

The Senate Finance Committee offered the following substitute to HB 266:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of
3 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to
4 clarify that any tax credits earned for qualified research expenses under Code
5 Section 48-7-40.12 in any taxable year beginning before January 1, 2012, and any
6 carryforward attributable thereto, are governed by such Code section in effect for the taxable
7 year in which the credit was earned; to change the definition of energy used in agriculture;
8 to provide for dealers to elect between manufacturing and agricultural exemptions; to place
9 a good faith standard on a seller regarding exemptions from taxation; to revise provisions of
10 law regarding state and local title ad valorem tax fees; to revise definitions regarding such
11 fees; to revise the time for submitting such fees and penalties for failure to submit such fees
12 timely; to provide for the payment of such fees over time in certain circumstances; to clarify
13 the provisions of law regarding rental and leased motor vehicles; to provide for alternative
14 state and local title ad valorem tax fee payments for motor vehicles that are directly financed
15 by dealers of used motor vehicles; to extend the period of time which a loaner vehicle may
16 be removed from inventory; to provide for a title ad valorem tax fee for rental and leased
17 vehicles; to clarify the provisions of law regarding the application of title ad valorem tax fees
18 to certain title transactions; to provide for motor vehicles titled in other states but based in
19 this state; to exclude the application of certain sales and use taxes to motor vehicle sales and
20 leases; to provide for related matters; to provide for effective dates and applicability; to
21 repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

23 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
24 amended by revising paragraph (14) of Code Section 48-1-2, relating to definitions regarding
25 revenue and taxation, as follows:
26

27 "(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years
 28 beginning on or after January 1, ~~2011~~ 2012, the provisions of the United States Internal
 29 Revenue Code of 1986, as amended, provided for in federal law enacted on or before
 30 ~~January 1, 2012~~ January 3, 2013, except that Section 85(c), Section 108(i), Section
 31 163(e)(5)(F) Section 164(a)(6), Section 164(b)(6), Section 168(b)(3)(I), Section
 32 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k) (but not
 33 excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)),
 34 Section 168(m), Section 168(n), Section 172(b)(1)(H), Section 172(b)(1)(J), Section
 35 172(j), Section 179(f), Section 199, Section 810(b)(4), Section 1400L, Section
 36 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section 1400N(k), and Section
 37 1400N(o) of the Internal Revenue Code of 1986, as amended, shall be treated as if they
 38 were not in effect, and except that Section 168(e)(7), Section 172(b)(1)(F), Section
 39 172(i)(1), and Section 1221 of the Internal Revenue Code of 1986, as amended, shall be
 40 treated as they were in effect before the 2008 enactment of federal Public Law 110-343,
 41 and except that Section 163(i)(1) of the Internal Revenue Code of 1986, as amended,
 42 shall be treated as it was in effect before the 2009 enactment of federal Public Law 111-5,
 43 and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as
 44 if it was not in effect, and except that the limitations provided in Section 179(b)(1) shall
 45 be \$250,000.00 for tax years beginning in 2010, ~~and shall be \$250,000.00 for tax years~~
 46 ~~beginning in 2011, shall be \$250,000.00 for tax years beginning in 2012, and shall be~~
 47 ~~\$250,000.00 for tax years beginning in 2013~~, and except that the limitations provided in
 48 Section 179(b)(2) shall be \$800,000.00 for tax years beginning in 2010, ~~and shall be~~
 49 ~~\$800,000.00 for tax years beginning in 2011, shall be \$800,000.00 for tax years~~
 50 ~~beginning in 2012, and shall be \$800,000.00 for tax years beginning in 2013, and~~
 51 ~~provided that Section 1106 of federal Public Law 112-95 shall be treated as if it is in~~
 52 ~~effect, except the phrase 'Code Section 48-2-35 (or, if later, November 15, 2013)' shall~~
 53 ~~be substituted for the phrase 'section 6511(a) of such Code (or, if later, April 15, 2013).'~~
 54 ~~and notwithstanding any other provision in this title, no interest shall be refunded with~~
 55 ~~respect to any claim for refund filed pursuant to Section 1106 of federal Public Law~~
 56 ~~112-95.~~ In the event a reference is made in this title to the Internal Revenue Code or the
 57 Internal Revenue Code of 1954 as it existed on a specific date prior to ~~January 1, 2012~~
 58 ~~January 3, 2013~~, the term means the provisions of the Internal Revenue Code or the
 59 Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided
 60 in this title, any term used in this title shall have the same meaning as when used in a
 61 comparable provision or context in the Internal Revenue Code of 1986, as amended. For
 62 taxable years beginning on or after January 1, ~~2011~~ 2012, provisions of the Internal
 63 Revenue Code of 1986, as amended, which were as of ~~January 1, 2012~~ January 3, 2013,

64 enacted into law but not yet effective shall become effective for purposes of Georgia
65 taxation on the same dates upon which they become effective for federal tax purposes."

66

SECTION 2.

67

Said title is further amended by revising Code Section 48-5C-1, relating to definitions,
68 exemption from taxation, allocation and disbursement of proceeds collected by tag agents,
69 fair market value of vehicle appealable, and reports, as follows:

70

"48-5C-1.

71

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

72

(1) 'Dealer of used motor vehicles that directly finances the sale of a used motor vehicle'
73 means a used car dealer that sells used motor vehicles under or subject to a retail
74 installment contract and holds the retail installment contract or sells it to a related finance
75 company and not to third party.

