



1998 SESSION HIGHLIGHTS

This document provides a brief summary of selected legislation enacted by the 1998 Georgia General Assembly. These summaries provide a general overview of legislation, so all provisions of a particular bill may not be included.

The following issues are found on the corresponding page numbers:

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Prepared by the Senate Research Office**April 16, 1998****FISCAL YEAR 1999 BUDGET****HOUSE BILL 1250****GENERAL APPROPRIATIONS ACT**

The Fiscal Year 1999 budget totals more than \$12.5 billion. Of this amount, \$530 million represents the Governor's lottery estimate. On the final day of negotiations, the conferees responded to the critical needs of Georgians affected by flooding in South Georgia with an appropriation of \$10 million to draw down \$15 million in federal aid. In addition and pursuant to the federal agreement, the conferees provided \$10.8 million to the Juvenile Justice Reserve Fund to make ongoing improvements to services and operations related to juvenile offenders. Highlights of other additions and enhancements in the 1999 Appropriations Act and the 1998 Amended Appropriations Act (House Bill 1167) are as follows:

Education, Pre-K through 12 The Fiscal Year 1999 budget for Education is \$4.9 billion. It received the highest appropriation, nearly 40%, of the FY '99 budget.

- \$217.8 million to serve 61,000 four-year-olds in the Pre-Kindergarten Program (Lottery);
- \$192.6 million to provide for a 6% pay raise for certificated personnel and \$3.7 million for a 4% salary increase for lunchroom workers and bus drivers, who also had their retirement multiplier raised from \$9.50 to \$10.00;
- \$114.4 million for 35 systems for school construction, additions and renovations (Bonds);
- \$78.9 million for fast-growing system construction (AFY '98, Lottery);
- \$28.9 million in enhancements to the QBE formula that include: \$9.3 million for a \$7 per FTE in maintenance and operations, \$4.3 million for a 20% increase in media materials, and \$15.3 million for a 16% increase in direct operations;
- \$9.3 million to fund an in-school Reading Initiative; and

- \$10.4 million for After School Programs involving reading programs.

Board of Regents Funding for the University System of Georgia and the Student Finance Commission represent 14% of the state's budget at \$1.8 billion in FY '99.

- \$77.9 million to provide for a 6% pay raise for University System personnel;
- \$145.3 million for eight construction projects, \$6.7 million for the planning and design of seven additional projects, and \$33 million for eleven minor capital outlay projects;
- \$165.6 million for approximately 138,000 HOPE Scholarships in public colleges, including \$500,000 for home-schooled students with a "B" average after 45 quarter hours (Lottery);
- \$47.4 million for HOPE Scholarships in private colleges (Lottery);
- \$15 million for the Equipment, Technology and Construction Fund (Lottery);
- \$42.4 million for the Georgia Research Alliance;
- \$4.9 million to construct an Animal Science Arena at the University of Georgia;
- \$840,000 to expand ICAPP's work to address Georgia's workforce needs; and
- \$609,705 in additional funds for the operations of Agricultural Experiment Stations.

Department of Technical and Adult Education DTAE is appropriated over \$273 million for a 2% share of the state's funding.

- \$24.3 million for 11 satellites and technology equipment at 17 sites (Lottery);
- \$10.5 million for a 6% salary increase for teachers;
- \$6.3 million in additional instructors and positions to staff four new facilities and 3 retrofits opening within the next fiscal year;

- \$10 million for additional funds to purchase a million books for Public Libraries

and \$562,596 for part-time, adult literacy teachers for local programs; and

- \$1.6 million for new and growing Quick Start industry projects.

Health and Human Resources Almost 10% of state dollars, \$1.2 billion, are appropriated in FY '99 to assist in the health and protection of Georgia citizens.

Temporary Assistance for Needy Families (TANF)

- \$15 million state and \$10 million federal dollars to provide childcare assistance slots for transitioning TANF and working poor families. An additional \$15 million in federal funds was appropriated in the supplemental budget;
- \$14 million in funds specifically for TANF's hard-to-employ clients for FY '99 and \$10.9 million to complete FY '98;
- \$14 million in federal dollars for FY '98 and '99 transportation services clients;

Children

- \$4 million to more appropriately place 750 special needs foster children in institutional foster care settings;
- \$3 million for FACETS (Family and Children Electronic Tracking System) to monitor children in child protective services;
- \$2.2 million to expand adoption services; \$2.5 million to increase adoption supplements to families with special needs children; and \$1.1 million to raise the foster care per diem to \$11.10;
- \$375,000 for specialized training for foster parents with severely troubled children and \$345,938 for detailed background checks on foster parents;
- \$400,000 for 4 Healthy Families programs and \$300,000 for child advocacy centers;
- \$300,000 increase for Court Appointed Special Advocates (CASA);

- \$3 million to expand Family Connections statewide, an additional 86 sites;
- \$535,888 to provide for the relocation or expansion of 12 DFCS offices;

Health

- \$17.8 in bonds for a maximum security building at Central State Hospital;
- \$14.9 million in community mental health services and \$6.2 million for expansions;
- \$5.5 million for 2,476 additional Community Care for the Elderly slots;
- \$2 million for 150 citizens to receive community/home Medicaid waiver services;
- \$628,279 for the crisis stabilization program at the Phoenix Center;
- \$400,000 for a Georgia Sickle Cell Screening program for newborns; and
- \$400,000 to establish a trauma program for the state.

Medical Assistance

- \$20 million to implement PeachCare for uninsured children up to 18 years of age. This amount will be supplemented with \$58 million in federal match funding;
- \$10.8 million to begin using the 1996 cost reports and DRI inflation factors to reimburse nursing home providers in October of 1998, \$6.3 million to increase reimbursement rates for inpatient hospital providers, \$4.7 million to increase the reimbursement rate to 72% for dentists, \$1.7 million to increase the reimbursement rates for physicians and \$1.03 million to increase the dispensing fees to pharmacy providers;
- \$1.75 million for conducting random audits and reviews; and
- \$250,000 in increased funds for Independent Care Waivers and \$400,000 for increases in the Home Health Program.

Economic Development This category includes highlights from the Departments of Transportation and Industry, Trade and Tourism.

- \$145 million for the Governor's Road Improvement Program (GRIP) (Bonds) and \$20.6 million in bonds and motor fuel funds for passing and 4-lane roads;
- \$36.9 million for the Georgia Research Alliance and a new Applied Genetics Technology Complex (AFY '98);
- \$35 million for regional airport repairs, enhancements and operations;
- \$17.4 million for upgrades to the Savannah Harbor system;
- \$10.5 million for the Georgia World Congress Center's Phase IV expansion plans and design and \$3.8 in bonds for repairs and renovation;
- \$6.9 million for the Traditional Industries Program;
- \$5.6 for plans/designs for deepening Savannah and Brunswick harbors (AFY '98);
- \$4.3 million for the Athens to Atlanta commuter rail plans, design and environmental study and \$4 million (Bonds) for planning the Atlanta-Cartersville-Canton commuter rail extension;
- \$3.6 million for 11 regional economic development teams outside the Metro area; and
- \$80,512 to expand the Main Street program.

Natural Resources and Agriculture

- \$20 million for River Care 2000 for land purchases along Georgia's sensitive rivers, including \$15 million designated to land around the Chattahoochee River (Bonds);
- \$20 million for the Georgia Environmental Facilities Authority for local government loans to improve sewer, water, and wastewater treatment (Bonds);
- \$10.5 million for the Georgia National Fairgrounds and Agricenter to: construct a multi-purpose building, make road improvements, develop a new South Gate and improve pedestrian and vehicular traffic flows (Bonds);

- \$7.9 million to the Hazardous Waste Trust Fund for cleaning sites;
- \$6 million for Vehicle Emission and Inspection Program's new dynamometer testing;
- \$6 million in repairs and expansion projects at the Atlanta Farmers' Market and \$150,000 to seasonal Farmers' Markets throughout the state;
- \$2.4 million for the beach renourishment of Tybee Island;
- \$2.1 million to install "Point-of-Sale" computerized hunting and fishing licenses;
- \$1.1 million for various state park projects and \$1 million for local, community assistance Recreational Grants;
- \$1 million for the first of an eight year study of coastal groundwater management;
- \$250,000 for the first of a five year agricultural water usage study.

Public Safety Nine percent, or nearly \$1.2 billion, of Georgia's Fiscal Year 1999 budget is dedicated to the protection of its citizens from crime. This figure combines the funding for the State Board of Pardons and Paroles, Georgia Bureau of Investigation, and the Departments of Juvenile Justice, Public Safety and Corrections.

