such wage  
 89 increases; payment of bonuses; or to increase the level of benefits of any kind.

90 32-9-14.

91 (a) Any provisions to the contrary in the Metropolitan Atlanta Rapid Transit Authority Act  
 92 of 1965, approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, notwithstanding,  
 93 the terms of all members of the board of directors of the Metropolitan Atlanta Rapid  
 94 Transit Authority shall terminate on December 31, 2010, and the board shall be  
 95 reconstituted according to the provisions of this Code section.

96 (b) Effective January 1, 2011, the board of directors of the authority shall be composed of  
97 11 voting members and one nonvoting member. Of the voting members: three members  
98 shall be residents of the City of Atlanta to be nominated by the mayor and elected by the  
99 city council; four members shall be residents of DeKalb County to be appointed by the  
100 DeKalb County Board of Commissioners and at least one of such appointees shall be a  
101 resident of that portion of DeKalb County lying south of the southernmost corporate  
102 boundaries of the City of Decatur and at least one of such appointees shall be a resident of  
103 that portion of DeKalb County lying north of the southernmost corporate boundaries of the  
104 City of Decatur; three members shall be residents of Fulton County to be appointed by the  
105 local governing body thereof, and one of such appointees shall be a resident of that portion  
106 of Fulton County lying south of the corporate limits of the City of Atlanta and two of such  
107 appointees shall be residents of that portion of Fulton County lying north of the corporate  
108 limits of the City of Atlanta. The commissioner of transportation shall be a voting member  
109 of the board and the executive director of the Georgia Regional Transportation Authority  
110 shall be a nonvoting member of the board. The governing body that appoints a member  
111 shall appoint successors thereto for terms of office of four years in the same manner that  
112 such governing body makes its other appointments to the board.

113 (c) All appointments shall be for terms of four years except that a vacancy caused  
114 otherwise than by expiration of term shall be filled for the unexpired portion thereof by the  
115 local governing body that made the original appointment to the vacant position, or its  
116 successor in office. A member of the board may be appointed to succeed himself or herself  
117 for one four-year term. Appointments to fill expiring terms shall be made by the local  
118 governing body prior to the expiration of the term, but such appointments shall not be made  
119 more than 30 days prior to the expiration of the term. Members appointed to the board  
120 shall serve for the terms of office specified in this Code section and until their respective  
121 successors are appointed and qualified.

122 (d) The local governing bodies of Clayton, Cobb, and Gwinnett Counties may, any other  
123 provision of this Code section to the contrary notwithstanding, negotiate, enter into, and  
124 submit to the qualified voters of their respective counties the question of approval of a  
125 rapid transit contract between the county submitting the question and the authority. The  
126 local governing bodies of these counties shall be authorized to execute such rapid transit  
127 contracts prior to the holding of a referendum provided for in Section 24 of the  
128 Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10, 1965 (Ga.  
129 L. 1965, p. 2243), as amended; provided, however, that any such rapid transit contract shall  
130 not become valid and binding unless the same is approved by a majority of those voting in  
131 said referendum, which approval shall also be deemed approval of further participation in  
132 the authority. Upon approval of such rapid transit contract, the county entering into such

133 contract shall be a participant in the authority, and its rights and responsibilities shall,  
134 insofar as possible, be the same as those belonging to Fulton and DeKalb Counties, and the  
135 local governing body of the county may then appoint two residents of the county to the  
136 board of directors of the authority, to serve a term ending on the thirty-first day of  
137 December in the fourth full year after the year in which the referendum approving said  
138 rapid transit contract was held, in which event the board of directors of the authority shall,  
139 be composed also of such additional members.

140 (e) No person shall be appointed as a member of the board who holds any other public  
141 office or public employment except an office in the reserves of the armed forces of the  
142 United States or the National Guard; any member who accepts or enters upon any other  
143 public office or public employment shall be disqualified thereby to serve as a member.

144 (f) A local governing body may remove any member of the board appointed by it for  
145 cause. No member shall be thus removed unless the member has been given a copy of the  
146 allegations against him or her and an opportunity to be publicly heard in his or her own  
147 defense in person with or by counsel with at least ten days' written notice to the member.  
148 A member thus removed from office shall have the right to a judicial review of the  
149 member's removal by an appeal to the superior court of the county of the local governing  
150 body which appointed the member, but only on the ground of error of law or abuse of  
151 discretion. In case of abandonment of the member's office, conviction of a crime involving  
152 moral turpitude or a plea of nolo contendere thereto, removal from office, or  
153 disqualification under subsection (e) of this Code section, the office of a member shall be  
154 vacant upon the declaration of the board. A member shall be deemed to have abandoned  
155 the member's office upon failure to attend any regular or special meeting of the board for  
156 a period of four months without excuse approved by a resolution of the board, or upon  
157 removal of the member's residence from the territory of the local governing body that  
158 appointed the member.

159 (g) Each appointed member of the board, except the chairperson, shall be paid by the  
160 authority a per diem allowance, in an amount equal to that provided by Code Section  
161 45-7-21 for each day on which that member attends an official meeting of the board, of any  
162 committee of the board, or of the authority's Pension Committee, Board of Ethics, or Arts  
163 Council; provided, however, that said per diem allowance shall not be paid to any such  
164 member for more than 130 days in any one calendar year. If the chairperson of the board  
165 is an appointed member of the board, the chairperson shall be paid by the authority a per  
166 diem allowance in the same amount for each day in which the chairperson engages in  
167 official business of the authority, including but not limited to, attendance of any of the  
168 aforesaid meetings. A member of the board shall also be reimbursed for actual expenses

169 incurred by that member in the performance of that member's duties as authorized by the  
 170 board. A board member shall not be allowed employee benefits.

171 (h) The board shall elect one of its members as chairperson and another as vice  
 172 chairperson for terms to expire on December 31 of each year to preside at meetings and  
 173 perform such other duties as the board may prescribe. The presiding officer of the board  
 174 may continue to vote as any other member, notwithstanding the member's duties as  
 175 presiding officer, if the member so desires. The board shall also elect from its membership  
 176 a secretary and a treasurer who shall serve terms expiring on December 31 of each year.  
 177 A member of the board may hold only one office on the board at any one time.

178 (i) The board shall hold at least one meeting each month. The secretary of the board shall  
 179 give written notice to each member of the board at least two days prior to any called  
 180 meeting that may be scheduled, and said secretary shall be informed of the call of such  
 181 meeting sufficiently in advance so as to provide for the giving of notice as above. A  
 182 majority of the total membership of the board, as it may exist at the time, shall constitute  
 183 a quorum. On any question presented, the number of members present shall be recorded.  
 184 By affirmative vote of a majority of the members present, the board may exercise all the  
 185 powers and perform all the duties of the board, except as otherwise hereinafter provided  
 186 or as limited by its bylaws, and no vacancy on the original membership of the board, or  
 187 thereafter, shall impair the power of the board to act. All meetings of the board, its  
 188 executive committee, or any committee appointed by the board shall be subject to Chapter  
 189 14 of Title 50.