76

~~(1)~~(2) 'Fair market value of the motor vehicle' means:

77

(A) ~~The~~ For a used motor vehicle, the average of the current fair market value and the
78 current wholesale value of a motor vehicle for a vehicle listed in the current motor
79 vehicle ad valorem assessment manual utilized by the state revenue commissioner and
80 based upon a nationally recognized motor vehicle industry pricing guide for fair market
81 and wholesale mark values in determining the taxable value of a motor vehicle under
82 Code Section 48-5-442, and, in the case of a used car dealer, less any reduction for the
83 trade-in value of another motor vehicle;

84

(B) For a used motor vehicle which is not so listed in such current motor vehicle ad
85 valorem assessment manual, the value from the bill of sale or the value from a reputable
86 used car market guide designated by the commissioner, whichever is greater, and, in the
87 case of a used car dealer, less any reduction for the trade-in value of another motor
88 vehicle; or

89

(C) ~~The fair market value determined by the state revenue commissioner from the bill~~
90 ~~of sale of a new motor vehicle for which there is no value under subparagraph (A) of~~
91 ~~this paragraph, less any rebate and before any reduction for the trade-in value of another~~
92 ~~motor vehicle.~~ For a new motor vehicle, the greater of the retail selling price or, in the
93 case of a lease of a new motor vehicle, the agreed upon value of the vehicle pursuant
94 to the lease agreement or the average of the current fair market value and the current
95 wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad
96 valorem assessment manual utilized by the state revenue commissioner in determining
97 the taxable value of a motor vehicle under Code Section 48-5-442, less any reduction
98 for the trade-in value of another motor vehicle and any rebate or any cash discounts
99 provided by the selling dealer and taken at the time of sale. The retail selling price or

100 agreed upon value shall include any charges for labor, freight, delivery, dealer fees, and
 101 similar charges and dealer add-ons and mark-ups, but shall not include any extended
 102 warranty or maintenance agreement itemized on the dealer's invoice to the customer or
 103 any finance, insurance, and interest charges for deferred payments billed separately.

104 ~~(2)~~(3) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or
 105 grandchild.

106 ~~(3)~~(4) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn
 107 temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no
 108 charge for a period not to exceed 30 days within a ~~calendar year~~ 366 day period to any
 109 one customer whose motor vehicle is being serviced by such dealer.

110 ~~(4)~~(5) 'Rental charge' means the total value received by a rental motor vehicle concern
 111 for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle,
 112 including the total cash and nonmonetary consideration for the rental or lease, including,
 113 but not limited to, charges based on time or mileage and charges for insurance coverage
 114 or collision damage waiver but excluding all charges for motor fuel taxes or sales and use
 115 taxes.

116 ~~(5)~~(6) 'Rental motor vehicle' means a motor vehicle designed to carry ~~ten~~ 15 or fewer
 117 passengers and used primarily for the transportation of persons that is rented or leased
 118 without a driver.

119 ~~(6)~~(7) 'Rental motor vehicle concern' means a person or legal entity which owns or leases
 120 five or more rental motor vehicles and which regularly rents or leases such vehicles to the
 121 public for value.

122 ~~(7)~~(8) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale
 123 for a vehicle which has been traded in to the dealer in a transaction involving the
 124 purchase of another vehicle from the dealer.

125 (b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which
 126 a title is issued in this state on or after March 1, 2013, shall be exempt from sales and
 127 use taxes to the extent provided under paragraph ~~(92)~~ (95) of Code Section 48-8-3 and
 128 shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of ~~Title~~
 129 ~~48~~ this title. Any such motor vehicle shall be titled as otherwise required under Title
 130 40 but shall be subject to a state title fee and a local title fee which shall be alternative
 131 ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the
 132 Georgia Constitution. Motor vehicles registered under the International Registration
 133 Plan shall not be subject to state and local title ad valorem tax fees but shall continue
 134 to be subject to apportioned ad valorem taxation under Article 10 of Chapter 5 of this
 135 title.

136 (B)(i) As used in this subparagraph, the term:

- 137 (I) 'Local base amount' means \$1 billion.
- 138 (II) 'Local current collection amount' means the total amount of sales and use taxes
 139 on the sale of motor vehicles under Chapter 8 of this title and motor vehicle local
 140 ad valorem tax proceeds ~~collected~~ under this Code section and Chapter 5 of this title
 141 which were collected during the calendar year which immediately precedes the tax
 142 year in which the title ad valorem tax adjustments are required to be made under this
 143 subparagraph.
- 144 (III) 'Local target collection amount' means an amount equal to the local base
 145 amount added to the product of 2 percent of the local base amount multiplied by the
 146 number of years since 2012 with a maximum amount of \$1.2 billion.
- 147 (IV) 'State base amount' means \$535 million.
- 148 (V) 'State current collection amount' means the total amount of sales and use taxes
 149 on the sale of motor vehicles under Chapter 8 of this title and motor vehicle state ad
 150 valorem tax proceeds ~~collected~~ under this Code section and Chapter 5 of this title
 151 which were collected during the calendar year which immediately precedes the tax
 152 year in which the state and local title ad valorem tax rate is to be reviewed for
 153 adjustment under division (xiv) of this subparagraph. Notwithstanding the other
 154 provisions of this subdivision to the contrary, the term 'state current collection
 155 amount' for the 2014 calendar year for the purposes of the 2015 review under
 156 division (xiv) of this subparagraph shall be adjusted so that such amount is equal to
 157 the amount of motor vehicle state ad valorem tax proceeds that would have been
 158 collected under this Code section in 2014 if the combined state and local title ad
 159 valorem tax rate was 7 percent of the fair market value of the motor vehicle less any
 160 trade-in value plus the total amount of motor vehicle state ad valorem tax proceeds
 161 collected under Chapter 5 of this title during 2014.
- 162 (VI) 'State target collection amount' means an amount equal to the state base
 163 amount added to the product of 2 percent of the state base amount multiplied by the
 164 number of years since 2012.
- 165 (ii) The combined state and local title ad valorem tax shall be at a rate equal to:
- 166 (I) For the period commencing March 1, 2013, through December 31, 2013, 6.5
 167 percent of the fair market value of the motor vehicle ~~less any trade-in value~~;
- 168 (II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle
 169 ~~less any trade-in value~~; and
- 170 (III) Except as provided in division (xiv) of this subparagraph, for the 2015 and
 171 subsequent tax years, 7 percent of the fair market value of the motor vehicle ~~less~~
 172 ~~any trade-in value~~.