- \$15 million for a new youth campus in Muscogee County, \$8.2 million for a new Gainesville youth campus, and \$1.46 million to implement a new group home for females;
- \$13.3 million to expand to 750 beds three adult prisons under construction;
- \$12.9 million to operate/expand YDCs, and \$6.3 million for operating the new Metro RYDC;
- \$10.8 million in enhancements in juvenile facilities to include: mental health and quality assurance offices, special education materials/teachers, 128 additional officers, health/counseling services, diagnostic screenings, and system evaluation;
- \$10.4 million for operating 1,344 additional beds opening during FY '99;
- \$7.9 million additional funds for jail subsidies paid to counties;

- \$3.4 million in new funds to increase the county jail per diem from \$12.50 to \$15.00;
- \$1.2 million for 50 additional probation officers;
- \$350,863 to operate "Judgement Use of Deadly Force" course at Georgia P.O.S.T.;
- \$106,650 for the Motor Carrier Safety Assistance Program through the PSC; and
- \$68,000 for housing of the new Regional Investigative Office in Coffee County.

Government

- \$152 million to initiate department and agency computer remediation and replacement costs associated with the Year 2000 programming dilemma (AFY '98);
- \$63 million for merit-based raises in the Executive Branch;
- \$13.8 million to complete the State Capitol restoration, \$3.2 million to continue the renovation of the State Capitol Museum, and \$1.6 million for the completion of the Capitol Education Center (Bonds);
- \$12.3 million to continue modernizing the Department of Revenue, and \$1.3 in new staff support;
- \$1.4 million in state funds to operate the Youth Challenge Program within the Department of Defense; and
- \$686,260 to initiate the Georgia War Veterans' Cemetery in Baldwin County.

AGRICULTURE

SENATE BILL 420

SOUTHERN DAIRY COMPACT (VETOED)

This bill makes Georgia a member of the Southern Dairy Compact Commission along with the other states that pass the same legislation, provided Congress approves the Compact. The states that have already passed this legislation include North Carolina, Louisiana, and

Arkansas. A state can withdraw from the compact by repealing the statute and providing a one year notice.

The Commission would have the authority to establish a "compact over-order price" which would be the minimum price required to be paid to dairy producers for fluid milk. This price would be above the price established in federal marketing orders. However, the over-order price could not exceed one dollar and fifty cents per gallon at Atlanta, Georgia. This price could also be adjusted upward or downward at other locations to reflect differences in minimum federal order prices. (This cap would be adjusted annually for inflation.)

Each state in the Compact would have one vote, and the establishment or termination of an over-order price would require at least a two-thirds vote of the Commission. In determining the price, the Commission must consider the costs of production, the purchasing power of the public and the price needed to provide a reasonable return to producers and distributors.

To determine if an over-order price is approved by milk producers, the Commission must conduct a referendum among producers. Approval requires a two-thirds vote of voting producers. Termination of an over-order price may be accomplished by a majority vote.

The Georgia delegation would have five members to include one consumer representative appointed by the Governor, one member appointed by the Speaker, one appointed the President of the Senate representing the school food service profession, and two appointed by the Commissioner of Agriculture, one of whom must be a dairy farmer and the other a milk processor.

BANKING AND FINANCIAL INSTITUTIONS

HOUSE BILL 1354

REGULATORY SIMPLIFICATION AND UPDATE OF VARIOUS BANKING PROVISIONS

House Bill 1354 authorizes the Department of Banking and Finance to establish streamlined licensing and regulatory procedures and to issue requirements that are more easily coordinated with those of the federal regulators. The bill also amends state regulatory requirements of financial institutions to make them more consistent with general business corporation requirements in Georgia.

Testimony before the Senate Banking and Financial Institutions Committee indicated that the residential mortgage market is the fastest growing segment of Georgia's banking industry. Several amendments are made to Georgia's Residential Mortgage Act to increase consumer protections and to facilitate regulatory control of the mortgage industry.

HOUSE BILL 1372

SECURITIES; CONFORMITY WITH FEDERAL ENACTMENT

House Bill 1372 amends Georgia's securities provisions to conform with the federal *National Securities Markets Improvement Act of 1996* ("NSMIA"). In NSMIA, Congress reduced the authority of the states to regulate the securities industry, and granted to states the exclusive registration authority over investment advisers with assets under management of less than \$25 million. House Bill 1372 adjusts state statutes to limit the applicability of state regulatory provisions governing the net capital, books, records and financial reporting requirements of federally registered broker-dealers and out-of-state investment advisers. Also for consistency with the federal enactment, House Bill 1372 narrows the state exemption from registration of certain types of notes that reach maturity in less than nine months.

HOUSE BILL 1496**LICENSING OF MORTGAGE BROKERS**

In the nature of a reciprocity arrangement, House Bill 1496 provides that if, for licensing, the home state of a mortgage broker requires that brokers have a physical place of business within the state, then the broker may not be licensed in Georgia unless the broker has a physical place of business in Georgia. The provisions of the enactment are applicable to new license applications and applications for renewal of mortgage broker licenses.

SENATE BILL 402**INVESTMENT SECURITIES**

The bill amends Article 8 of the Commercial Code (O.C.G.A. §11-8-101 et seq.) relating to investment securities. The bill also revises those sections of Article 9 of the Commercial Code, relating to secured transactions, which deal with security interests in investment securities. The bill adopts the revisions proposed by the National Conference of Commissioners on Uniform State Laws.

CHILDREN AND FAMILIES**HOUSE BILL 1585****FAMILY REUNIFICATION; PERMANENCY PLANS**

To preserve Georgia's eligibility to receive up to \$39 million in federal funding for child welfare and adoption services, House Bill 1585 conforms state law with the new federal *Adoption and Safe Families Act of 1997*. House Bill 1585 requires the court to determine whether reasonable efforts were made to preserve the family before a child is placed in foster care, but emphasizes the child's health and safety as the paramount concern. The enactment specifies certain situations in which reasonable efforts are not required before removal of a child from his or her home. The legislation also requires the Department of Human Resources to file a petition to terminate parental rights under certain specified circumstances.

HOUSE BILL 1674**FAMILY COURT PILOT PROJECT**

The bill establishes the Family Court Pilot Project in the Superior Court of Fulton County. The Family Court will be a division of the Fulton County Superior Court and will handle family law cases where a child is involved. Four judges will be specially trained as family court judges. The pilot will terminate on July 1, 2001, pursuant to the constitutional mandate that pilot projects be of limited duration.

HOUSE BILL 1717**DEPRIVED CHILDREN; CUSTODIAN SUBSTANCE ABUSE**

House Bill 1717 provides for determinations in juvenile proceedings as to whether the deprivation of a child is the result of alcohol or other drug abuse. Upon a finding that the deprivation is the result of drug or alcohol abuse, and if the court orders transfer of the legal custody of the child, House Bill 1717 authorizes the court to order that legal custody may not be transferred back to the substance abuser unless that person undergoes substance abuse treatment and screenings, and unless the screenings are negative for no less than six consecutive months.

SENATE BILL 473**CHILD ABUSE REPORTING**

Senate Bill 473 strengthens the reporting requirements for child fatalities and expands the composition of the Child Abuse Prevention Panel and child abuse protocol committees at the state and county levels. With respect to a child who at the time of his or her death was in the custody of a state department or agency or foster parent, the enactment provides that records, meetings, and proceedings of the Panel and child abuse protocol committees and subcommittees are to be open to the public.

SENATE BILL 660**RELATIVE CUSTODY AND COURT ORDERED COUNSELING**

Regarding custody orders for children in the care of DFCS, when the court finds that reunification with the parents would not be in the best interests of the child, and custody is granted to a relative, Senate Bill 660 provides that the custody order will remain in effect until the child's eighteenth birthday. Senate Bill 660 also expands the circumstances under which the court may order counseling for juveniles who are found to have committed a delinquent act, to be a deprived or unruly child, or to have committed a juvenile traffic offense. (*See* House Bill 1290 for parallel provisions re: counseling.)

CONSUMER AFFAIRS**HOUSE BILL 71****UNSOLICITED TELEPHONE CALLS**

This legislation establishes a mechanism under which Georgia citizens can decide whether or not to receive telemarketing calls in their homes. The bill provides definitions, including the definition of "telephone solicitation" to mean any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services. The bill specifically excludes the following from the definition of "telephone solicitation:"

- Calls made to any residential subscriber with prior expressed permission;
- Calls made by or on behalf of anyone with whom subscriber has a prior or current business or personal relationship; or
- Calls made by or on behalf of charitable organizations; religious organizations; nonprofit educational institutions; business, professional, trade associations that do not solicit from the general public; fraternal, civic, social organizations where solicitation is confined only to membership; persons requesting money for relief of another individual; any charitable organizations with a total gross revenue of \$25,000 per year; or any local and state organizations for hunters, fisherman, and target shooters. See O.C.G.A. 43-17-9 (a) (1)-(6).