190 (j) Notwithstanding any other provisions of this Code section, the following actions by the  
 191 board shall require the affirmative vote of one more than a majority of the total  
 192 membership of the board as it may exist at the time:

- 193 (1) The issuance and sale of revenue bonds or equipment trust certificates;  
 194 (2) The purchase or lease of any privately owned system of transportation of passengers  
 195 for hire in its entirety, or any substantial part thereof. Prior to the purchase or lease of  
 196 any such privately owned system a public hearing pertaining thereto shall have been held  
 197 and notice of such public hearing shall have been advertised; provided, however, that no  
 198 sum shall be paid for such privately owned system of transportation in excess of the fair  
 199 market value thereof determined by a minimum of two appraisers qualified to appraise  
 200 privately owned systems of transportation and approved by a majority of the local  
 201 governments participating in the financing of such purchase;  
 202 (3) The award of any contract involving \$100,000.00 or more for construction,  
 203 alterations, supplies, equipment, repairs, maintenance, or services other than professional  
 204 services or for the purchase, sale, or lease of any property. The board by appropriate

205 resolution may delegate to the general manager the general or specific authority to enter  
 206 into contracts involving less than \$100,000.00;

207 (4) The grant of any concession; and

208 (5) The award of any contract for the management of any authority owned property or  
 209 facility.

210 (k) The board shall appoint and employ, as needed, a general manager and a general  
 211 counsel, none of whom may be members of the board or a relative of a member of the  
 212 board, and delegate to them such authority as it may deem appropriate. It may make such  
 213 bylaws or rules and regulations as it may deem appropriate for its own government, not  
 214 inconsistent with this Code section, including the establishment of an executive committee  
 215 to exercise such authority as its bylaws may prescribe.

216 (l) The treasurer of the authority and such other members of the board and such other  
 217 officers and employees of the authority as the board may determine shall execute corporate  
 218 surety bonds, conditioned upon the faithful performance of their respective duties. A  
 219 blanket form of surety bond may be used for this purpose. Neither the obligation of the  
 220 principal or the surety shall extend to any loss sustained by the insolvency, failure, or  
 221 closing of any depository which has been approved as a depository for public funds.

222 (m)(1) In addition to the requirements of subsection (i) of this Code section, each  
 223 member of the board shall hold a meeting once each 12 months with the local governing  
 224 body that appointed such member. The secretary of the board shall give written notice  
 225 to each member of the board, to each local governing body, and to the governing  
 226 authority of each municipality in the county in which there is an existing or proposed rail  
 227 line at least two days prior to any meeting that may be scheduled, and said secretary shall  
 228 be informed of the call of such meeting sufficiently in advance so as to provide for giving  
 229 such notice. These meetings shall be for the purpose of reporting to the local governing  
 230 bodies on the operations of the authority and on the activities of the board and making  
 231 such information available to the general public. No activity that requires action by the  
 232 board shall be initiated or undertaken at any meeting conducted under this subsection.

233 (2) The board shall submit once each three months a written report on the operations of  
 234 the authority and on the activities of the board to each local governing body that appoints  
 235 a member of the board."

236 **SECTION 4.**

237 Said title is further amended by adding a new chapter to read as follows:

238

"CHAPTER 12239 32-12-1.

240 The General Assembly finds that there exist a number of programs designed to provide  
241 rural and human services transportation and that frequently these services are provided over  
242 large geographic areas through various funding sources which are frequently targeted to  
243 narrowly defined client bases. The sheer number of such programs lends itself to a need  
244 for coordination among the programs and agencies which implement them so as to best  
245 assist economies in purchasing equipment and operating these many programs, to better  
246 serve the taxpayers of the state in ensuring the most cost-effective delivery of these  
247 services, and to best serve the clients utilizing the transportation services provided through  
248 these programs.

249 32-12-2.

250 There is created the Georgia Coordinating Committee for Rural and Human Services  
251 Transportation of the Governor's Development Council.

252 32-12-3.

253 The Georgia Coordinating Committee for Rural and Human Services Transportation and  
254 its advisory subcommittees shall meet not less often than quarterly. Administrative  
255 expenses of the committee shall be borne by the Governor's Development Council. The  
256 members of the committee shall receive no extra compensation or reimbursement of  
257 expenses from the state for their services as members of the committee.

258 32-12-4.

259 The Georgia Coordinating Committee for Rural and Human Services Transportation shall  
260 establish the State Advisory Subcommittee for Rural and Human Services Transportation  
261 which shall consist of the State School Superintendent and the commissioners of the  
262 Department of Transportation, Department of Human Services, Department of Behavioral  
263 Health and Developmental Disabilities, Department of Community Health, Department of  
264 Labor, the Governor's Development Council, and the Department of Community Affairs  
265 or their respective designees. The commissioner of transportation or his or her designee  
266 shall serve as chairperson of the State Advisory Subcommittee for Rural and Human  
267 Services Transportation. The Georgia Coordinating Committee for Rural and Human  
268 Services Transportation may also establish such additional advisory subcommittees as it  
269 deems appropriate to fulfill its mission which shall consist of a representative of each  
270 metropolitan planning organization and representatives from each regional commission in

271 this state and may include other local government representatives; private and public sector  
 272 transportation providers, both for profit and nonprofit; voluntary transportation programs  
 273 representatives; public transit system representatives, both rural and urban; and  
 274 representatives of the clients served by the various programs administered by the agencies  
 275 represented on the State Advisory Subcommittee for Rural and Human Services  
 276 Transportation. Members of advisory committees shall be responsible for their own  
 277 expenses and shall receive no compensation or reimbursement of expenses from the  
 278 Georgia Coordinating Committee for Rural and Human Services Transportation, the State  
 279 Advisory Subcommittee for Rural and Human Services Transportation, or the state for their  
 280 services as members of an advisory committee.

281 32-12-5.

282 The Georgia Coordinating Committee for Rural and Human Services Transportation shall  
 283 examine the manner in which transportation services are provided by the participating  
 284 agencies represented on the committee. Such examination shall include but not be limited  
 285 to:

286 (1) An analysis of all programs administered by participating agencies, including capital  
 287 and operating costs, and overlapping or duplication of services among such programs,  
 288 with emphasis on how to overcome such overlapping or duplication;

289 (2) The means by which transportation services are coordinated among state, local, and  
 290 federal funding source programs;

291 (3) The means by which both capital and operating costs for transportation could be  
 292 combined or shared among agencies, including at a minimum shared purchase of vehicles  
 293 and maintenance of such vehicles;

294 (4) An analysis of those areas which might appropriately be consolidated to lower the  
 295 costs of program delivery without sacrificing program quality to clients, including shared  
 296 use of vehicles for client trips regardless of the funding source which pays for their trips;

297 (5) An analysis of state of the art efforts to coordinate rural and human services  
 298 transportation elsewhere in the nation, including at a minimum route scheduling so as to  
 299 avoid duplicative trips in a given locality;

300 (6) A review of any limitations which may be imposed by various federally funded  
 301 programs and how the state can manage within those limitations as it reviews possible  
 302 sharing opportunities;

303 (7) An analysis of how agency programs interact with and impact state, local, or regional  
 304 transportation services performed on behalf of the general public through state, local, or  
 305 regional transit systems;

306 (8) An evaluation of potential cost sharing opportunities available for clients served by  
 307 committee agencies so as to maximize service delivery efficiencies and to obtain the  
 308 maximum benefit on their behalf with the limited amount of funds available; and  
 309 (9) An analysis of possible methods to reduce costs, including, but not limited to, greater  
 310 use of privatization.

311 32-12-6.