- 173 (iii) For the period commencing March 1, 2013, through December 31, 2013, the
174 state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified
175 in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
176 equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.
- 177 (iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55
178 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
179 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
180 division (ii) of this subparagraph.
- 181 (v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55
182 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
183 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
184 division (ii) of this subparagraph.
- 185 (vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this
186 subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of
187 the tax rate specified in division (ii) of this subparagraph, and the local title ad
188 valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division
189 (ii) of this subparagraph.
- 190 (vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv)
191 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent
192 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
193 valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division
194 (ii) of this subparagraph.
- 195 (viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this
196 subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the
197 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
198 tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this
199 subparagraph.
- 200 (ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv)
201 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent
202 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
203 valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division
204 (ii) of this subparagraph.
- 205 (x) For the 2020 tax year, except as otherwise provided in division (xiii) of this
206 subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the
207 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
208 tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this
209 subparagraph.

210 (xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this
211 subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the
212 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
213 tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this
214 subparagraph.

215 (xii) For the 2022 and all subsequent tax years, except as otherwise provided in
216 division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as
217 otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state
218 title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in
219 division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
220 equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

221 (xiii) Beginning in 2016, by not later than January 15 of each tax year through the
222 2022 tax year, the state revenue commissioner shall determine the local target
223 collection amount and the local current collection amount for the preceding calendar
224 year. If such local current collection amount is equal to or within 1 percent of the
225 local target collection amount, then the state title ad valorem tax rate and the local title
226 ad valorem tax rate for such tax year shall remain at the rate specified in this
227 subparagraph for that year. If the local current collection amount is more than 1
228 percent greater than the local target collection amount, then the local title ad valorem
229 tax rate for such tax year shall be reduced automatically by operation of this division
230 by such percentage amount as may be necessary so that, if such rate had been in effect
231 for the calendar year under review, the local current collection amount would have
232 produced an amount equal to the local target collection amount, and the state title ad
233 valorem tax rate for such tax year shall be increased by an equal amount to maintain
234 the combined state and local title ad valorem tax rate at the rate specified in
235 division (ii) of this subparagraph. If the local current collection amount is more than
236 1 percent less than the local target collection amount, then the local title ad valorem
237 tax rate for such tax year shall be increased automatically by operation of this division
238 by such percentage amount as may be necessary so that, if such rate had been in effect
239 for the calendar year under review, the local current collection amount would have
240 produced an amount equal to the local target collection amount, and the state title ad
241 valorem tax rate for such tax year shall be reduced by an equal amount to maintain the
242 combined state and local title ad valorem tax rate at the rate specified in division (ii)
243 of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by
244 not later than January 31 of such tax year, the state revenue commissioner shall notify
245 the tax commissioner of each county in this state of the adjusted rate amounts. The
246 effective date of such adjusted rate amounts shall be January 1 of such tax year.

247 (xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax
 248 year, the state revenue commissioner shall determine the state target collection
 249 amount and the state current collection amount for the preceding calendar year. If
 250 such state current collection amount is greater than, equal to, or within 1 percent of
 251 the state target collection amount after making the adjustment, if any, required in
 252 division (xiii) of this subparagraph, then the combined state and local title ad valorem
 253 tax rate provided in division (ii) of this subparagraph shall remain at the rate specified
 254 in such division. If the state current collection amount is more than 1 percent less
 255 than the state target collection amount after making the adjustment, if any, required
 256 by division (xiii) of this subparagraph, then the combined state and local title ad
 257 valorem tax rate provided in division (ii) of this subparagraph shall be increased
 258 automatically by operation of this division by such percentage amount as may be
 259 necessary so that, if such rate had been in effect for the calendar year under review,
 260 the state current collection amount would have produced an amount equal to the state
 261 target collection amount, and the state title ad valorem tax rate and the local title ad
 262 valorem tax rate for the tax year in which such increase in the combined state and
 263 local title ad valorem tax rate shall become effective shall be adjusted from the rates
 264 specified in this subparagraph or division (xiii) of this subparagraph for such tax year
 265 such that the proceeds from such increase in the combined state and local title ad
 266 valorem tax rate shall be allocated in full to the state. In the event of an adjustment
 267 of the combined state and local title ad valorem tax rate, by not later than August 31
 268 of such tax year, the state revenue commissioner shall notify the tax commissioner of
 269 each county in this state of the adjusted combined state and local title ad valorem tax
 270 rate for the next calendar year. The effective date of such adjusted combined state
 271 and local title ad valorem tax rate shall be January 1 of the next calendar year.
 272 Notwithstanding the provisions of this division, the combined state and local title ad
 273 valorem tax rate shall not exceed 9 percent.

274 (xv) The state revenue commissioner shall promulgate such rules and regulations as
 275 may be necessary and appropriate to implement and administer this Code section,
 276 including, but not limited to, rules and regulations regarding appropriate public
 277 notification of any changes in rate amounts and the effective date of such changes and
 278 rules and regulations regarding appropriate enforcement and compliance procedures
 279 and methods for the implementation and operation of this Code section.

280 (C) The application for title and the state and local title ad valorem tax fees provided
 281 for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county ~~in~~
 282 ~~which the purchaser registers such motor vehicle~~ where the motor vehicle is to be
 283 registered and shall be paid at the time ~~the purchaser applies for a title and registers~~

284 ~~such motor vehicle~~ the application for a certificate of title is submitted or, in the case
 285 of an electronic title transaction, at the time when the electronic title transaction is
 286 finalized. In an electronic title transaction, the state and local title ad valorem tax fees
 287 shall be remitted electronically directly to the county tag agent. A dealer of new or
 288 used motor vehicles may accept such application for title and state and local title ad
 289 valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the
 290 purpose of ~~delivering~~ submitting or, in the case of an electronic title application,
 291 finalizing such title application and remitting state and local title ad valorem tax fees
 292 ~~to the county tag agent to obtain a tag and title for the purchaser of such motor vehicle.~~

293 (D) There shall be a penalty imposed on any person who, in the determination of the
 294 commissioner, falsifies any information in any bill of sale used for purposes of
 295 determining the fair market value of the motor vehicle. Such penalty shall not exceed
 296 \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as
 297 determined by the commissioner. Such determination shall be made within 60 days of
 298 the commissioner receiving information of a possible violation of this paragraph.