The bill requires the Public Service Commission (commission) to establish a data base which contains a list of telephone numbers of residential subscribers who object to receiving telephone solicitations and pay a \$5.00 fee. Anyone desiring to make telephone solicitations must pay \$10.00 per year to the commission to obtain a copy of the data base. The bill authorizes the imposition of Georgia's database into a national data base if the Federal Communications Commission establishes a single national data base of phone numbers of subscribers who object to receiving telemarketing calls. Anyone making a telephone solicitation must clearly identify who is calling. The bill prohibits telemarketers from using any kind of "call block." For violations, the commission may issue cease and desist orders, orders imposing a civil penalty of up to \$2,000 for each knowing violation, and orders to seek additional relief in any superior court of competent jurisdiction.

HOUSE BILL 1420

TELEMARKETING TRANSACTIONS

This legislation aims to protect the elderly and other Georgia citizens by making the following telemarketing practices unlawful:

- Requesting a fee in advance to remove derogatory information from or improve a person's credit history;
- Requesting and receiving advance payment from a person in order to recover money or items lost in a prior telemarketing transaction;
- Procuring delivery services meant to obtain possession of a consumer's payment, unless goods are delivered with the opportunity to

inspect before payment is made; and

- Listing by any non-local business in a non-classified advertising local telephone directory a local telephone number that forwards or transfers the calls to a non-local business outside the calling area covered by the local phone directory, and where such listing fails to clearly state the principal place of business of the non-local business.

The bill further prohibits anyone making a telephone sale in connection with a solicitation of a charitable contribution from using the services of a courier, or to personally obtain receipt of a monetary contribution from a residence.

SENATE BILL 525

DISPOSSESSORY PROCEEDINGS

The bill provides that the tender of rent plus the costs of a dispossessory warrant within seven days of a summons served on a tenant is an affirmative defense to an action for non-payment of rent. The bill changes the requirements regarding the tenant's obligation to make rental payments into the court registry in cases where the landlord has refused the tender and provides that upon order of the court, the tenant must pay rents due to the landlord within three days of said order. Upon failure of the tenant to pay such sum, a writ of possession shall be issued.

The bill provides that the court will pay to the landlord, from tenant payments claimed and not in controversy paid to the court registry, rent payments that have accrued after the dispossessory warrant was filed. Upon judgment against the tenant, the court shall issue a writ of possession, both of execution for the judgment amount and a writ to be effective at the expiration of seven days after the date such judgment was entered. Any appeals must be filed within seven days of such judgment.

CRIMINAL JUSTICE

HOUSE BILL 908

FURNISHING ALCOHOLIC BEVERAGES TO MINORS

This legislation provides for a tougher penalty to be imposed on anyone under 21 who purchases or knowingly possesses any alcoholic beverage so that upon first conviction, the individual will be found guilty of a misdemeanor and punished by not more than six months imprisonment, or a fine of not more than \$300, or both. The bill also provides for anyone who knowingly acts as an agent to purchase alcoholic beverages on behalf of anyone under 21 to be found guilty of a misdemeanor of a high and aggravated nature. Those under 21 who purchase or knowingly possess alcoholic beverages will, upon second or subsequent convictions, be found guilty of a misdemeanor instead of a misdemeanor of a high and aggravated nature.

HOUSE BILL 1164**MINIMUM MANDATORY SENTENCE LAW**

House Bill 1164 clarifies the reach of the Sentencing Reform Act of 1994, which provides in part for a ten year minimum mandatory prison sentence for commission of any of the seven designated serious violent felonies (murder, rape, armed robbery, kidnapping, aggravated child molestation, aggravated sodomy, or aggravated sexual battery). House Bill 1164 statutorily clarifies that persons who commit any of the violent felonies included in the "seven deadly sins" shall be sentenced to no less than ten years imprisonment, and that such offenders are not eligible for probation or other first offender treatment under the First Offender Act.

HOUSE BILL 1165**CRIME VICTIM RESTITUTION**

Under current O.C.G.A. Section 17-14-3, judges have discretion to order restitution in addition to any punishment or sentence imposed by the court. House Bill 1165 removes judicial discretion for certain cases by providing that, for cases involving property theft, as a condition of any sentencing relief to be granted to an adult defendant, the judge is required to order the offender to make restitution to the victim in an amount equal to any unreimbursed or uncompensated portion of the victim's damages.

HOUSE BILL 1378**CHEMICAL TESTS; IMPLIED CONSENT**

House Bill 1378 sets forth the legislative declaration that "... while suspects in [D.U.I.] cases should be informed of their rights regarding the administration of chemical testing, no such suspect is entitled to a notice which tracks the exact language of the implied consent statute, so long as the substance of the notice remains unchanged." Accordingly, this bill authorizes a less than exact reading by an officer of the statutorily designated text intended to advise motorists of the right to refuse testing and of the consequences thereof. Regarding the number of tests that officers can request, in the 1998 Georgia Court of Appeals case of State v. Warmack, (495 S.E. 2d 632), the Court held that the arresting officer may request only one chemical test. House Bill 1378 amends the section to authorize officers to initially require a combination of chemical tests, and to subsequently require additional tests of any substance not made the subject of a screening.

HOUSE BILL 1391**GEORGIA STREET GANG ACT OF 1998**

House Bill 1391 makes it a felony to attempt to kill, threaten or cause physical or economic harm or to use terroristic threats or acts against another person in order to prevent information concerning criminal activity from being communicated to law enforcement or the courts. The legislation also provides that it is illegal to cause another to participate in a criminal street gang or to deter or retaliate against any person who

withdraws from a criminal street gang. The bill makes it easier for law enforcement officials to establish a pattern of gang activity. It amends the definition of "pattern of criminal gang activity" to involve committing at least two of the following offenses: racketeering, stalking, aggravated sodomy, statutory rape, aggravated sexual battery, escape and other related confinement offenses, any offense involving dangerous instrumentalities and practices, offenses relating to the security of state or county correctional facilities, or encouraging a child to escape from custody. The bill also provides that participating in criminal gang activity is a designated felony. In addition, the bill amends the Georgia Racketeer Influenced and Corrupt Organizations Act (RICO) to include crimes which involve: (1) tampering with witnesses, victims, or informants; (2) intimidation of grand or petit juror or court officer; and (3) tampering with records and reports of currency transactions. It provides that the proceeds of any property forfeited due to criminal street gang activity shall be paid to the Criminal Justice Coordinating Council for use in funding gang prevention projects. Any person who is injured by reason of criminal gang activity shall have a cause of action for three times the actual damages sustained and where appropriate, punitive damages. In gang activity cases, the court must increase the amount of bail and require as a condition of bail or release that the defendant not have contact with any other gang members or with the victim or any member of the victim's family. The bill also prohibits harassment of victims and witnesses.

HOUSE BILL 1604**PUBLIC HOUSING; NONRESIDENT LOITERING**

House Bill 1604 authorizes housing authority directors to prohibit any nonresident who is reasonably suspected of committing a criminal act on the premises of a project from entering, loitering, or remaining in the common areas of that project.

HOUSE BILL 1639**STALKING REDEFINED; PENALTY STRENGTHENED**

Current law defines stalking as conduct directed at a specific person which causes emotional distress by placing that person in reasonable fear of "death or bodily harm to himself or herself, or to a member of his or her immediate family." House Bill 1639 defines the offense more broadly to include conduct which causes emotional distress by placing the subject of stalking in reasonable fear "for such person's safety or the safety of a member of his or her immediate family." The penalty for second and subsequent convictions under current law is not less than one year and not more than five years imprisonment. House Bill 1639 increases the maximum penalty for second and subsequent convictions to ten years, and authorizes judges to require psychological treatment of the offender as part of a sentence, or as a condition to suspension or stay of sentence, or for probation.

SENATE BILL 110**ENHANCED D.U.I. PENALTY; INJURY FUND**

Senate Bill 110 imposes an additional fine for driving under the influence of alcohol or drugs in an amount equal to 10% of the original fine. The additional fines are to be allocated to a fund created by Senate Bill 110, the Brain and Spinal Injury Trust Fund, which is to be established as a separate fund in the state treasury. The Department of Human Resources will administer the Fund. The provisions of Senate

Bill 110 are contingent on ratification in the 1998 general election of a constitutional amendment which would authorize the funding through the state treasury. (*See* Senate Resolution 144.)

SENATE RESOLUTION 144

BRAIN AND SPINAL INJURY TRUST FUND

Senate Resolution 144 proposes a constitutional amendment that would authorize the General Assembly to provide for additional penalties or fees in cases in which a person is found guilty of an offense involving driving under the influence of alcohol or drugs. The amendment would further authorize the General Assembly to provide for allocation of the additional penalties or fees to the Brain and Spinal Injury Trust Fund.

The purpose of the Fund is to meet the cost of providing care and rehabilitative services to Georgians who have suffered neurotrauma with head or spinal cord injuries. The amendment provides that moneys appropriated for the Fund shall not lapse, and that the General Assembly may provide for administration of the Fund. (*See* Senate Bill 110 re: statutory creation of the Fund.)