312 No later than July 1 of each year, the Governor's Development Council shall submit the  
 313 preliminary report of the Georgia Coordinating Committee for Rural and Human Services  
 314 Transportation to the members of the State Advisory Subcommittee for Rural and Human  
 315 Services Transportation. Comments and recommendations may be submitted to the  
 316 Governor's Development Council for a period of 30 days. No later than September 1 of  
 317 each year, the Governor's Development Council shall submit a final report to the  
 318 Governor's Office of Planning and Budget for review and consideration. The report shall  
 319 address each of the specific duties enumerated in Code Section 32-12-5 and such other  
 320 subject areas within its purview as the Governor's Development Council shall deem  
 321 appropriate. Each report shall focus on existing conditions in coordination of rural and  
 322 human services transportation within the state and shall make specific recommendations  
 323 for means to improve such current practices. Such recommendations shall address at a  
 324 minimum both their cost implications and impact on client service. No later than January  
 325 15 of each year, the Governor's Office of Planning and Budget shall submit the final report  
 326 of the Governor's Development Council and any affiliated budget recommendations to the  
 327 presiding officers of the General Assembly, with copies of said report sent to the  
 328 chairpersons of the transportation committees, the appropriations committees, and the  
 329 health and human services committees of each chamber of the General Assembly."

330

#### SECTION 5.

331 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 332 amended by revising subsection (b) of Code Section 48-8-6, relating to limitations on local  
 333 imposition of certain taxes, as follows:

334 "(b) There shall not be imposed in any jurisdiction in this state or on any transaction in this  
 335 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.  
 336 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and  
 337 use tax which is levied in an area consisting of less than the entire state, however  
 338 authorized, including such taxes authorized by or pursuant to constitutional amendment,  
 339 except that the following taxes shall not count toward or be subject to such 2 percent  
 340 limitation:

341 (1) A sales and use tax for educational purposes exempted from such limitation under  
342 Article VIII, Section VI, Paragraph IV of the Constitution;

343 (2) Any tax levied for purposes of a metropolitan area system of public transportation,  
344 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
345 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
346 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
347 provided, however, that the exception provided for under this paragraph shall only apply  
348 ~~in:~~

349 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
350 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital  
351 outlay project or projects, a sewer capital outlay project or projects, a water and sewer  
352 capital outlay project or projects, water and sewer projects and costs as defined under  
353 paragraph ~~(3)~~(4) of Code Section 48-8-200, or any combination thereof and with  
354 respect to which the county has entered into an intergovernmental contract with a  
355 municipality, in which the average waste-water system flow of such municipality is not  
356 less than 85 million gallons per day, allocating proceeds to such municipality to be used  
357 solely for water and sewer projects and costs as defined under paragraph ~~(3)~~(4) of Code  
358 Section 48-8-200. The exception provided for under this ~~paragraph~~ subparagraph shall  
359 apply only during the period the tax under said subparagraph (a)(1)(D) is in effect. The  
360 exception provided for under this ~~paragraph~~ subparagraph shall not apply in any county  
361 in which a tax is being imposed under Article 2A of this chapter; or

362 (B) In a county in which the tax levied for purposes of a metropolitan area system of  
363 public transportation is first levied after January 1, 2010, and before November 1, 2012.  
364 Such tax shall not apply to the following:

365 (i) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For  
366 purposes of this division, a 'qualifying airline' means any person which is authorized  
367 by the Federal Aviation Administration or another appropriate agency of the United  
368 States to operate as an air carrier under an air carrier operating certificate and which  
369 provides regularly scheduled flights for the transportation of passengers or cargo for  
370 hire. For purposes of this division, a 'qualifying airport' means any airport in the state  
371 that has had more than 750,000 takeoffs and landings during a calendar year; and

372 (ii) The sale of motor vehicles;

373 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the  
374 amount in excess of the initial 1 percent sales and use tax and in the event of a newly  
375 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent  
376 sales and use tax; ~~and~~

377 (4) A sales and use tax levied under Article 4 of this chapter; and

378 (5) A sales and use tax levied under Article 5 of this chapter.  
 379 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales  
 380 and use tax would result in a tax rate in excess of that authorized by this subsection, then  
 381 such otherwise authorized tax may not be imposed."

382 **SECTION 6.**

383 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 384 amended by adding a new article in Chapter 8 to read as follows:

385 "ARTICLE 5

386 Part 1

387 48-8-240.

388 The local governments of the State of Georgia are of vital importance to the state and its  
 389 citizens. The state has an essential public interest in promoting, developing, sustaining, and  
 390 assisting local governments. The General Assembly finds that the design and construction  
 391 of transportation projects is a critical local government service for which adequate funding  
 392 is not presently available. Many transportation projects cross multiple jurisdictional  
 393 boundaries and must be coordinated in their design and construction. The General  
 394 Assembly finds that the most efficient means to coordinate and fund such projects is  
 395 through the creation of special districts that correspond with the boundaries of existing  
 396 regional commissions. The purpose of this article is to provide for special districts that will  
 397 enable the coordinated design and construction of transportation projects that will develop  
 398 and promote the essential public interests of the state and its citizens at the state, regional,  
 399 and local levels. The General Assembly intends through the creation of such special  
 400 districts to enable the citizens within each district to decide in an election whether to  
 401 authorize the imposition of a special district transportation sales and use tax to fund the  
 402 projects on an investment list collaboratively developed by the affected local governments  
 403 and the state. This article shall be construed liberally to achieve its purpose.

404 48-8-241.

405 (a) There are created within this state 12 special districts. The geographical boundary of  
 406 each special district shall correspond with and shall be coterminous with the geographical  
 407 boundary of the applicable region of the 12 regional commissions provided for in  
 408 subsection (f) of Code Section 50-8-4.

409 (b) When the imposition of a special district sales and use tax is authorized according to  
 410 the procedures provided in this article within a special district, subject to the requirement

411 of referendum approval and the other requirements of this article, a special sales and use  
 412 tax shall be imposed within the special district for a period of ten years which tax shall be  
 413 known as the special district transportation sales and use tax.

414 (c) Nothing in this article shall be construed as limiting the establishment of a fund or  
 415 funds which would provide at least 20 years of maintenance and operation costs from  
 416 proceeds of the special district transportation sales and use tax used to construct, finance,  
 417 or otherwise develop transit capital projects; provided, however, that the Metropolitan  
 418 Atlanta Rapid Transit Authority, created by an Act approved March 10, 1965 (Ga. L. 1965,  
 419 p. 2243), as amended, shall not be authorized to use any proceeds from the special district  
 420 transportation sales and use tax for expenses of maintenance and operation of such portions  
 421 of the transportation system of such authority in existence on January 1, 2011.

422 (d) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,  
 423 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this  
 424 chapter. No item or transaction which is not subject to taxation under Article 1 of this  
 425 chapter shall be subject to a tax imposed under this article, except that a tax imposed under  
 426 this article shall not apply to:

427 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road  
 428 farm or agricultural equipment, or locomotives;

429 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;

430 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public  
 431 highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle  
 432 designed for operation or required to be licensed for operation upon the public highways;

433 (4) The sale or use of energy used in the manufacturing or processing of tangible goods  
 434 primarily for resale; or

435 (5) For motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass  
 436 transit.

437 The tax imposed pursuant to this article shall only be levied on the first \$5,000.00 of any  
 438 transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this  
 439 article shall be subject to any sales and use tax exemption which is otherwise imposed by  
 440 law; provided; however, that the tax levied by this article shall be applicable to the sale of  
 441 food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

442 48-8-242.