299 (E) Except in the case in which an extension of the registration period has been granted
 300 by the county tag agent under Code Section 40-2-20, a ~~A~~ dealer of new or used motor
 301 vehicles that accepts an application for title and state and local title ad valorem tax fees
 302 from a purchaser of a new or used motor vehicle and does not ~~transmit~~ submit or, in the
 303 case of an electronic title transaction, finalize such application for title and remit such
 304 state and local title ad valorem tax fees to the county tag agent within ~~10~~ 30 days
 305 following the date of purchase shall be liable to the county tag agent for an amount
 306 equal to 5 percent of the amount of such state and local title ad valorem tax fees. An
 307 additional penalty equal to 10 percent of the amount of such state and local title ad
 308 valorem tax fees shall be imposed if such payment is not transmitted within 60 days
 309 following the date of purchase. An additional ~~5 percent~~ penalty equal to 15 percent of
 310 the amount of such state and local title ad valorem tax fees shall be imposed if such
 311 payment is not transmitted within 90 days following the date of purchase, and an
 312 additional penalty equal to 20 percent of the amount of such state and local title ad
 313 valorem tax fees shall be imposed if such payment is not transmitted within 120 days
 314 following the date of purchase. An additional penalty equal to 25 percent of the
 315 amount of such state and local title ad valorem tax fees shall be imposed for each
 316 subsequent ~~month~~ 30 day period in which the payment is not transmitted.

317 (F) A dealer of new or used motor vehicles that accepts an application for title and state
 318 and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and
 319 converts such fees to his or her own use shall be guilty of theft by conversion and, upon
 320 conviction, shall be punished as provided in Code Section 16-8-12.

321 (G)(i) During the period from March 1, 2013, until June 30, 2013, a dealer of used
 322 motor vehicles that directly finances the sale of a used motor vehicle shall pay the full
 323 amount of the state and local title ad valorem tax fees due at the time of the sale of the
 324 motor vehicle.

325 (ii) On and after July 1, 2013, a dealer of used motor vehicles that directly finances
 326 the sale of a used motor vehicle shall either pay the full amount of the state and local
 327 title ad valorem tax fees due at the time of the sale of the motor vehicle or may elect
 328 to register with the department and pay in accordance with division (iii) of this
 329 subparagraph.

330 (iii) If a dealer of used motor vehicles under this subparagraph chooses to participate
 331 in the provisions of this division, such dealer shall register annually with the
 332 department and pay an administrative fee of \$100.00. Used motor vehicles sold and
 333 directly financed by dealers who register and pay the administrative fee under this
 334 division shall be subject to a state and local title ad valorem tax fee at a rate equal to
 335 2 percent less than the rate specified in division (b)(1)(B)(ii) of this Code section.

336 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code
 337 Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this
 338 subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1
 339 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee
 340 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
 341 III(b)(3) of the Georgia Constitution.

342 (c)(1) The amount of proceeds collected by tag agents each month as state and local title
 343 ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties,
 344 and interest pursuant to subsection (b) of this Code section shall be allocated and
 345 disbursed as provided in this subsection.

346 (2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall
 347 be disbursed within ~~30~~ 20 days following the end of each calendar month as follows:

348 (A) State title ad valorem tax fees, state salvage title ad valorem tax fees,
 349 administrative fees, penalties, and interest shall be remitted to the state revenue
 350 commissioner who shall deposit such proceeds in the general fund of the state less an
 351 amount to be retained by the tag agent not to exceed 1 percent of the total amount
 352 otherwise required to be remitted under this subparagraph to defray the cost of
 353 administration. Such retained amount shall be remitted to the collecting county's
 354 general fund. Failure by the tag agent to disburse within such ~~30~~ 20 day period shall
 355 result in a forfeiture of such administrative fee plus interest on such amount at the rate
 356 specified in Code Section 48-2-40; and

357 (B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be
358 designated as local government ad valorem tax funds. The tag agent shall then
359 distribute the proceeds as specified in paragraph (3) of this subsection.

360 (3) The local title ad valorem tax fee proceeds required under this subsection shall be
361 distributed as follows:

362 (A) The tag agent of the county shall within ~~30~~ 20 days following the end of each
363 calendar month allocate and distribute to the county governing authority and to
364 municipal governing authorities, the board of education of the county school district,
365 and the board of education of any independent school district located in such county an
366 amount of those proceeds necessary to offset any reduction in ad valorem tax on motor
367 vehicles collected under Chapter 5 of ~~Title 48~~ this title in the taxing jurisdiction of each
368 governing authority and school district from the amount of ad valorem taxes on motor
369 vehicles collected under Chapter 5 of ~~Title 48~~ this title in each such governing authority
370 and school district during the same calendar month of 2012. This reduction shall be
371 calculated by subtracting the amount of ad valorem tax on motor vehicles collected
372 under Chapter 5 of ~~Title 48~~ this title in each such taxing jurisdiction from the amount
373 of ad valorem tax on motor vehicles collected under Chapter 5 of ~~Title 48~~ this title in
374 that taxing jurisdiction in the same calendar month of 2012. In the event that the local
375 title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad
376 valorem taxes on motor vehicles, the tag agent shall allocate a proportionate amount of
377 the proceeds to each governing authority and to the board of education of each such
378 school district, and any remaining shortfall shall be paid from the following month's
379 local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag
380 agent shall continue to first allocate local title ad valorem tax fee proceeds to offset
381 such shortfalls until the shortfall has been fully repaid; and

382 (B) Of the proceeds remaining following the allocation and distribution under
383 subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the
384 county governing authority and to municipal governing authorities, the board of
385 education of the county school district, and the board of education of any independent
386 school district located in such county the remaining amount of those proceeds in the
387 manner provided in this subparagraph. Such proceeds shall be deposited in the general
388 fund of such governing authority or board of education and shall not be subject to any
389 use or expenditure requirements provided for under any of the following described local
390 sales and use taxes but shall be authorized to be expended in the same manner as
391 authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of ~~Title~~
392 ~~48~~ this title which would otherwise have been collected for such governing authority
393 or board of education. Of such remaining proceeds:

394 (i) An amount equal to one-third of such proceeds shall be distributed to the board
395 of education of the county school district and the board of education of each
396 independent school district located in such county in the same manner as required for
397 any local sales and use tax for educational purposes levied pursuant to Part 2 of
398 Article 3 of Chapter 8 of ~~Title 48~~ this title currently in effect. If such tax is not
399 currently in effect, such proceeds shall be distributed to such board or boards of
400 education in the same manner as if such tax were in effect;

401 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third
402 of such proceeds shall be distributed to the governing authority of the county and
403 the governing authority of each qualified municipality located in such county in the
404 same manner as specified under the distribution certificate for the joint county and
405 municipal sales and use tax under Article 2 of Chapter 8 of ~~Title 48~~ this title
406 currently in effect.