SENATE BILL 158

PANDERING

Current law defines pandering as solicitation of "a person to perform an act of prostitution or when he or she knowingly assembles persons at a fixed place for the purpose of being solicited by others to perform an act of prostitution." (O.C.G.A. Section 16-6-12.) Senate Bill 158 expands the definition to include solicitation on behalf of a third person. The enactment requires publication of a legal notice of a defendant's conviction for pandering, including the person's name, address, and a photograph of the person taken at the time of the arrest. In addition to penalties that may be imposed under current law, Senate Bill 158 provides that a person convicted of pandering also is subject to a fine of \$2,500 if the offense was committed within 1,000 feet of any school building, school grounds, public place of worship, or playground or recreation center used primarily by persons under the age of 17. Defendants pleading guilty to or found guilty of pandering must submit to, and pay for, testing for the eight most common sexually transmitted diseases. The defendant must further consent to the release of the test results to the defendant's spouse, if married.

SENATE BILL 409

GEORGIA CRIME VICTIMS EMERGENCY FUND

The bill increases the current monthly probation supervision fee to \$23.00 and requires \$3.00 of the fee to be paid into the Georgia Crime Victims Emergency Fund each month.

SENATE BILL 411

ARREST WARRANTS BY VIDEO CONFERENCE

The bill provides that a judge of any court in this state is authorized to conduct applications, hearings, and signing of affidavits for the

issuance of arrest warrants by video conference. The bill also provides for the utilization of video conferences to conduct hearings relating to the issuance of initial bonds in connection with offenses for which arrest warrants are issued and for the administration of oaths to persons testifying by such video means.

SENATE BILL 444**CONDUCT ON PUBLIC TRANSIT**

Senate Bill 444 provides for uniform rules of conduct on all public transit systems within the state. The enactment prohibits smoking, consuming tobacco, consuming food or beverage, possessing an open food or beverage container, obstructing or disturbing passengers, remaining on board after the route has been completed, entering the operator cab or driver seat area unauthorized, and using an emergency door when no emergency exists. Senate Bill 444 addresses motor vehicle movements in the parking lots of public transit systems, and authorizes the issuance of citations for violations. The enactment also clarifies that service and guide canines for persons with disabilities are allowed on public transit, as well as small animals in secure, rigid cages.

SENATE BILL 460**OBSTRUCTION OF 911 CALL**

Senate Bill 460 declares it to be a misdemeanor offense for a person to obstruct a 911 call or other call to law enforcement authorities for the purposes of requesting protection or reporting a crime. A person is guilty of the offense if he or she verbally or physically obstructs, prevents or hinders another person from such a call, if there is intent to cause or allow physical harm or injury to the person attempting to make the call. The offense is punishable by a fine not to exceed \$1,000 or imprisonment not to exceed twelve months.

SENATE BILL 513**PERSONAL FINANCIAL SECURITY ACT**

Senate Bill 513 creates the offense of "financial identity fraud." The offense includes acts involving the use of another person's financial records, social security number, driver's license number, bank account numbers, credit and debit card numbers, personal identification numbers, electronic identification numbers, digital signatures, and any other numbers or information that can be used to access a person's financial resources. The offense is committed when such information is used with the intent to appropriate the financial resources of another person to the offender's own use or the use of a third unauthorized party. The provisions of the enactment make an attempt to unlawfully allocate financial resources punishable, even if the attempt is unsuccessful. The penalty is one to ten years imprisonment, and the court is

authorized to order full restitution to the victim.

ECONOMIC DEVELOPMENT AND TOURISM

HOUSE BILL 1667

TAX CREDITS FOR BUSINESSES INCREASING EXPORTS

This legislation provides three different tax credits. It provides a job tax credit based on tier classification for businesses who increase their port traffic through Georgia port facilities by 10% between January 1, 1998 and July 1, 2002. Businesses who meet the qualifications in tier 1 counties will be allowed a \$3,500 job tax credit, businesses who meet the qualifications in tier 2 counties will be allowed a \$3,000 job tax credit, and businesses who meet the qualifications in tier 3 counties will be allowed a \$2,500 job tax credit. This credit is provided in lieu of other job tax credits.

The bill would provide the maximum investment tax credit regardless of tier classification for businesses qualified to claim an investment tax credit which increase their port traffic through Georgia port facilities by 10% between January 1, 1998 and July 1, 2002. This credit is provided in lieu of other investment tax credits. Finally, the bill would allow businesses to take both tax credits if they add more than 400 jobs and increase their port traffic through Georgia port facilities by 20% between January 1, 1998 and July 1, 2002.

HOUSE BILL 1126

GEORGIA GOLF HALL OF FAME

This legislation creates the Georgia Golf Hall of Fame Authority, and it establishes the Authority as an instrumentality of the State. The bill provides for membership, powers, duties, terms and compensation of the Authority.

HOUSE BILL 1263

REAL ESTATE APPRAISERS AND BROKERS

The bill changes certain provisions of the "Real Estate Appraiser Classification and Regulation Act." It adjusts the time-certain periods from within 14 days to within 30 days in which real estate appraisers are required to take certain actions as specified in this Code provision. The bill changes the requirements of brokers, who accept trust funds in brokerage transactions, to maintain a separate, federally insured trust or escrow bank checking account in Georgia in order to engage in the real estate business. This designated trust or escrow account must be opened by the broker within one business day of the receipt of trust funds. Notice and authorization to examine the trust account must be given to the Real Estate Commission which has the discretion to allow a nonresident broker to maintain the trust account, as required in this Code section.

The bill specifies additional actions by real estate brokers, salespersons, licensees, schools, and instructors which will constitute violations of the Act and will be subject to fines. The bill changes the limits to \$5,000.00 for fines imposed for multiple violations.

EDUCATION AND HIGHER EDUCATION

HOUSE BILL 353

CHARTER SCHOOLS

A charter is an academic and/or vocational performance-based contract approved by the State and local boards. In return for flexibility and freedom from rules and regulations, charter schools must spell out a plan for improved student performance and measures of that performance. Under current law, only public schools can become charter schools. House Bill 353 provides that charter schools can be formed by local schools or private individuals, organizations, or state and local public entities. Excluded from forming charter schools are: home study programs; sectarian or religious schools; private for profit schools; private educational institutions not established, operated, or governed by the state; and existing private schools. A charter school which forms under the provisions of House Bill 353 will be a public, nonsectarian, nonreligious, nonprofit school which is not home based. It will be subject to the control and management of the local board of the district in which it is located. If the charter school is established by a petitioner other than a local school, it will be organized and operated under the laws governing nonprofit corporations. A governing body, the majority of which must be parents or guardians of students enrolled in the charter school, would be responsible for carrying out the terms of the charter. A charter school will enroll any student residing in the school district. If the number of applicants exceeds enrollment capacity, a random selection process will be used. A charter school may not discriminate on any basis which would be illegal if used by a school system. House Bill 353 provides that a charter school will be included in the allotment of funds under the Quality Basic Education Act to the local school system. Additionally, the local board and the State Board are to treat a charter school no less favorably than another local school in terms of funds for instructional and administrative programs, and, where feasible, transportation and building programs.

Note: Charter schools formed under the original charter school law are exempt from the requirements of House Bill 353 for the length of their existing charters.

HOUSE BILL 409

DRIVER'S EDUCATION

This bill provides that a student completing a driver education course at a driver training school would receive elective credit. It also provides for grants to local school systems for driver education courses subject to appropriation by the General Assembly. The intent is to assist schools who want to explore options for offering driver education, including private driver training programs.

HOUSE BILL 884

STUDENT LOANS: DENYING PROFESSIONAL LICENSES FOR FAILURE TO REPAY

This bill directs licensing entities to deny, suspend, or revoke various licenses for failure to repay a student loan. These include licenses for commercial pesticide use, mortgage lenders and brokers, check cashers, professional forestry, pharmacists, insurance agents and others, real estate appraisers, real estate and those licenses issued by state examining boards. The bill also provides for a certified statewide list of persons who are in default and authorizes licensing entities to suspend or withhold issuing licenses to all persons whose names are on the list.

HOUSE BILL 1556

HOPE SCHOLARSHIPS

This bill codifies existing requirements for HOPE scholarships. It amends the O.C.G.A. to include eligibility requirements of the program presently used by the Georgia Student Finance Commission. The most important qualification for receiving HOPE is a final grade average of at least 80 in courses meeting the college preparatory curriculum requirements, or an 85 average in career/technical courses. Students graduating from high school in the year 2000 and afterwards will have to have at least an 80 grade point average in college preparatory core curriculum subjects or an 85 in career/technical core curriculum subjects. Alternative ways of meeting the achievement standard are specified to address the issue of students completing home study programs or a non-accredited school. Those students can earn HOPE scholarships retroactively for their freshman year. To continue to be eligible for a HOPE scholarship in the sophomore, junior and senior years, a student would have to meet residency, achievement, and enrollment standards.