443 As used in this article, the term:

444 (1) 'Commission' means the Georgia State Financing and Investment Commission;

445 (2) 'Cost of project' means:

446 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,  
 447 installation, modification, renovation, extension, rehabilitation, operation, or  
 448 maintenance incurred in connection with any project of the special district or any part  
 449 thereof;

450 (B) All costs of real property or rights in property, fixtures, or personal property used  
 451 in or in connection with or necessary for any project of the special district or for any  
 452 facilities related thereto, including but not limited to the cost of all land, interests in  
 453 land, estates for years, easements, rights, improvements, water rights, and connections  
 454 for utility services; the cost of fees, franchises, permits, approvals, licenses, and  
 455 certificates; the cost of securing any such franchises, permits, approvals, licenses, or  
 456 certificates; the cost of preparation of any application therefor; and the cost of all  
 457 fixtures, machinery, equipment, furniture, and other property used in or in connection  
 458 with or necessary for any project of the special district;

459 (C) All costs of engineering, surveying, planning, environmental assessments, financial  
 460 analyses, and architectural, legal, and accounting services and all expenses incurred by  
 461 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,  
 462 attorneys, accountants, and any other necessary technical personnel in connection with  
 463 any project of the special district;

464 (D) All expenses for inspection of any project of the special district;

465 (E) All fees of any type charged to the special district in connection with any project  
 466 of the special district;

467 (F) All expenses of or incidental to determining the feasibility or practicability of any  
 468 project of the special district;

469 (G) All costs of plans and specifications for any project of the special district;

470 (H) All costs of title insurance and examinations of title with respect to any project of  
 471 the special district;

472 (I) Repayment of any loans for the advance payment of any part of any of the  
 473 foregoing costs, including interest thereon and any other expenses of such loans;

474 (J) Administrative expenses of the special district and such other expenses as may be  
 475 necessary or incidental to any project of the special district or the financing thereof; and

476 (K) The establishment of a fund or funds or such other reserves as the commission may  
 477 approve with respect to the financing and operation of any project of the special district.

478 Any cost, obligation, or expense incurred for any of the purposes specified in this  
 479 paragraph shall be a part of the cost of the project of the special district and may be paid  
 480 or reimbursed as otherwise authorized by this article.

481 (3) 'County' means any county created under the Constitution or laws of this state.

482 (4) 'Dealer' means a dealer as defined in paragraph (3) of Code Section 48-8-2.

- 483 (5) 'Director' means the director of planning provided for in Code Section 32-2-43.
- 484 (6) 'LARP factor' means the sum of one-fifth of the ratio between the population of a  
485 local government's jurisdiction and the total population of the special district in which  
486 such local government is located plus four-fifths of the ratio between the paved and  
487 unpaved centerline road miles in the local government's jurisdiction and the total paved  
488 and unpaved centerline road miles in the special district in which such local government  
489 is located.
- 490 (7) 'Local government' means any municipal corporation, county, or consolidated  
491 government created by the General Assembly or pursuant to the Constitution and laws  
492 of this state.
- 493 (8) 'Metropolitan planning organization' or 'MPO' means the policy board of an  
494 organization created and designated to carry out the metropolitan transportation planning  
495 process as defined in 23 C.F.R. Section 450.
- 496 (9) 'Municipal corporation' means any incorporated city or town in this state.
- 497 (10) 'Project' means, without limitation, any new or existing airports, bike lanes, bridges,  
498 bus and rail mass transit systems, freight and passenger rail, pedestrian facilities, ports,  
499 roads, terminals, and all activities and structures useful and incident to providing,  
500 operating, and maintaining the same. The term shall also include direct appropriations  
501 to a local government for the purpose of serving as a local match for state or federal  
502 funding.
- 503 (11) 'Regional transportation roundtable' or 'roundtable' means a conference of the local  
504 governments of a special district created pursuant to this article held at a centralized  
505 location within the district as chosen by the director for the purpose of establishing the  
506 investment criteria and determining projects eligible for the investment list for the special  
507 district. The regional transportation roundtable shall consist of two representatives from  
508 each county, including the chairperson, sole commissioner, mayor, or chief executive  
509 officer of the county governing authority and one mayor elected by the mayors of the  
510 county; provided, however, that, in the event such an election ends in a tie, the mayor of  
511 the municipal corporation with the highest population determined using the most recently  
512 completed United States decennial census shall be deemed to have been elected as a  
513 representative unless that mayor is already part of the roundtable. In such case, the  
514 mayor of the municipal corporation with the second highest population shall be deemed  
515 to have been elected as a representative. If a county has more than 90 percent of its  
516 population residing in municipal corporations, such county shall have the mayor of the  
517 municipal corporation with the highest population determined using the most recently  
518 completed United States decennial census as an additional representative. The regional  
519 transportation roundtable shall elect five representatives from among its members to

520 serve as an executive committee. The executive committee shall also include two  
 521 members of the House of Representatives selected by the chairperson of the House  
 522 Transportation Committee and one member of the Senate selected by the chairperson of  
 523 the Senate Transportation Committee. Each member of the General Assembly appointed  
 524 to the executive committee shall be a nonvoting member of the executive committee and  
 525 shall represent a district which lies wholly or partially within the region represented by  
 526 the executive committee. The executive committee shall not have more than one  
 527 representative from any one county, but any member of the General Assembly serving  
 528 on the executive committee shall not count as a representative of his or her county.

529 (12) 'Special Regional Transportation Funding Election Act' means an Act specifically  
 530 and exclusively enacted for the purpose of ordering that a referendum be held for the  
 531 reimposition of the special district transportation sales and use tax within the region that  
 532 includes the districts, in their entirety or any portion thereof, of the members from a local  
 533 legislative delegation in the General Assembly. A majority of the signatures of the  
 534 legislative delegation for a majority of the counties within the region shall be required for  
 535 the bill to be placed upon the local calendar of each chamber. This method shall be  
 536 exclusively used for this purpose and no other bill shall be placed or voted upon on the  
 537 local calendar utilizing this method of qualification for placement thereon. This Act shall  
 538 be treated procedurally by the General Assembly as a local Act and all counties within  
 539 the region shall receive the legal notice requirements of a local Act.

540 (13) 'State-wide strategic transportation plan' means the official state-wide transportation  
 541 plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22.

542 (14) 'State-wide transportation improvement program' means a state-wide prioritized  
 543 listing of transportation projects as defined in paragraph (7) of subsection (a) of Code  
 544 Section 32-2-22.

545 (15) 'Transportation improvement program' means a prioritized listing of transportation  
 546 projects as defined in paragraph (8) of subsection (a) of Code Section 32-2-22.

547 48-8-243.