407 (II) If such tax were never in effect, such proceeds shall be distributed to the
408 governing authority of the county and the governing authority of each qualified
409 municipality located in such county on a pro rata basis according to the ratio of the
410 population that each such municipality bears to the population of the entire county.

411 (III) If such tax is currently in effect as well as a local option sales and use tax for
412 educational purposes levied pursuant to a local constitutional amendment, an
413 amount equal to one-third of such proceeds shall be distributed in the same manner
414 as required under subdivision (I) of this division and an amount equal to one-third
415 of such proceeds shall be distributed to the board of education of the county school
416 district.

417 (IV) If such tax is not currently in effect and a local option sales and use tax for
418 educational purposes levied pursuant to a local constitutional amendment is
419 currently in effect, such proceeds shall be distributed to the board of education of
420 the county school district and the board of education of any independent school
421 district in the same manner as required under that local constitutional amendment.

422 (V) If such tax is not currently in effect and a homestead option sales and use tax
423 under Article 2A of Chapter 8 of ~~Title 48~~ this title is in effect, such proceeds shall
424 be distributed to the governing authority of the county, each qualified municipality,
425 and each existing municipality in the same proportion as otherwise required under
426 Code Section 48-8-104; and

427 (iii)(I) An amount equal to one-third of such proceeds shall be distributed to the
428 governing authority of the county and the governing authority of each qualified
429 municipality located in such county in the same manner as specified under an
430 intergovernmental agreement or as otherwise required under the county special

431 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of ~~Title~~
 432 ~~48~~ this title currently in effect; provided, however, that this subdivision shall not
 433 apply if subdivision (III) of division (ii) of this subparagraph is applicable.

434 (II) If such tax were in effect but expired and is not currently in effect, such
 435 proceeds shall be distributed to the governing authority of the county and the
 436 governing authority of each qualified municipality located in such county in the
 437 same manner as if such tax were still in effect according to the intergovernmental
 438 agreement or as otherwise required under the county special purpose local sales and
 439 use tax under Part 1 of Article 3 of Chapter 8 of ~~Title 48~~ this title for the 12 month
 440 period commencing at the expiration of such tax. If such tax is not renewed prior
 441 to the expiration of such 12 month period, such amount shall be distributed in
 442 accordance with subdivision (I) of division (ii) of this subparagraph; provided,
 443 however, that if a tax under Article 2 of Chapter 8 of ~~Title 48~~ this title is not in
 444 effect, such amount shall be distributed in accordance with subdivision (II) of
 445 division (ii) of this subparagraph.

446 (III) If such tax is not currently in effect in a county in which a tax is levied for
 447 purposes of a metropolitan area system of public transportation, as authorized by the
 448 amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of
 449 such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution;
 450 and the laws enacted pursuant to such constitutional amendment, such proceeds
 451 shall be distributed to the governing body of the authority created by local Act to
 452 operate such metropolitan area system of public transportation.

453 (IV) If such tax were never in effect, such proceeds shall be distributed in the same
 454 manner as specified under the distribution certificate for the joint county and
 455 municipal sales and use tax under Article 2 of Chapter 8 of ~~Title 48~~ this title
 456 currently in effect; provided, however, that if such tax under such article is not in
 457 effect, such proceeds shall be distributed to the governing authority of the county
 458 and the governing authority of each qualified municipality located in such county
 459 on a pro rata basis according to the ratio of the population that each such
 460 municipality bears to the population of the entire county.

461 (d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject
 462 to paragraph (1) of subsection (b) of this Code section, the immediate family member
 463 or immediate family members of such owner who receive such motor vehicle pursuant
 464 to a will or under the rules of inheritance shall, subsequent to the transfer of title of such
 465 motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of ~~Title 48~~ this
 466 title and shall not be subject to the state and local title ad valorem tax fees provided for
 467 in paragraph (1) of subsection (b) of this Code section unless the immediate family

468 member or immediate family members make an affirmative written election to become
469 subject to paragraph (1) of subsection (b) of this Code section. In the event of such
470 election, such transfer shall be subject to the state and local title ad valorem tax fees
471 provided for in paragraph (1) of subsection (b) of this Code section.

472 (B) Upon the death of an owner of a motor vehicle which has become subject to
473 paragraph (1) of subsection (b) of this Code section, the immediate family member or
474 immediate family members of such owner who receive such motor vehicle pursuant to
475 a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee
476 in an amount equal to one-quarter of 1 percent of the fair market value of the motor
477 vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1
478 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
479 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
480 III(b)(3) of the Georgia Constitution.

481 (2)(A) Upon the transfer from an immediate family member of a motor vehicle which
482 has not become subject to paragraph (1) of subsection (b) of this Code section, the
483 immediate family member or immediate family members who receive such motor
484 vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be
485 subject to ad valorem tax under Chapter 5 of ~~Title 48~~ this title and shall not be subject
486 to the state and local title ad valorem tax fees provided for in paragraph (1) of
487 subsection (b) of this Code section unless the immediate family member or immediate
488 family members make an affirmative written election to become subject to paragraph
489 (1) of subsection (b) of this Code section. In the event of such election, such transfer
490 shall be subject to the state and local title ad valorem tax fees provided for in paragraph
491 (1) of subsection (b) of this Code section.

492 (B) Upon the transfer from an immediate family member of a motor vehicle which has
493 become subject to paragraph (1) of subsection (b) of this Code section, the immediate
494 family member who receives such motor vehicle shall transfer title of such motor
495 vehicle to such recipient family member and shall be subject to a state title ad valorem
496 tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the
497 motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of
498 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
499 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
500 III(b)(3) of the Georgia Constitution.

501 (C) Any title transfer under this paragraph shall be accompanied by an affidavit of the
502 transferor and transferee that such persons are immediate family members to one
503 another. There shall be a penalty imposed on any person who, in the determination of
504 the state revenue commissioner, falsifies any material information in such affidavit.