A "second chance" at a HOPE scholarship is provided. If a student fails to maintain a 3.0 average at the end of the quarter or semester in which 45 quarter hours or 30 semester hours were attempted, the student would attend the next 45 quarter hours or 30 semester hours without a HOPE scholarship. If the student regains a 3.0 average at the end of that time, the student requalifies for HOPE. A student can receive the HOPE scholarship until one earns a baccalaureate degree, has attempted 190 quarter hours or 127 semester hours. Subject to the appropriation of funds by the General Assembly, a HOPE scholarship for a student attending a public institution includes tuition, approved mandatory fees, and a book allowance not to exceed \$100 per quarter or \$150 per semester. The eligibility requirements for students attending private institutions are essentially those in place for students attending public institutions; however, the amount of the HOPE award differs. At private institutions, a HOPE scholarship will not be less than \$3,000 per academic year. *Note: HOPE scholarships and grants may only be applied to tuition and mandatory fees not covered by any Pell grant or other federal grants.* House Bill 1556 also describes the eligibility requirements of HOPE grants for students seeking diplomas or certificates at branches of the Department of Technical and Adult Education or units of the University System of Georgia. An eligible student can receive HOPE grants for all course work required for two programs leading to a certificate or diploma, including remedial or developmental studies. House Bill 1556 also provides for a HOPE GED voucher in the amount of \$500, subject to the appropriation of funds by the General Assembly. There are two types of lottery-funded scholarships which provide assistance for the teaching profession: (1) the PROMISE Teacher Scholarships, for those who wish to be teachers; and (2) the HOPE Teacher Scholarships for those who are already in the profession.

The Georgia Student Finance Corporation is authorized to make rules and regulations concerning grants and scholarships not inconsistent with the other provisions of this Act. It may also restrict eligibility for scholarships and grants or reduce the dollar amounts of the grants.

SENATE RESOLUTION 529

USE OF LOTTERY PROCEEDS

This Resolution proposes amending the Constitution of the State of Georgia to specify and prioritize the educational purposes and programs for which lottery funds may be used. If the Constitutional Amendment set out in Senate Resolution 529 is ratified by voters in 1998, lottery funds can be appropriated for the following purposes:

- Tuition grants, scholarships, and loans for Georgia citizens attending colleges and universities in Georgia, public or private, and attending Department of Technical and Adult Education institutions (the HOPE program);
- Voluntary pre-kindergarten;
- One or more educational shortfall reserves in a total amount of not less than 10 percent of the net proceeds from the lottery for the preceding fiscal year;
- Technology training for K-12 teachers, technical institute teachers, and Regents professors, and instructors; and
- Capital outlay projects for educational facilities.

No funds would be appropriated for teacher training and capital outlay unless all eligible HOPE recipients receive assistance and all approved pre-kindergarten programs are fully funded. Reserve funds must also be fully funded before funds are provided for teacher training and capital outlay. Lottery proceeds shall supplement, not supplant, non-lottery resources for education.

SENATE BILL 447**EDUCATIONAL CARE TEAMS (VETOED)**

This bill provides for the appointment of educational care teams to assist underperforming schools. If a local board determines that a school under its management is consistently underperforming, it can ask the State Board to send in a team of seven people, each of whom have experience as a principal, teacher, or school administrator. The care team can provide instruction, conduct staff development and make recommendations for improving the school. If the funding is available, four teams will be funded each fiscal year.

SENATE BILL 535**PROFESSIONAL STANDARDS COMMISSION**

Senate Bill 535 transfers the functions of the Professional Practices Commission, which investigates reports of criminal conduct, and violations of professional and ethical codes of conduct and rules by educators to the Professional Standards Commission. (The Professional Standards Commission is responsible for certifying educators teaching in Georgia.) Presently, the Professional Practices Commission investigates allegations against an educator, and then must recommend to the Professional Standards Commission whether or not the educator's teaching certificate should be revoked or suspended. Allowing the Professional Standards Commission to perform both licensing and monitoring functions is intended to help eliminate an 18-month backlog of cases at the Professional Practices Commission.

Other education legislation includes **Senate Resolution 467** which would reauthorize the Blue Ribbon Study Committee on the Funding of the Quality Basic Education Act.

ELECTIONS

HOUSE BILL 942

RECALL ELECTIONS

The bill provides that in recall election situations, judicial review of the sufficiency of a recall application will include a hearing to determine whether there is probable cause to believe the alleged facts underlying the application are true. The bill provides that the official sought to be recalled is entitled to expedited review and discovery in connection with his demand for judicial review of the recall application. Further, the officer may file a discretionary appeal if the court finds the application to be legally sufficient.

HOUSE BILL 1529

PLURALITY VOTE REQUIRED FOR CERTAIN STATEWIDE OFFICES

This bill allows for the election of the statewide offices of Insurance Commissioner, Labor Commissioner, State School Superintendent, Secretary of State, Commissioner of Agriculture, and Attorney General by a plurality vote.

GOVERNMENT

HOUSE BILL 300

HEATING AND AIR CONTRACTORS

The bill enables the State Construction Industry Licensing Board to regulate heating and air contractors. The board is authorized to issue notice of violations and cease and desist orders to prohibit unlicensed persons from engaging in this business and to impose civil penalties up to \$1,000 for each violation. Procedures are provided for hearings and for the forfeiture, confiscation and seizure by a peace officer of any commercial vehicle titled to the unlicensed person which has been used in violation of a cease and desist order. Procedures are set forth to

provide a civil remedy for the condemnation and sale of contraband property. The bill also prohibits the employing or contracting for the services of any unlicensed individual or entity to perform any work or service which is required to be performed by a licensed individual or entity. Civil penalties are provided for violations.

SENATE BILL 437**COMPETITIVE BIDDING PROCEDURES**

The bill amends the competitive bidding procedures used by state government to require that sealed bids, if the total of any given commodity is for an expenditure in excess of \$250,000, must be solicited by advertisement in the Georgia Procurement Registry or in a newspaper of state-wide circulation at least once and for at least 15 calendar days prior to the date fixed for opening of the bids and awarding of the contract. However, construction projects are allowed 30 calendar days. The Department of Administrative Services is required to solicit sealed bids in all cases where the total costs requirement will exceed \$100,000.

The bill provides that public notice or utilization of the selection process for professional services is not required for the predesign phase of any state agency construction project if the costs for professional services are estimated to be below \$75,000. The predesign phase includes site analysis and other studies.

SENATE BILL 638**YEAR 2000; SOVEREIGN IMMUNITY**

Due to the numerical change in the date at the turn of the century, computer failures are predicted to increase in frequency and severity. The increase in failures has begun and is anticipated to worsen until the year 2000 and for several years thereafter. Systems potentially affected include water supply, traffic control, benefit payments, and any other system or machinery dependent on computer processing for its operation. In both public and private sectors, efforts currently are underway to prevent these failures and to minimize risks from the malfunctions that cannot be prevented. Even so, experts caution that neither the private nor public sector will be able to prevent, or even to predict, all failures.

Senate Bill 638 partially shields state and local governments from liability for losses resulting from computer malfunctions occurring before December 31, 2005. Sovereign immunity is applicable if the failure or malfunction causing the loss was unforeseeable, or if the failure or malfunction causing the loss was foreseeable but the plan or design for identifying and preventing malfunction was prepared in substantial compliance with generally accepted computer and information system design standards in effect at the time of the preparation of the plan or design.

HEALTH AND HUMAN SERVICES

HOUSE BILL 1440**MEDICAID FRAUD FORFEITURE**

This legislation revises the "Medicaid Fraud Forfeiture Act" passed last year. The bill provides the following: (1) if the assets of a health care provider are seized under this law and the state believes that the individual is guilty, the individual may post a bond for double the assets value to get them back immediately; (2) the burden is on the state to prove beyond a reasonable doubt that the defendant intentionally committed fraud; (3) providers will not be prosecuted for unintentional billing errors; and (4) reasonable steps by the state to ensure the confidentiality of patients' records upon seizure of assets.

SENATE BILL 410**CHILDREN'S HEALTH INSURANCE PROGRAM**

The "PeachCare for Kids Act" was created in response to federal funding made available to the states under Title XXI of the Social Security Act, and is intended to provide insurance coverage for the large proportion of school-aged children in Georgia who do not currently have access to affordable medical care. This legislation provides health care benefits for children in families with incomes below 200% of the federal poverty level and who are not eligible for medical assistance under Medicaid. The program is to be administered by the Department of Medical Assistance (DMA), and is subject to availability of funds. The bill specifically states that PeachCare is not to be considered an entitlement. The program will offer similar health care services as are now available to children under Georgia's Medicaid plan, excluding non-emergency transportation and targeted case management services. The bill provides a cost control feature in that it requires DMA to limit enrollment and modify benefits if they have reason to believe the cost of enrollment or services may exceed the availability of funding. Senate Bill 410 requires co-payments and premiums to be charged for children over six years of age and allows DMA to provide for presumptive eligibility.