548 (a) Within 60 calendar days following approval by the Governor of the state-wide strategic  
 549 transportation plan, the State Transportation Board shall consider the state-wide strategic  
 550 transportation plan in accordance with the provisions of subsection (c) of Code Section  
 551 32-2-22. Upon approval of the state-wide strategic transportation plan by the State  
 552 Transportation Board, the director shall provide in written form to the local governments  
 553 and any MPO's within each special district across the state recommended criteria for the  
 554 development of an investment list of projects and programs. The establishment of such  
 555 criteria shall comport with the investment policies provided in subsection (a) of Code

556 Section 32-2-41.1 and the state-wide strategic transportation plan. The recommended  
557 criteria shall include performance goals, allocation of investments in alignment with  
558 performance, and execution of projects. The state fiscal economist shall develop an  
559 estimate of the proceeds of the special district transportation sales and use tax for each  
560 special district using financial data supplied by the department. Such estimate shall include  
561 reasonable ranges of anticipated growth, if any. The director shall include such estimates  
562 and ranges in the recommended criteria for developing the draft investment list. Any local  
563 government or MPO desiring to submit comments on the recommended criteria shall make  
564 such submission to the director no later than September 30, 2010. On or before November  
565 10, 2010, the mayors in each county shall elect the mayoral representative to the regional  
566 transportation roundtable and notify the county commission chairperson and the director  
567 of that mayor's name. The director shall accept comments from any MPO located wholly  
568 or partially within each special district in finalizing the recommended district criteria in a  
569 written report on or before November 15, 2010. Such report shall also include notice of  
570 the date, time, and location of the first regional transportation roundtable for each special  
571 district for the purpose of considering the recommended district criteria and for electing  
572 members of the executive committee for each special district. Any amendment to the  
573 recommended criteria, approval of such criteria, and election of the executive committee  
574 shall be enacted by a majority vote of the representatives present at the roundtable meeting.  
575 Upon approval of the criteria, the director shall promptly deliver a report to the  
576 commissioner of transportation, local governments, any MPO located wholly or partially  
577 within each special district and the members of the General Assembly whose districts lie  
578 wholly or partially within each special district detailing the criteria approved by the  
579 roundtable.

580 (b) With regard to any area of a special district that is not part of an MPO, following  
581 receipt of the report provided for in subsection (a) of this Code section, and after receiving  
582 comments, if any, from members of the General Assembly whose districts lie wholly or  
583 partially within such area, the local governments in such area may submit projects to the  
584 director to assemble a list of example investments for such special district that comport  
585 with the special district's investment criteria. With regard to any area of a special district  
586 that is part of an MPO, following receipt of the report provided for in subsection (a) of this  
587 Code section, and after receiving comments, if any, from members of the General  
588 Assembly whose districts lie wholly or partially within such area, the local governments  
589 may submit projects to the director and to the MPO for the director to use to assemble a list  
590 of example investments for such special district that comport with the special district's  
591 investment criteria. The list of example investments for each special district shall not be  
592 required to be fiscally constrained within the budget of the revenues projected to be

593 generated by each special district's sales and use tax and shall be submitted to the executive  
594 committee for each regional transportation roundtable for consideration. The executive  
595 committee in collaboration with the director shall choose from the list of example  
596 investments to create the draft investment list, which shall be approved by majority vote  
597 of the executive committee. Such draft investment list shall be fiscally constrained within  
598 the ranges of revenues projected to be generated by the special district sales and use tax,  
599 as determined by the state fiscal economist. The special district's draft investment list as  
600 approved by the executive committee shall be considered by the regional transportation  
601 roundtable. The director shall deliver the draft investment list to the local governments,  
602 MPO's, and members of the General Assembly whose districts lie wholly or partially  
603 within each special district for each special district not later than August 15, 2011. The  
604 director shall include in the draft investment list a statement of the specific public benefits  
605 to be expected upon the completion of each project on the investment list and how the  
606 special district's investment criteria are furthered by each project. Examples of specific  
607 public benefits include, but are not limited to, congestion mitigation, increased lane  
608 capacity, public safety, and economic development. The director shall include in such  
609 delivery notice of the date, time, and location of each district's executive committee  
610 meeting and final regional transportation roundtable. Prior to holding the final regional  
611 transportation roundtable, the executive committee shall hold, after proper notice to the  
612 public, at least two public meetings in the region for the purpose of receiving public  
613 comment on the draft regional investment list. The executive committee shall prepare and  
614 deliver to all members of the regional roundtable and the director a summary of the public  
615 comment on the regional investment list. The local governments, MPO's, and members of  
616 the General Assembly whose districts lie wholly or partially within such special district  
617 may submit comments on the draft investment list addressed to both the director and the  
618 executive committee no later than two weeks prior to the dates of the final regional  
619 transportation roundtable and the executive committee meeting, respectively, for the  
620 special district. At the final regional transportation roundtable, the draft investment list  
621 approved by the executive committee shall be considered for approval by a majority vote  
622 of the representatives present at the roundtable. Should the roundtable reject the draft  
623 investment list approved by the executive committee, the roundtable then may negotiate  
624 amendments that meet the district's investment criteria to the draft investment list, which  
625 shall be chosen from the list of example investments for each special district, each voted  
626 on separately and requiring a majority vote of the representatives present at the roundtable  
627 for approval. Upon consideration of all offered amendments, upon motion, the roundtable  
628 shall vote as to the approval of the amended draft list, requiring a majority vote of the  
629 representatives present at the roundtable. The approved investment list, if any, shall be

630 provided to the director. On or before October 15, 2011, the director shall deliver such list  
 631 to the commission, the commissioner of transportation, the executive director of the  
 632 Georgia Regional Transportation Authority, local governments, MPO's, and members of  
 633 the General Assembly whose districts lie wholly or partially within each special district for  
 634 each special district. The approved investment list shall include:

- 635 (1) The specific transportation projects to be funded;  
 636 (2) The anticipated schedule of such projects;  
 637 (3) The approximate cost of such projects; and  
 638 (4) The estimated amount of net proceeds to be raised by the tax including the amount  
 639 of proceeds to be distributed to local governments pursuant to subsection (e) of Code  
 640 Section 48-8-249.

641 If a roundtable does not approve the original draft investment list or an amended draft  
 642 investment list on or before October 15, 2011, then a special district gridlock shall be  
 643 declared by the director and no election shall be held in such special district. The question  
 644 of levying the tax shall not be submitted to the voters of the special district until after 24  
 645 months immediately following the month in which the special district gridlock was  
 646 reached.

647 (c) In the event a special district gridlock is declared, the local governments in such special  
 648 district shall be required to provide a 50 percent match for any local maintenance and  
 649 improvement grants by the Department of Transportation. Such 50 percent match  
 650 requirement shall remain in place until the special district roundtable approves an  
 651 investment list meeting the special district's investment criteria and an election is held  
 652 within the special district on the levy of the special district transportation sales and use tax.

653 Part 2

654 48-8-244.

655 (a) Simultaneously with the director's delivery of the approved investment list in  
 656 accordance with subsection (b) of Code Section 48-8-243, the roundtable shall deliver a  
 657 notice to the election superintendents of each county within the respective special districts.  
 658 Upon receipt of the notice, the election superintendents shall issue the call for an election  
 659 for the purpose of submitting the question of the imposition of the tax to the voters within  
 660 each special district. The election superintendents shall issue the call and shall conduct the  
 661 election in the manner authorized under Code Section 21-2-540. The first election shall  
 662 be held on the date of the general state-wide primary in 2012. The election superintendents  
 663 shall cause the date and purpose of the election to be published once a week for four weeks

664 immediately preceding the date of the election in the official organs of their respective  
 665 counties.

666 (b) The ballot submitting the question of the levy of the special district transportation tax  
 667 authorized by this article to the voters within each special district shall have written or  
 668 printed thereon the following:

669 '( ) YES      Shall                    County's transportation system and the transportation  
 670 network in this region and the state be improved by providing for a 1  
 671 ( ) NO            percent special district transportation sales and use tax for the purpose of  
 672 transportation projects and programs for a period of ten years?'