505 Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed
506 \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such
507 determination shall be made within 60 days of the state revenue commissioner
508 receiving information of a possible violation of this paragraph.

509 (3) Any individual who:

510 (A) Is required by law to register a motor vehicle or motor vehicles in this state which
511 were registered in the state in which such person formerly resided; and

512 (B) Is required to file an application for a certificate of title under Code Section
513 40-3-21 or 40-3-32

514 shall only be required to pay state and local title ad valorem tax fees in the amount of 50
515 percent of the amount which would otherwise be due and payable under this subsection
516 at the time of filing the application for a certificate of title, and the remaining 50 percent
517 shall be paid within 12 months.

518 (4) The state and local title ad valorem tax fees provided for under this Code section
519 shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles
520 reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

521 (5) Any motor vehicle subject to state and local title ad valorem tax fees under paragraph
522 (1) of subsection (b) of this Code section shall continue to be subject to the title, license
523 plate, revalidation decal, and registration requirements and applicable fees as otherwise
524 provided in Title 40 in the same manner as motor vehicles which are not subject to state
525 and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code
526 section.

527 (6) Motor vehicles owned or leased by or to the state or any county, consolidated
528 government, municipality, county or independent school district, or other government
529 entity in this state shall not be subject to the state and local title ad valorem tax fees
530 provided for under paragraph (1) of subsection (b) of this Code section; provided,
531 however, that such other government entity shall not qualify for the exclusion under this
532 paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to
533 general law.

534 (7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to
535 paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad
536 valorem tax fees under this subsection.

537 (B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code
538 Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and
539 local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code
540 section.

541 (8) There shall be a penalty imposed on the transfer of all or any part of the interest in a
 542 business entity that includes primarily as an asset of such business entity one or more
 543 motor vehicles, when, in the determination of the state revenue commissioner, such
 544 transfer is done to evade the payment of state and local title ad valorem tax fees under
 545 this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor
 546 vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as
 547 determined by the state revenue commissioner, plus the amount of the state and local title
 548 ad valorem tax fees. Such determination shall be made within 60 days of the state
 549 revenue commissioner receiving information that a transfer may be in violation of this
 550 paragraph.

551 (9) Any owner of any motor vehicle who fails to submit within 30 days of the date such
 552 owner is required by law to register such vehicle in this state an application for a first
 553 certificate of title under Code Section 40-3-21 or a certificate of title under Code
 554 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state
 555 title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required
 556 under this Code section, ~~plus and, if such state and local title ad valorem tax fees and the~~
 557 ~~penalty are not paid within 60 days following the date such owner is required by law to~~
 558 ~~register such vehicle,~~ interest at the rate of 1.0 percent per month shall be imposed on the
 559 state and local title ad valorem tax fees due under this Code section, unless a temporary
 560 permit has been issued by the tax commissioner. The tax commissioner shall grant a
 561 temporary permit in the event the failure to timely apply for a first certificate of title is
 562 due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release
 563 of a security interest or lien, and no penalty or interest shall be assessed. Such penalty
 564 and interest shall be in addition to the penalty and fee required under Code Section
 565 40-3-21 or 40-3-32, as applicable. ~~A new or used motor vehicle dealer shall be~~
 566 ~~responsible for remitting state and local title ad valorem tax fees in the same manner as~~
 567 ~~otherwise required of an owner under this paragraph and shall be subject to the same~~
 568 ~~penalties and interest as an owner for noncompliance with the requirements of this~~
 569 ~~paragraph.~~

570 (10) The owner of any motor vehicle ~~purchased in this state~~ for which a title was issued
 571 in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized
 572 to opt in to the provisions of this subsection at any time prior to ~~January 1~~ February 28,
 573 2014, upon compliance with the following requirements:

574 (A)(i) The total amount of Georgia state and local title ad valorem tax fees which
 575 would be due from March 1, 2013, to December 31, 2013, if such vehicle had been
 576 titled in 2013 shall be determined; and

577 (ii) The total amount of Georgia state and local sales and use tax and Georgia state
 578 and local ad valorem tax under Chapter 5 of ~~Title 48~~ this title which were due and
 579 paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes
 580 which were due and paid for that motor vehicle in 2013 and 2014 shall be determined;
 581 and

582 (B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph
 583 is greater than the amount derived under division (ii) subparagraph (A) of this
 584 paragraph, the owner shall remit the difference to the tag agent. Such remittance shall
 585 be deemed local title ad valorem tax fee proceeds; or

586 (ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is
 587 less than the amount derived under division (ii) of subparagraph (A) of this paragraph,
 588 no additional amount shall be due and payable by the owner.

589 Upon certification by the tag agent of compliance with the requirements of this
 590 paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise
 591 required under Chapter 5 of ~~Title 48~~ this title in the same manner as otherwise provided
 592 in paragraph (1) of subsection (b) of this Code section.

593 (11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern,
 594 the state title ad valorem tax fee shall be in an amount equal to ~~.75~~ .625 percent of the
 595 fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in
 596 an amount equal to ~~.75~~ .625 percent of the fair market value of the motor vehicle, but
 597 only if in the immediately prior calendar year the average amount of sales and use tax
 598 attributable to the rental charge of each such rental motor vehicle was at least \$400.00
 599 as certified by the state revenue commissioner. If, in the immediately prior calendar
 600 year, the average amount of sales and use tax attributable to the rental charge of each
 601 such rental motor vehicle was not at least \$400.00, this paragraph shall not apply and
 602 such vehicles shall be subject to the state and local title ad valorem tax fees prescribed
 603 in division (b)(1)(B)(ii) of this Code section.

604 (B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized
 605 by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

606 (12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees
 607 under paragraph (1) of subsection (b) of this Code section for a period of time not to
 608 exceed ~~six months in a calendar year~~ 366 days commencing on the date such loaner
 609 vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of
 610 such ~~six-month~~ 366 day period, if the dealer does not return the loaner vehicle to
 611 inventory for resale, the dealer shall be responsible for remitting state and local title ad
 612 valorem tax fees in the same manner as otherwise required of an owner under paragraph

613 (9) of this subsection and shall be subject to the same penalties and interest as an owner
614 for noncompliance with the requirements of paragraph (9) of this subsection.