DMA will develop outreach initiatives in order to enroll children in the program. The bill allows for any health care provider who is enrolled in Medicaid to be enrolled in PeachCare. DMA must submit the "PeachCare for Kids" plan to the Health Care Financing Administration by June 1, 1998 for approval. The bill authorizes DMA to contract with HMOs or provider-sponsored health care corporations for coverage of program services, but specifically prohibits DMA from requiring this type of enrollment as a condition of receiving coverage under the program.

SENATE BILL 594**ESSENTIAL RURAL HEALTH CARE PROVIDER ACCESS ACT**

The "Essential Rural Health Care Provider Access Act," encourages the continued existence and availability of certain health care providers in rural areas of the state. An "essential rural health care provider" (ERHCP) is any hospital, federally-qualified health center or rural health clinic which is located in a rural area and complies with certain provisions of this Act. This legislation applies to any county with a population of less than 35,000, and to hospitals with 100 beds or less that receive at least 40% of its patient revenues from Medicare/Medicaid or any combination thereof. This bill allows for any ERHCP to have the opportunity to become a participating provider of health care services in a health benefit plan if the ERHCP: (1) participates in the Medicare/Medicaid programs; (2) adopts and complies with a policy for indigent health care services; (3) is licensed and qualified to render services provided by the plan; (4) agrees to certain payment terms; and (5) meets reasonable and nondiscriminatory qualifications and standards established by the plan. It specifically prohibits discriminating against an ERHCP on the basis of geographic proximity to other participating providers or corporate status. If an ERHCP requests the opportunity to become a participating provider, the insurer must conduct negotiations to determine whether ERHCP meets the qualifications and standards of the plan. Plans must include a sufficient number of physicians located in rural areas. The bill exempts a health maintenance organization (HMO) from these requirements within their service area if the service area was approved by the Commissioner of Human Resources or otherwise deemed by the Commissioner of Insurance to have complied with the standards established by the Commissioner of Human Resources. When an HMO makes a request to originate or expand a service area into a rural area, the commissioner must examine whether the HMO considered an ERHCP in the negotiating and contracting process.

INSURANCE AND LABOR**HOUSE BILL 1086****COVERAGE FOR OSTEOPOROSIS TESTING**

This legislation creates a new chapter, known as the "Bone Mass Measurement Coverage Act," which will make available insurance coverage for bone mass measurement (bone density testing) for qualified individuals for the prevention, diagnosis, and treatment of osteoporosis. This bill allows for coverage to be an optional endorsement to a policy.

HOUSE BILL 1140**UNEMPLOYMENT TAX CUT**

This bill changes the provisions relating to withdrawals from the Unemployment Trust Fund for expenditures. It provides that certain moneys credited with respect to federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment insurance

program in Georgia and are not subject to appropriations by the General Assembly.

Beginning in 1999, this bill lowers unemployment taxes as long as the unemployment trust fund remains healthy. The bill will allow each new or newly covered employer which has implemented a certain drug-free workplace program to pay 0.2 percent lower contributions to the unemployment insurance trust fund. Any employer which has implemented a drug-free workplace program certified by the State Board of Workers' Compensation, will have their unemployment tax rate reduced by 0.2 percent provided the resulting rate is not less than 0.01 percent. By getting certified as a drug free workplace, self-insured businesses may also qualify for this reduced tax rate. The bill increases the weekly unemployment benefit from \$224 to \$244.

SENATE BILL 55 DIABETES

HOUSE BILL 1784

This bill requires insurance companies to offer insurance coverage for medically necessary diabetes outpatient self-management training and education, and diabetes equipment, supplies, and pharmacologic agents. This includes medical nutrition therapy for diabetes as prescribed by a physician. The training and education will be provided by a certified, registered, or licensed health care professional with expertise in diabetes.

SALES TAX DISTRIBUTION

SENATE BILL 603

This bill requires any health benefit policy, including the state health plan, that provides coverage for dependent children to include coverage for a child who is diagnosed with cancer and is enrolled in an approved clinical trial program and is not otherwise eligible for benefit payment from other sources.

CANCER THERAPY FOR DEPENDENT CHILDREN

SENATE BILL 620

This legislation amends Chapter 24 of Title 33, relating to general provisions relative to insurance, so as to provide three separate categories of insurance coverage for the treatment of mental disorders.

Section One provides insurance coverage for mental disorders under individual accident and sickness plans. Insurers must make available, as part of or as an optional endorsement, such coverage for no more than 30 days of inpatient treatment, or no more than 48 visits for outpatient treatment, per policy year. Coverage shall be comparable to that of other types of physical illness.

Section Two provides insurance coverage for mental disorders under small group policies (employers with 50 employees or less). Every small group health insurer must make available as part of, or as an optional endorsement to all such policies, coverage for the treatment of mental

MENTAL HEALTH PARITY

disorders. Coverage must be comparable to that of other types of physical illnesses in terms of degree of coverage and annual and lifetime dollar limits, and must cover the spouse and dependents if they are covered under the insured's policy. The bill allows for different limits to be set on the number of inpatient treatment days and outpatient treatment visits but prohibits other limitations unless they exist for other similar benefits provided for under the particular plan or policy. This section allows for deductibles or co-insurance provisions to apply to coverage for mental disorders; however, this separate deductible must not exceed the deductible allowed for medical or surgical coverages. This section also provides for a separate out-of-pocket limit for mental disorders. The bill requires the Insurance Commissioner to determine any effect of this coverage on premiums and to submit a written report of the findings to the General Assembly by December 1, 1999. If the Commissioner finds that premiums have increased on average at an annual rate exceeding 2%, then these provisions will stand repealed on January 1, 2000.

Section Three applies to large group policies (employers with 51 employees or more) and requires the same coverage for mental disorders as required for small groups. The only difference is that with large group policies, optional endorsements must not contain any exclusions and limitations, including no limits on the number of inpatient treatment days and outpatient treatment visits for mental disorders.

JUVENILE JUSTICE

HOUSE BILL 1288

CHILD'S GUARDIAN AD LITEM

House Bill 1288 facilitates more representation and advocacy on behalf of juveniles involved in deprivation cases. The enactment authorizes the appointment of an attorney or court appointed special advocate as a child's guardian ad litem in deprivation cases.

HOUSE BILL 1290

RELEASE OF JUVENILE DEFENDANT NAMES AND COUNSELING IN DEPRIVATION CASES

Current law prohibits the release of the name or picture of a child who is under jurisdiction of the juvenile court for the first time. House Bill 1290 creates an exception by requiring the release of the name of any child with regard to whom a petition has been filed alleging that the child committed a designated felony act or delinquent act, if the child has previously been adjudicated delinquent or if the child has been before the court earlier on a delinquency charge for which adjudication was withheld. House Bill 1290 also expands the circumstances under which the court may order counseling for juveniles who are found to have committed a delinquent act, to be a deprived or unruly child, or to have committed a juvenile traffic offense. (*See* Senate Bill 660 for parallel provisions re: counseling.)

SENATE BILL 421**JUVENILE RECORDS**

The bill requires every child who is charged with an act, which would be a felony if committed by an adult, to be fingerprinted and photographed. The Georgia Crime Information Center will create a juvenile fingerprint file and enter the data into the computerized criminal history files. The GBI will be the official state repository for juvenile history data and is authorized to disseminate the data for criminal justice and limited sentencing purposes.

NATURAL RESOURCES AND THE ENVIRONMENT**HOUSE BILL 1163****PRIVATIZATION OF SEWAGE TREATMENT SYSTEMS**

This bill requires the privatization of public waste water treatment facilities with design flows of 20 million gallons per day or greater if any of the facilities have significant and repeated violations over a twelve month period. The bill creates a State Oversight Committee consisting of the commissioner of DNR, the commissioner of DOAS, and one appointee each by the Governor, Lieutenant Governor, and Speaker. This Committee will review privatization plans, proposed contracts and bid documents, and copies of proposals, and the committee is authorized to mediate an impasse in negotiations between an owner and private contractor. Failure to meet certain deadlines subjects the owner to a \$50,000 per day civil penalty (\$100,000 for certain failures) for each deadline not met. The committee may extend deadlines up to 180 days if it determines failure to meet a deadline was outside the control of the owner.

HOUSE BILL 1315**CAST NETTING FOR SHRIMP**

This bill requires anyone who wants to engage in commercial food shrimp cast netting to obtain a commercial license in addition to obtaining a commercial fishing boat license. The bill caps the total number of commercial cast netting licenses at 200, and these licenses will not be transferable. The license fee is \$250 for residents and \$2,500 for non-residents.