673 (c) All persons desiring to vote in favor of levying the tax shall vote 'Yes' and all persons  
 674 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast  
 675 throughout the entire special district are in favor of levying the tax, then the tax shall be  
 676 levied as provided in this article; otherwise the tax shall not be levied and the question of  
 677 levying the tax shall not again be submitted to the voters of the special district until after  
 678 24 months immediately following the month in which the election was held. Each election  
 679 superintendent shall hold and conduct the election under the same rules and regulations as  
 680 govern special elections. Each election superintendent shall canvass the returns from his  
 681 or her county, declare the result of the election in that county, and certify the result to the  
 682 Secretary of State. The Secretary of State shall compile the results from each county in the  
 683 special district, declare the result of the election in the special district, and certify the result  
 684 to the governing authority of each local government and MPO within the special district  
 685 and the state revenue commissioner. The expense of the election in each county within  
 686 each special district shall be paid from funds of each county.

687 (d) In the event a special district sales and use tax election is held and the voters in a  
 688 special district do not approve the levy of the special district transportation sales and use  
 689 tax, the local governments in such special district shall be required to provide a 30 percent  
 690 match for any local maintenance and improvement grants by the Department of  
 691 Transportation for transportation projects and programs for at least 24 months and until  
 692 such time as a special district sales and use tax is approved. In the event the voters in a  
 693 special district approve the levy of the special district transportation sales and use tax, the  
 694 local governments in such special district shall be required to provide a 10 percent match  
 695 for any local maintenance and improvement grants by the Department of Transportation  
 696 for transportation projects and programs for the duration of the levy of the special district  
 697 transportation sales and use tax.

698 48-8-244.1.

699 The approval of the levy of the special district transportation sales and use tax in a special  
 700 district shall not in any way diminish the percentage of funds allocated to a special district  
 701 or any of the local governments within a special district under the provisions of subsection  
 702 (c) of Code Section 32-5-27. The amount of funds expended in a special district shall not  
 703 be decreased due to the use of proceeds from the special district transportation sales and  
 704 use tax to construct transportation projects that have a high priority in the state-wide  
 705 strategic transportation plan. If a special district constructs a project on the approved  
 706 investment list using proceeds from the special district tax, then the state funding under  
 707 subsection (c) of Code Section 32-5-27 shall not be diverted to priority projects in other  
 708 special districts.

709 48-8-245.

710 (a) If the imposition of the special district transportation sales and use tax is approved at  
 711 the special election, the collection of such tax shall begin on the first day of the next  
 712 succeeding calendar quarter beginning more than 80 days after the date of the election.  
 713 With respect to services which are regularly billed on a monthly basis, however, the tax  
 714 shall become effective with respect to and the tax shall apply to services billed on or after  
 715 the effective date specified in the previous sentence.

716 (b) The tax shall cease to be imposed on the earliest of the following dates:

717 (1) On the final day of the ten-year period of time specified for the imposition of the tax;

718 or

719 (2) As of the end of the calendar quarter during which the state revenue commissioner  
 720 determines that the tax has raised revenues sufficient to provide to the special district net  
 721 proceeds equal to or greater than the amount specified as the estimated amount of net  
 722 proceeds to be raised by the special district transportation tax.

723 (c)(1) No more than a single 1 percent tax under this article may be collected at any time  
 724 within a special district.

725 (2) Upon the enactment by the General Assembly of a Special Regional Transportation  
 726 Funding Election Act and the adoption of resolutions by the governing bodies of a  
 727 majority of the counties within a special district in which a tax authorized by this article  
 728 is in effect, an election may be held for the reimposition of the tax while the tax is in  
 729 effect. Proceedings for the development of an investment list and for the reimposition  
 730 of a tax shall be in the same manner as provided for in Code Section 48-8-243.

731 (3) Following the expiration of the special district transportation sales and use tax under  
 732 this article, or following a special election in which voters in a special district rejected the  
 733 imposition of the tax, upon the passage by the General Assembly of a Special Regional

734 Transportation Funding Election Act and the adoption of resolutions by the governing  
 735 bodies of a majority of counties within a special district, an election may be held for the  
 736 imposition of a tax under this article in the same manner as provided in this article for the  
 737 initial imposition of such tax. Such subsequent election shall be held on the date of a  
 738 state-wide general primary. The development of the investment list for such special  
 739 district shall follow the dates established in Code Section 48-8-243 with the years  
 740 adjusted appropriately, and such schedule shall be posted on a website developed by the  
 741 state revenue commissioner to be used exclusively for matters related to the special  
 742 district transportation sales and use tax within 30 days of the later of the state revenue  
 743 commissioner's receipt of notice from the final county governing body required to adopt  
 744 a resolution or of the passage of the Special Regional Transportation Funding Election  
 745 Act by the General Assembly.

746 48-8-246.

747 A tax levied pursuant to this article shall be exclusively administered and collected by the  
 748 state revenue commissioner for the use and benefit of the special district imposing the tax.  
 749 Such administration and collection shall be accomplished in the same manner and subject  
 750 to the same applicable provisions, procedures, and penalties provided in Article 1 of this  
 751 chapter; provided, however, that all moneys collected from each taxpayer by the state  
 752 revenue commissioner shall be applied first to such taxpayer's liability for taxes owed the  
 753 state; and provided, further, that the state revenue commissioner may rely upon a  
 754 representation by or in behalf of the special district or the Secretary of State that such a tax  
 755 has been validly imposed, and the state revenue commissioner and the state revenue  
 756 commissioner's agents shall not be liable to any person for collecting any such tax which  
 757 was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax  
 758 due and accounted for and shall be reimbursed in the form of a deduction in submitting,  
 759 reporting, and paying the amount due if such amount is not delinquent at the time of  
 760 payment. The deduction shall be at the rate and subject to the requirements specified under  
 761 subsections (b) through (f) of Code Section 48-8-50.

762 48-8-247.

763 Each sales tax return remitting taxes collected under this article shall separately identify  
 764 the location of each retail establishment at which any of the taxes remitted were collected  
 765 and shall specify the amount of sales and the amount of taxes collected at each  
 766 establishment for the period covered by the return in order to facilitate the determination  
 767 by the state revenue commissioner that all taxes imposed by this article are collected and  
 768 distributed according to situs of sale.

769 48-8-248.

770 The proceeds of the tax collected by the state revenue commissioner in each special district  
771 under this article shall be disbursed as soon as practicable after collection to the Georgia  
772 State Financing and Investment Commission to be maintained in a trust fund and  
773 administered by the commission on behalf of the special district imposing the tax. Such  
774 proceeds for each special district shall be kept separate from other funds of the commission  
775 and shall not in any manner be commingled with other funds of the commission.

776 48-8-249.

777 (a) The proceeds received from the tax authorized by this article shall be used within the  
778 special district receiving proceeds of the tax exclusively for the projects on the approved  
779 investment list for such district as provided in subsection (b) of Code Section 48-8-243.  
780 Authorized uses of tax proceeds in connection with such projects shall include the cost of  
781 project defined in paragraph (2) of Code Section 48-8-242.