615 (13) Any motor vehicle which is donated to a nonprofit organization exempt from
616 taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being
617 transferred to another person shall, when titled in the name of such nonprofit
618 organization, not be subject to state and local title ad valorem tax fees under
619 paragraph (1) of subsection (b) of this Code section but shall be subject to state and local
620 title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of
621 subsection (b) of this Code section.

622 (14)(A) A lessor of motor vehicles that leases motor vehicles for more than 31
623 consecutive days to lessees residing in this state shall register with the department. The
624 department shall collect an annual fee of \$100.00 for such registrations. Failure of a
625 lessor to register under this subparagraph shall subject such lessor to a civil penalty of
626 \$2,500.00.

627 (B) A lessee residing in this state who leases a motor vehicle under this paragraph shall
628 register such motor vehicle with the tag agent in such lessee's county of residence
629 within 30 days of the commencement of the lease of such motor vehicle or beginning
630 residence in this state, whichever is later.

631 (C) A lessor that leases a motor vehicle under this paragraph to a lessee residing in this
632 state shall apply for a certificate of title in this state within 30 days of the
633 commencement of the lease of such motor vehicle.

634 (15) There shall be no liability for any additional state or local title ad valorem tax fees
635 in any of the following title transactions:

636 (A) The addition or substitution of lienholders on a motor vehicle title so long as the
637 owner of the motor vehicle remains the same;

638 (B) The acquisition of a bonded title by a person or entity pursuant to Code
639 Section 40-3-28 if the title is to be issued in the name of such person or entity;

640 (C) The acquisition of a title to a motor vehicle by a person or entity as a result of the
641 foreclosure of a mechanic's lien pursuant to Code Section 40-3-54 if such title is to be
642 issued in the name of such lienholder;

643 (D) The acquisition of a title to an abandoned motor vehicle by a person or entity
644 pursuant to Chapter 11 of this title if such person or entity is a manufacturer or dealer
645 of motor vehicles and the title is to be issued in the name of such person or entity;

646 (E) The obtaining of a title to a stolen motor vehicle by a person or entity pursuant to
647 Code Section 40-3-43;

648 (F) The obtaining of a title by and in the name of a motor vehicle manufacturer,
649 licensed distributor, licensed dealer, or licensed rebuilder for the purpose of sale or

650 resale or to obtain a corrected title, provided that the manufacturer, distributor, dealer,
651 or rebuilder shall submit an affidavit in a form promulgated by the commissioner
652 attesting that the transfer of title is for the purpose of accomplishing a sale or resale or
653 to correct a title only;

654 (G) The obtaining of a title by and in the name of the holder of a security interest when
655 a motor vehicle has been repossessed after default in accordance with Part 6 of Article 9
656 of Title 11 if such title is to be issued in the name of such security interest holder;

657 (H) The obtaining of a title by a person or entity for purposes of correcting a title,
658 changing an odometer reading, or removing an odometer discrepancy legend, provided
659 that, subject to subparagraph (F) of this paragraph, title is not being transferred to
660 another person or entity; and

661 (I) The obtaining of a title by a person who pays state and local title ad valorem tax
662 fees on a motor vehicle and subsequently moves out of this state but returns and applies
663 to retitle such vehicle in this state.

664 (16) It shall be unlawful for a person to fail to obtain a title for and register a motor
665 vehicle in accordance with the provisions of this chapter. Any person who knowingly
666 and willfully fails to obtain a title for or register a motor vehicle in accordance with the
667 provisions of this chapter shall be guilty of a misdemeanor.

668 (17) Any person who purchases a 1963 through 1985 model year motor vehicle for
669 which such person obtains a title shall be subject to this Code section, but the state title
670 ad valorem tax fee shall be in an amount equal to .50 percent of the fair market value of
671 such motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to
672 .50 percent of the fair market value of such motor vehicle.

673 (e) The fair market value of any motor vehicle subject to this Code section shall be
674 appealable in the same manner as otherwise authorized for a motor vehicle subject to ad
675 valorem taxation under Code Section 48-5-450; provided, however, that the person
676 appealing the fair market value shall first pay the full amount of the state and local title ad
677 valorem tax prior to filing any appeal. If the appeal is successful, the amount of the tax
678 owed shall be recalculated and, if the amount paid by the person appealing the
679 determination of fair market value is greater than the recalculated tax owed, the person
680 shall be promptly given a refund of the difference.

681 (f) Beginning in 2014, on or before January 31 of each year, the department shall provide
682 a report to the chairpersons of the House Committee on Ways and Means and the Senate
683 Finance Committee showing the state and local title ad valorem tax fee revenues collected
684 pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant
685 to Chapter 5 of this title during the preceding calendar year."

686

SECTION 3.

687

Said title is further amended by revising Code Section 48-7-40.12, relating to tax credits for qualified research expenses, by adding a new subsection to read as follows:

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"(f) Any credit earned under this Code section in any taxable year beginning before

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January 1, 2012, and any credit carryforward attributable thereto, shall be governed by this

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Code section as in effect for the taxable year in which such credit was earned, including,

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but not limited to, when determining whether such credit or any credit carryforward may

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be taken as a credit against the taxpayer's quarterly or monthly payments under Code

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Section 48-7-103."

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SECTION 4.

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Said title is further amended by revising paragraph (95) of Code Section 48-8-3, relating to exemptions from state sales and use taxes, as follows:

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"(95) The sale or purchase of any motor vehicle titled in this state on or after March 1,

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2013, pursuant to Code Section 48-5C-1. ~~This~~ Except as otherwise provided in this

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paragraph, this exemption shall not apply to leases or rentals of motor vehicles for

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periods of 31 or fewer consecutive days or to those sales and use taxes collected pursuant

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to subsection (d) of Code Section 48-8-241. ~~Lease payments for a motor vehicle that is~~

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leased for more than 31 consecutive days for which a state and local title ad valorem tax

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is paid shall be exempt from sales and use taxes as provided for in this paragraph. No

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sales and use taxes shall be imposed upon state and local title ad valorem tax fees

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imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor

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vehicle or any portion of a lease or rental payment that is attributable to payment of state

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and local title ad valorem tax fees under Chapter 5C of this title."