The bill establishes different net specifications for commercial, recreational bait shrimp, and recreational food shrimp cast nets and makes it illegal to use a nonconforming net. Commercial nets could not be used for recreational purposes. Only one type of cast net gear is allowed on a boat, and it would be illegal to have an unoccupied boat for the purpose of receiving shrimp from another boat to avoid specified catch limits. The DNR Commissioner could open or close state waters for commercial and recreational food shrimp cast netting and seines between

May 15 and the last day of February if the commissioner determines such action is in accordance with principles of wildlife research and management. The bill makes it a misdemeanor to sell, for human consumption, any shrimp caught with a recreational cast net. Illegal cast nets could be confiscated. And the use of an illegal net for commercial food purposes will be a misdemeanor, and the second or subsequent offense would result in forfeiture of the boat and revocation of all commercial fishing and boat licenses.

HOUSE BILL 1352**FISHING LICENSES**

The main provision in this bill, which is effective July 1, 1998, requires both resident and non-resident anglers who fish in saltwater to obtain a recreational fishing license. However, a charter fishing vessel or a hotel/motel that has a fishing pier may purchase one license for \$400.00 that covers everyone fishing from these facilities. The bill also authorizes a primitive weapons season if established by the Board of Natural Resources. It requires a hunting license to hunt feral hogs, and it provides for the implementation of an automated licensing system.

HOUSE BILL 1432**DENIAL OF WASTE WATER DISCHARGE PERMITS**

This legislation authorizes the Environmental Protection Division (EPD) to deny an application for a waste water permit for certain reasons. If the applicant has less than three years of compliance history in Georgia, the bill allows EPD to consider the applicant's compliance history in other states and with federal laws. The director may deny an application if he finds by clear and convincing evidence that the applicant:

- Intentionally misrepresented or concealed material facts;
- Attempted to obtain another permit by misrepresentation or concealment;

Or if within the three years preceding the application has been:

- Convicted of a felony involving moral turpitude;
- Convicted of a third or subsequent material violation that presented a substantial endangerment to health or the environment;
- Found in contempt of a court order enforcing environmental laws;
- Found in noncompliance and had a discharge permit revoked; or

- Denied a discharge permit for reasons of noncompliance.

EPD must issue a permit if there is a finding that an applicant has taken affirmative actions to mitigate the impact of prior actions.

HOUSE BILL 1640

LIFETIME SPORTSMAN'S LICENSE

This bill would let hunters and fishermen buy a lifetime license. The lifetime sportsman's license would cover both hunting and fishing and would not have to be renewed each year. The cost of the lifetime license would be: \$200 for children under 2; \$350 for children ages 2 to 15; \$500 for people 16 and older; and free for people 65 and older. Money from the lifetime licenses will go to a state wildlife fund that acquires wildlife habitats.

HOUSE BILL 1707

MOTOR VEHICLE EMISSION INSPECTION

Prior law allowed EPD to inspect automobile emission inspection stations to determine if they were in compliance with requirements. This bill enables EPD to better enforce requirements by allowing the director of EPD to use other investigative techniques. Prior law provided that a violation of the Emissions Inspections Act was a misdemeanor subject to a \$50 to \$1000 fine. This bill provides for a civil penalty of up to \$5,000.00 per day. However, anyone assessed a civil penalty would not be subject to criminal prosecution.

SENATE BILL 446

STATE-OWNED HISTORIC PROPERTIES / HISTORICAL AND CULTURAL MUSEUM GRANT PROGRAM / HISTORIC PRESERVATION GRANT PROGRAM

This bill requires state agencies to assume responsibility for the preservation of all historic properties they own and to use historic properties that are available to them. Agencies must establish preservation programs to identify, evaluate, and nominate properties for the Georgia Register of Historic Places. Agencies must ensure that loans, loan guarantees, permits, or licenses will not be issued to anyone who has significantly adversely affected a historic property to which the grant would relate, or if the person had the power to prevent an adverse effect but allowed it to occur anyway. When locating facilities, the bill requires agencies, when operationally appropriate and economically prudent, to give first consideration to state owned historic properties within historic districts.

The bill provides for the Historical and Cultural Museum Assistance Program (pending funding) which will make grants to local jurisdictions and nonprofit organizations for research, care and conservation of collections, planning and construction of exhibits, educational programs, the development of the master plans needed to achieve accreditation by the American Association of Museums, and minor structural modifications. Museums may not use grants for overhead or operational costs. The commissioner must reserve 20 percent of all funds for

unanticipated eligible projects. Grants may not exceed \$10,000 to any single museum per year, and an eligible museum must have been in existence as a nonprofit for at least five years.

The bill provides for the Historic Preservation Grant Program to make grants to non-profit organizations and local jurisdictions for rehabilitating or restoring historic properties. Recipients and the Division of Historic Preservation may use funds for education, promotion, and research. The DNR Commissioner may reserve 20 percent of funds for unanticipated emergencies. Administrative costs of the program may not exceed 10 percent of the total moneys available in the grant fund. This money can be used only if a property has been listed in or is eligible for the Georgia Register of Historic Places and allows limited public access.

SENATE BILL 496
SENATE RESOLUTION 532
HOUSE BILL 1551

HERITAGE FUND

Senate Bill 496 creates the Land, Water, and Wildlife Heritage Fund which will be funded by an increase in the real estate transfer tax. Any person is authorized to contribute, and any state or local public or governmental entity is authorized to transfer money to the fund. The fund can be used for acquiring, conserving, managing or preserving natural and historic areas, water resources, or wildlife habitats that achieve conservation and protection of these and related resources. The fund can also be used to assist local governments with grants for the acquisition and improvement of parks and recreational facilities and oversight is provided by an advisory council.

House Bill 1551 increases the real estate transfer tax from the current \$1 per \$1,000 to \$2 per \$1,000. The increase is effective from January 1, 1999 through December 31, 2002, and during this period, one-half of the total tax will go to the Heritage Fund. The General Assembly may renew the tax for successive six year periods, but any renewal would have to be approved by a referendum in a general election.

Senate Resolution 532 calls for a constitutional amendment that would allow the General Assembly to dedicate the revenue from the real estate transfer tax to the Heritage Fund. The amendment allows up to 25 percent of the fund to be used for recreation grants and up to 75 percent to be used for conservation.

SENATE BILL 661

METROPOLITAN RIVER PROTECTION ACT

This bill extends the area of the Chattahoochee River that is protected by the Metropolitan River Protection Act from Peachtree Creek to all of the river corridor south of Peachtree Creek that is also in the metropolitan area. Prior to this bill, the protected area was Buford Dam to Peachtree Creek.

PUBLIC SAFETY

HOUSE BILL 1360**CONCEALED WEAPONS**

The bill allows persons who are not ineligible for a license to carry a firearm to transport a loaded firearm in any private passenger motor vehicle in the console, or similar compartment of the vehicle.

HOUSE BILL 1394**BOATING SAFETY**

This bill provides that: no one may rent a personal watercraft (jet ski) to anyone under 16 years old; and no one may operate a jet ski faster than idle speed within 100 feet of certain objects which is broadened to include vessels adrift, the shoreline of full-time and part-time residences, public parks, public beaches, public swimming areas, marinas, restaurants, or other public use areas. This section also requires anyone age 12 through 15 operating a jet ski to be either: (1) accompanied by an adult age 18 or older; or (2) to have completed a jet ski safety program, or (3) to be under the direct supervision of an adult (defined to mean within sight of and within 400 yards of an adult not under the influence of alcohol or drugs). The bill requires anyone over age 16 who is operating a jet ski or vessel to have proper identification. To operate any vessel other than a jet ski or a non-motorized Class A vessel, children age 14 or 15 must either be accompanied by an adult authorized to operate the vessel or complete a safe boating course or be under adult direct supervision (within sight of and within 400 yards). Children age 12 to 13 may operate up to a 30 horsepower Class A boat with the same degree of supervision. Children under 12 may not operate any Class 1, 2, or 3 vessel, a jet ski, or any Class A vessel exceeding 30 horsepower; however, a child may operate a Class A under 30 horsepower if accompanied 22

by an adult authorized to operate the vessel. (Class A vessels are boats that are less than 16 feet long.)

The bill allows an officer to stop and detain any vessel involved in an accident and continue detention for a reasonable time for evidentiary purposes. This legislation prohibits a vessel from being operated at a speed greater than is reasonable and prudent under the circumstances including actual and potential hazards. The bill prohibits skiing or similar activity within 100 feet of an anchored or adrift vessel, a dock or similar structures, residences, parks, beaches, swimming areas, restaurants, or other public areas. However, skiing may be terminated or initiated from wharfs, docks or piers. No vessel may run around or within 100 feet of another vessel at greater than idle speed except to overtake or in meeting another vessel. And a vessel may not ride or jump the wake of another within 100 feet except for overtaking or meeting a vessel, and a passing vessel can not reverse course to ride or jump the wake within 100 feet of the passed vessel.