782 (b) The commission shall be responsible for the proper application of the proceeds  
783 received from the tax authorized by this article for the approved investment list for each  
784 special district. The commission shall delegate the management of the budget, schedule,  
785 execution, and delivery of the projects contained in the approved investment list as follows:

786 (1) The commission shall contract with the Department of Transportation for all  
787 transportation projects except bus and rail mass transit systems and passenger rail in any  
788 special district the boundaries of which are not wholly contained within a single MPO;  
789 and

790 (2) The commission shall contract with the Georgia Regional Transportation Authority  
791 only for projects that are bus and rail mass transit systems and passenger rail within any  
792 special district the boundaries of which are wholly contained within a single MPO.

793 Upon entering into contracts with the Department of Transportation or the Georgia  
794 Regional Transportation Authority as provided above, the commission shall dispense funds  
795 upon the request of the commissioner of transportation or the executive director of the  
796 Georgia Regional Transportation Authority, which request shall include certification of the  
797 completion of the project or project element for which funds are requested. Payment shall  
798 be made promptly upon approval by the construction division or the financing and  
799 investment division of the commission, and such payments shall not require any other  
800 official action by the commission. The use of funds so dispensed shall be subject to review  
801 and audit by the construction division and the financing and investment division of the  
802 commission and action by the commission upon receipt of complaint or if otherwise  
803 warranted. The Department of Transportation and Georgia Regional Transportation  
804 Authority shall consult with the commission on at least a quarterly basis regarding the

805 progress and performance in the execution, schedule, and delivery of projects on the  
 806 approved investment list.

807 (c) In managing the execution, schedule, and delivery of the projects on the approved  
 808 investment list for a special district, the Department of Transportation or Georgia Regional  
 809 Transportation Authority, as appropriate, shall determine whether a project should be  
 810 designed and constructed by the Department of Transportation, by a local government, or  
 811 by another public or private entity. In making such determination the following shall be  
 812 considered:

813 (1) Whether such project is on the state-wide transportation improvement program, the  
 814 state-wide strategic transportation plan, or a transportation improvement program;

815 (2) The type and estimated cost of the project;

816 (3) The location of the project and whether it encompasses multiple jurisdictions;

817 (4) The experience of a local government or governments or a public or private entity in  
 818 designing and constructing such project as set forth in an application in a form to be  
 819 provided by the commissioner of transportation or the executive director of the Georgia  
 820 Regional Transportation Authority; and

821 (5) The recommendation of the MPO, if any, for such special district.

822 Following the decision, the Department of Transportation, the local government or  
 823 governments, or another public or private entity as determined under this subsection shall  
 824 contract for implementing the projects in accordance with applicable state and federal  
 825 requirements.

826 (d) The commission shall maintain or cause to be maintained an adequate record-keeping  
 827 system for each project funded by a special district transportation sales and use tax. An  
 828 annual audit shall be paid for by each special district and conducted by an independent  
 829 auditing firm as selected by the commission. Such audit shall include a schedule which  
 830 shows for each such project the original estimated cost, the current estimated cost if it is  
 831 not the original estimated cost, amounts expended in prior years, and amounts expended  
 832 in the current year. Such audit shall verify and test expenditures sufficient to provide  
 833 assurances that the schedule is fairly presented in relation to the financial statements. The  
 834 audit report on the financial statements shall include an opinion, or disclaimer of opinion,  
 835 as to whether the schedule is presented fairly in all material respects in relation to the  
 836 financial statements taken as a whole.

837 (e) Twenty-five percent of the proceeds received from the tax authorized by this article  
 838 shall be distributed to the local governments within the special district in which the tax is  
 839 imposed if such special district's boundaries are not coterminous with an MPO. Fifteen  
 840 percent of the proceeds received from the tax authorized by this article shall be distributed  
 841 to the local governments within the special district in which the tax is imposed if such

842 special district's boundaries are wholly contained within a single MPO. Such percentages  
843 shall be allocated to each local government by multiplying the LARP factor of each local  
844 government by the total amount of funds to be distributed to all the local governments in  
845 the special district. Proceeds described in this subsection shall be distributed to the local  
846 governments on an ongoing basis as they are received by the commission. Such proceeds  
847 shall be used by the local governments only for transportation projects as defined in  
848 paragraph (10) of Code Section 48-8-242 and may also serve as the local match as required  
849 for state transportation projects and grants. If a special district receives from the tax net  
850 proceeds in excess of the investment list approved by the roundtable for the imposition of  
851 the tax or in excess of the actual cost of the project or projects on such investment list, then  
852 such excess proceeds shall be distributed among the local governments within the special  
853 district in accordance with this subsection.

854 48-8-250.

855 Not later than December 15 of each year, the state revenue commissioner shall publish, on  
856 the website created pursuant to paragraph (3) of subsection (c) of Code Section 48-8-245,  
857 a simple, nontechnical report which shows for each project in the investment list approved  
858 by the director the original estimated cost, the current estimated cost if it is not the original  
859 estimated cost, amounts expended in prior years, and amounts expended in the current year  
860 with respect to each such project. The report shall also include a statement of what  
861 corrective action the commissioner of transportation and the executive director of the  
862 Georgia Regional Transportation Authority intend to implement with respect to each  
863 project which is underfunded or behind schedule and a statement of any surplus funds  
864 which have not been expended for a project.

865 48-8-251.

866 (a) There is created a Citizens Review Panel for each special district in which voters  
867 approved the levy of the special district sales and use tax to be composed of three citizen  
868 members appointed by the Speaker of the House of Representatives and two citizen  
869 members appointed by the Lieutenant Governor. Each member must be a resident of the  
870 special district of which Citizens Review Panel they are appointed to serve.

871 (b) In the event that any vacancy for any cause shall occur in the membership of the  
872 committee, such vacancy shall be filled by an appointment made by the official authorized  
873 by law to make such appointment within 45 days of the occurrence of such vacancy.

874 (c) The panel shall, by majority vote of those members present and voting, elect from their  
875 number a chairperson and vice chairperson who shall serve at the pleasure of the panel.

876 (d) The panel shall meet in regular session at least three days each year either at the state  
877 capitol in Atlanta or at such other meeting place within the state and may have such other  
878 additional meetings as may be called by the chairperson or by a majority of the members  
879 of the panel upon reasonable written notice to all members of the panel. Further, the  
880 chairperson of the panel is authorized from time to time to call meetings of subcommittees  
881 of the panel which are established by panel policy at places inside or outside the state  
882 when, in the opinion of the chairperson, the meetings of the subcommittee are needed to  
883 attend properly to the panel's business. A majority of the panel shall constitute a quorum  
884 for the transaction of all business. Any power of the panel may be exercised by a majority  
885 vote of those members present at any meeting at which there is a quorum.

886 (e) Members shall receive for each day of actual attendance at meetings of the panel and  
887 the subcommittee meetings the per diem and transportation costs prescribed in Code  
888 Section 45-7-21, and a like sum shall be paid for each day actually spent in studying the  
889 transportation needs of the state or attending other functions as a representative of the  
890 panel, not to exceed ten days in any calendar year, but no member shall receive such per  
891 diem for any day for which such member receives any other per diem pursuant to such  
892 Code section. In addition, members shall receive actual transportation costs while traveling  
893 by public carrier or the legal mileage rate for the use of a personal automobile in  
894 connection with such attendance and study. Such per diem and expense shall be paid from  
895 the funds of the special district's revenues from the special district sales and use tax upon  
896 presentation, by members of the panel, of vouchers approved by the chairperson.