709

SECTION 5.

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Said title is further amended by revising paragraph (4) of subsection (a) and adding a new subsection to Code Section 48-8-3.3, relating to an exemption from state sales and use taxes for certain agricultural inputs and machinery, to read as follows:

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"(4) 'Energy used in agriculture' means fuels used for agricultural ~~purposes, including,~~

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but ~~purposes, other than fuels subject to prepaid state tax as defined in Code Section~~

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48-8-2. The term includes, but is not limited to, off-road diesel, propane, butane,

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electricity, natural gas, wood, wood products, or wood by-products; liquefied petroleum

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gas or other fuel used in structures in which broilers, pullets, or other poultry are raised,

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in which swine are raised, in which dairy animals are raised or milked or where dairy

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products are stored on a farm, in which agricultural products are stored, and in which

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plants, seedlings, nursery stock, or floral products are raised primarily for the purposes

721 of making sales of such plants, seedlings, nursery stock, or floral products for resale;
 722 electricity or other fuel for the operation of an irrigation system which is used on a farm
 723 exclusively for the irrigation of agricultural products; and electricity or other fuel used
 724 in the drying, cooking, or further processing of raw agricultural products, including, but
 725 not limited to, food processing of raw agricultural products."

726 "(f) A dealer that performs both manufacturing and agricultural operations at a single place
 727 of business may avail itself of the exemptions under either Code Section 48-8-3.2 or this
 728 Code section, but not both, for that place of business in any one calendar year."

729 **SECTION 6.**

730 Said title is further amended by revising Code Section 48-8-38, relating to the burden of
 731 proof on the seller as to taxability, as follows:

732 "48-8-38.

733 (a) All gross sales of a retailer are subject to the tax imposed by this article until the
 734 contrary is established. The burden of proving that a sale of tangible personal property is
 735 not a sale at retail ~~is~~ shall be upon the person who makes the sale unless such person, in
 736 good faith, takes from the purchaser a certificate stating that the property is purchased for
 737 resale or is otherwise tax exempt.

738 (b) The certificate relieves the seller from the burden of proof as provided in subsection
 739 (a) of this Code section if the seller acquires from the purchaser a properly completed
 740 certificate taken in good faith. A properly completed certificate taken in good faith means
 741 a seller shall obtain a certificate:

742 (1) That is fully completed, including, but not limited to, the name, address, sales tax
 743 number, and signature of the taxpayer when required;

744 (2) In a form appropriate for the type of exemption claimed;

745 (3) Claiming an exemption that was statutorily available on the date of the transaction
 746 in the jurisdiction where the transaction is sourced;

747 (4) Claiming an exemption that could be applicable to the item being purchased; and

748 (5) Claiming an exemption that is reasonable for the purchaser's type of business.

749 (c) The certificate relieves the seller from the burden of proof on sales for resale as
 750 provided in subsection (a) of this Code section if the seller acquires from the purchaser a
 751 properly completed certificate, taken in good faith, from a purchaser who:

752 (1) Is engaged in the business of selling tangible personal property;

753 (2) Has a valid sales tax registration number at the time of purchase and has listed his or
 754 her sales tax number on the certificate; and

755 (3) At the time of purchasing the tangible personal property, the seller has no reason to
 756 believe that the purchaser does not intend to resell it in his or her regular course of
 757 business.

758 ~~(e)(d)~~ The certificate shall include such information as is determined by the commissioner
 759 and is signed by the purchaser if it is a paper exemption certificate.

760 ~~(d) A purchaser claiming an exemption electronically shall use the standard form as~~
 761 ~~adopted by the Streamlined Sales Tax Governing Board.~~

762 (e) A seller shall obtain the same information for proof of a claimed exemption regardless
 763 of the medium in which the transaction occurred.

764 ~~(f) The department shall relieve a seller of the tax otherwise applicable if the seller obtains~~
 765 ~~a fully completed exemption certificate approved by the Streamlined Sales Tax Governing~~
 766 ~~Board, the department, or the Multistate Tax Commission or captures the relevant data~~
 767 ~~elements required under the Streamlined Sales and Use Tax Agreement within 90 days~~
 768 ~~subsequent to the date of sale. If the seller has not obtained a fully completed exemption~~
 769 ~~certificate or all relevant data elements required under the Streamlined Sales and Use Tax~~
 770 ~~Agreement within 90 days subsequent to the date of sale, the department shall provide the~~
 771 ~~seller with 120 days subsequent to a request for substantiation to either:~~

772 ~~(1) Obtain a fully completed exemption certificate from the purchaser, taken in good~~
 773 ~~faith which means that the seller obtain a certificate that claims an exemption that:~~

774 ~~(A) Was statutorily available on the date of the transaction in the jurisdiction where the~~
 775 ~~transaction is sourced;~~

776 ~~(B) Could be applicable to the item being purchased; and~~

777 ~~(C) Is reasonable for the purchaser's type of business; or~~

778 ~~(2) Obtain other information establishing that the transaction was not subject to the tax.~~

779 ~~(g) The department shall relieve a seller of the tax otherwise applicable if the seller obtains~~
 780 ~~a blanket exemption certificate from a purchaser with which the seller has a recurring~~
 781 ~~business relationship."~~

782 **SECTION 7.**

783 (a) This section and Section 1 of this Act shall become effective upon its approval by the
 784 Governor or upon its becoming law without such approval, and Section 1 shall be
 785 applicable to all taxable years beginning on or after January 1, 2012, except the provisions
 786 in Section 1 relating to Section 1106 of federal Public Law 112-95 shall also apply to
 787 taxable years beginning before January 1, 2012.

788 (b) Section 3 of this Act shall become effective upon its approval by the Governor or upon
 789 its becoming law without such approval and shall be applicable to all taxable years
 790 beginning on or after January 1, 2012.

791 (c) The remaining sections of this Act shall become effective upon its approval by the
792 Governor or upon its becoming law without such approval.

793 **SECTION 8.**
794 All laws and parts of laws in conflict with this Act are repealed.