897 (f) The panel shall be charged with review of the administration of the projects and  
898 programs included on the approved investment list. The panel may make such  
899 recommendations to and require such reports from the Department of Transportation, the  
900 Georgia Regional Transportation Authority, any other agency or instrumentality of the  
901 state, any political subdivision of the state, and any agency or instrumentality of such  
902 political subdivisions as it may deem appropriate and necessary from time to time in the  
903 interest of the region.

904 (g) Upon the completion of a project on the investment list, the panel shall annually review  
905 the specific public benefits identified in the investment list to ascertain the degree to which  
906 such benefits have been attained. This benefit review report shall be delivered to the  
907 director and the state revenue commissioner and shall be published on the website created  
908 pursuant to paragraph (3) of subsection (c) of Code Section 48-8-245.

909 (h) Beginning January 1, 2013, and annually thereafter, the panel shall provide a report to  
910 the General Assembly of its actions during the previous year. The report shall be available  
911 for public inspection on the website created pursuant to paragraph (3) of subsection (c) of  
912 Code Section 48-8-245. The report shall include, but not be limited to, an update on the

913 progress on each project on the investment list for the region, including the amount of  
 914 funds spent on each project.

915 48-8-252.

916 Where a special district transportation sales and use tax under this article has been paid  
 917 with respect to tangible personal property by the purchaser either in another special district  
 918 within the state or in a tax jurisdiction outside the state, the tax may be credited against the  
 919 tax authorized to be imposed by this article upon the same property. If the amount of sales  
 920 or use tax so paid is less than the amount of the use tax due under this article, the purchaser  
 921 shall pay an amount equal to the difference between the amount paid in the other tax  
 922 jurisdiction and the amount due under this article. The state revenue commissioner may  
 923 require such proof of payment in another local tax jurisdiction as he or she deems necessary  
 924 and proper. No credit shall be granted, however, against the tax imposed under this article  
 925 for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain  
 926 a credit against any other sales and use tax levied in the special district.

927 48-8-253.

928 No tax provided for in this article shall be imposed upon the sale of tangible personal  
 929 property which is ordered by and delivered to the purchaser at a point outside the  
 930 geographical area of the special district in which the tax is imposed regardless of the point  
 931 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or  
 932 common carrier or by private or contract carrier licensed by the Surface Transportation  
 933 Board or the Georgia Public Service Commission.

934 48-8-254.

935 (a) As used in this Code section, the term 'building and construction materials' means all  
 936 building and construction materials, supplies, fixtures, or equipment, any combination of  
 937 such items, and any other leased or purchased articles when the materials, supplies,  
 938 fixtures, equipment, or articles are to be utilized or consumed during construction or are  
 939 to be incorporated into construction work pursuant to a bona fide written construction  
 940 contract.

941 (b) No tax provided for in this article shall be imposed upon the sale or use of building and  
 942 construction materials when the contract pursuant to which the materials are purchased or  
 943 used was advertised for bid prior to the voters' approval of the levy of the tax and the  
 944 contract was entered into as a result of a bid actually submitted in response to the  
 945 advertisement prior to approval of the levy of the tax.

946 48-8-255.

947 Subject to the approval of the House and Senate Transportation Committees, the state  
 948 revenue commissioner shall have the power and authority to promulgate such rules and  
 949 regulations as shall be necessary for the effective and efficient administration and  
 950 enforcement of the collection of the special district transportation sales and use tax  
 951 authorized by this article.

952 48-8-256.

953 The tax authorized by this article shall not be subject to any allocation or balancing of state  
 954 and federal funds provided for by general law, nor may such proceeds be considered or  
 955 taken into account in any such allocation or balancing."

956 **SECTION 7.**

957 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
 958 by adding a new Code section as follows:

959 "50-32-5.

960 (a) The State of Georgia, particularly the metropolitan Atlanta region, faces a number of  
 961 critical issues relating to its transportation system and ever-increasing traffic congestion.  
 962 In light of the dwindling resources available to help solve the problems, it is imperative that  
 963 all available resources be used to maximum efficiency in order to alleviate the gridlock in  
 964 and around the metropolitan Atlanta region. There exists a need for a thorough  
 965 examination of our current transportation system and the methodical development of  
 966 legislative proposals for a regional transit governing authority in Georgia.

967 (b) In order to find practical, workable solutions to these problems, there is created the  
 968 Transit Governance Study Commission to be composed of: four Senators from the Atlanta  
 969 Regional Commission area to be appointed by the Lieutenant Governor, four  
 970 Representatives from the Atlanta Regional Commission area to be appointed by the  
 971 Speaker of the House of Representatives, the chairperson of the Metropolitan Atlanta Rapid  
 972 Transit Oversight Committee, the chairperson of the Atlanta Regional Commission, the  
 973 chairperson of the Regional Transit Committee of the Atlanta Regional Commission, one  
 974 staff member from the Atlanta Regional Commission to be selected by the chairperson of  
 975 the Atlanta Regional Commission, the executive director of the Georgia Regional  
 976 Transportation Authority, the general manager of the Metropolitan Atlanta Rapid Transit  
 977 Authority, and the directors of any other county transit systems operating in the Atlanta  
 978 Regional Commission area.

979 (c) The commission shall elect, by a majority vote, one of its legislative members to serve  
 980 as chairperson of the commission and such other officers as the commission deems

981 appropriate. The commission shall meet at least quarterly at the call of the chairperson.  
 982 The commission may conduct such meetings and hearings at such places and at such times  
 983 as it may deem necessary or convenient to enable it to exercise fully and effectively its  
 984 powers, perform its duties, and accomplish its objectives and purposes as contained in this  
 985 Code section.

986 (d) All officers and agencies of the three branches of state government are directed to  
 987 provide all appropriate information and assistance as requested by the commission.

988 (e) The commission shall undertake a study of the issues described in this Code section  
 989 and recommend specific legislation which the commission deems necessary or appropriate.

990 Specifically, the commission shall prepare a preliminary report on the feasibility of  
 991 combining all of the regional public transportation entities into an integrated regional  
 992 transit body. This preliminary report shall be completed on or before December 31, 2010,  
 993 and be delivered to the Governor, the Lieutenant Governor, and the Speaker of the House  
 994 of Representatives. The commission shall make a final report of its findings and  
 995 recommendations, with specific language for proposed legislation, if any, on or before  
 996 August 1, 2011, to the Governor, the Lieutenant Governor, and the Speaker of the House  
 997 of Representatives. The commission shall stand abolished on August 1, 2011, unless  
 998 extended by subsequent Act of the General Assembly.

999 (f) The Atlanta Regional Commission in conjunction with the Georgia Regional  
 1000 Transportation Authority and the department's director of planning shall utilize federal and  
 1001 state planning funds to continue the development of the Atlanta region's Concept 3 transit  
 1002 proposal, including assessment of potential economic benefit to the region and the state,  
 1003 prioritization of corridors based on highest potential economic benefit and lowest  
 1004 environmental impact, and completion of environmental permitting. Any new transit  
 1005 management instrumentality created as a result of the Transit Governance Study  
 1006 Commission created pursuant to this Code section shall participate in the Concept 3  
 1007 development activities that remain incomplete at the time of the creation of the new  
 1008 regional transit body."

#### 1009 **SECTION 8.**

1010 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 1011 without such approval, except that Part 2 of Article 5 of Chapter 8 of Title 48 as set forth in  
 1012 Section 6 of this Act shall become effective January 1, 2011.

#### 1013 **SECTION 9.**

1014 All laws and parts of laws in conflict with this Act are repealed.