HOUSE BILL 1393**BOATING UNDER THE INFLUENCE**

Under this bill, it is illegal for anyone under the age of 21 to operate a boat with a blood alcohol level of .02 (zero tolerance) or greater. It creates a separate offense of child endangerment if someone has a child on board a boat and the boat operator is under the influence of alcohol or drugs. This bill also provides for the suspension of the privilege to operate a boat (10 hp or greater) or a sailboard (12 feet or longer) if: (1) a boat operator refuses to submit to a sobriety test; or (2) a test shows a blood alcohol level of .10 or higher for persons 21 or older; or (3) if a blood alcohol test shows a blood alcohol level of .02 or higher for persons under 21.

SENATE BILL 403**TEEN DRIVING**

Senate Bill 403 allows any resident who is at least 16 years of age and who has held a valid instruction permit or driver's license in another state or the District of Columbia to apply his/her prior driving record toward meeting the eligibility requirements of a Class D Georgia driver's license.

PUBLIC UTILITIES**HOUSE BILL 95****PUBLIC SERVICE COMMISSION**

This bill requires each of the Public Service Commissioners to represent one of five newly created districts, although each commissioner will still be elected on a statewide basis. To represent a district, a person must have resided in that district for at least 12 months prior to election. The elected member must continue to reside in that district during the person's term of office or that office shall thereupon become vacant.

HOUSE BILL 1130**TELECOMMUNICATIONS MARKETING**

House Bill 1130 creates the "Telecommunications Marketing Act of 1998." The bill prohibits telecommunications companies from switching a customer's local exchange or long distance carrier without written consent of the customer. The bill sets forth requirements of telecommunications companies which bill or solicit intrastate telecommunications services, as relating to: (1) a certificate of authority from the Georgia Public Service Commission; (2) billing for services; and (3) content of such billing.

The legislation provides for a private cause of action for damages resulting from violations of this Act. Additionally, the bill prohibits abusive telemarketing acts or practices by telecommunications companies and provides for a criminal penalty of misdemeanor for certain acts of forgery or falsification of authorization.

SENATE BILL 522**TELECOMMUNICATIONS SERVICES**

"The Telecommunications and Competition Development Act of 1995" is amended by Senate Bill 522 to require a customer's written authorization before a telecommunications company may charge for any service which is provided to the customer by a third party. The bill also requires that charges for new or changed services be stated in a conspicuous, separate and distinct manner on the customer's invoice.

SENATE BILL 572**WIRELESS ENHANCED 911 SERVICES**

The bill amends the "Georgia Emergency Telephone Number '911' Service Act of 1977" to include wireless enhanced "911" services. It creates a "911" Advisory Committee and authorizes the Georgia Emergency Management Agency to implement and administer a statewide program overseeing wireless enhanced "911" expansions, billings, collections and expenditures of these generated funds. An evaluation of the system will be completed in 2002 by the Joint Study Committee on Wireless Enhanced "911" Charges which is created within the legislation.

SCIENCE, TECHNOLOGY & INDUSTRY**SENATE BILL 433 GEORGIA ELECTRONIC RECORDS AND SIGNATURES ACT AND THE INFORMATION TECHNOLOGY POLICY ACT OF 1995**

The bill amends the "Georgia Electronic Records and Signatures Act" which allows persons to accept and be bound by electronic records or documents only if they agree to accept such records. In such cases, documents can be witnessed or notarized using an electronic signature. The original Act provides for damages if a person's electronic signature is used negligently, recklessly, or in an unauthorized manner. This bill clarifies, however, that the state and all political subdivisions maintain sovereign immunity. In addition, Senate Bill 433 amends the "Information Technology Policy Act of 1995" to allow the Georgia Information Technology Policy Council to investigate and recommend a public key infrastructure policy. This policy must provide a state sanctioned encryption method and other technologies that are necessary to ensure the legal authority and integrity of electronic documents. Finally, the bill recreates the Electronic Commerce Study Committee for 1998.

TAXES**HOUSE BILL 1161****LOW EMISSION VEHICLES**

This bill provides up to a \$1,500 tax credit for anyone who purchases or leases a low emissions vehicle or converts a vehicle to one that uses low-emission fuel. An individual or business would receive a tax credit for each converted vehicle. This tax credit was part of a larger response to the increasing amount of air pollution in many areas around Georgia.

HOUSE BILL 1162**INCOME TAX**

This legislation raises the personal exemption for both taxpayers and dependents to \$2,700 each beginning January 1, 1998. The current exemption is \$1,500 for taxpayers and \$2,500 for dependents. It also raises the deduction for senior citizens from \$700 to \$1,300, allowing more than 30,000 senior citizens to benefit. The 15 percent cut in the income tax will benefit more than 5.2 million Georgia taxpayers and dependents, and will amount to a \$205 million tax cut. This tax cut means a savings of \$168 for an average family of four.

HOUSE BILL 1350**AD VALOREM TAX CUT REFERENDUM**

This bill provides for a referendum, which if passed would exempt from ad valorem taxes certain livestock, crops, fruit or nut bearing trees, bushes, or plants, annual and perennial plants, Christmas trees, and plants and trees grown in nurseries for transplantation elsewhere which are grown in this state and remain in the hands of a family owned qualified farm products producer.

HOUSE BILL 1513**EXPENSES FOR SENIOR CARE**

This bill gives an income tax credit for caregiving expenses made by taxpayers on behalf of family members 62 years of age or older, or disabled. The credit will be the lesser of \$150 or 10 percent of the expenditure and may not exceed the taxpayers income tax liability.

HOUSE BILL 1621**TAX CREDIT FOR THE PERMANENTLY DISABLED**

This legislation provides a \$500 tax credit for the permanently disabled who purchase a new single-family home that contains specific accessibility features. A tax credit of \$125 per accessibility feature will be allowed for retrofitting an existing home, provided the aggregate

amount of such credit does not exceed \$500.

HOUSE BILL 1784**SALES TAX DISTRIBUTION**

House Bill 1784 provides that when a sales tax return is filed by a business with the Department of Revenue with insufficient information, the commissioner will make reasonable efforts to obtain the information needed. When the information cannot be obtained, the commissioner will allocate unidentifiable taxes among the recipients in the same proportion that the identifiable taxes are distributed. The initial distribution of unidentifiable taxes will be before July 1, 1998, and will include all of the unidentifiable taxes collected subsequent to June 30, 1997, and prior to April 1, 1998. Further allocations of unidentifiable taxes will be made no less than twice per year in a separate distribution. Information regarding the distribution of unidentifiable taxes will be made available upon request. The Revenue Department will provide written notice advising each recipient that acceptance of the first distribution constitutes a release and full accord and satisfaction for any and all refund requests or claims with respect to any sales and use tax collected prior to April 1, 1998, and will constitute complete acceptance of the terms and conditions of this bill. The authority to make distributions under this legislation will cease on December 31, 2000.

TRANSPORTATION**SENATE BILL
337****TREES AND OUTDOOR ADVERTISING SIGNS; ROADSIDE ENHANCEMENT AND BEAUTIFICATION
COUNCIL**

This legislation creates the 12 member "Roadside Enhancement and Beautification Council" balanced with staggered terms so that environmental representatives and outdoor advertising representatives maintain parity. A Department of Transportation landscape architect shall serve as a staff advisor to the council. The council will make recommendations to the DOT Commissioner on the standards and policies to be used in the trimming and removal of vegetation on state rights of way in front of outdoor advertising signs. The council will make recommendations to the department regarding standards for vegetation removal and landscape and maintenance plans submitted by the advertisers.

The commissioner will provide rules or regulations for the issuance and annual renewal of permits for the trimming and removal of trees and other vegetation on the state rights of way with respect to outdoor advertising displays. No outdoor advertising displays erected after January 1, 1999, will be eligible to make application for vegetation maintenance for a period of five years from the date a new display is permitted.

A reasonable application fee established by the department to fully recover the costs of administering the vegetation maintenance program must accompany the application for each vegetation maintenance permit. There must be an annual renewal of the permit for activities in the

original scope of the permit, and the department will issue rules and regulations setting forth application and renewal fees. The department must require that the value of any landscaping is not less than the department's appraised value of the benefit conferred on the applicant by the removal of the trees and vegetation. The benefit conferred is the value of the trees or vegetation to be trimmed or removed. If the appraised value of any landscaping is less than the appraised value of the benefit conferred on the applicant, the applicant must pay an amount equal to the difference in order for a permit to be granted.

No cutting or removal of any hardwood tree having a diameter outside bark of more than eight inches at a height of six inches above ground level, any historic or endangered species tree, or any trees planted as part of any local, state, or federal government project will be permitted. All non-hardwood trees may be removed within a 250 feet viewing zone parallel to the right of way, and those with a diameter outside bark of less than 12 inches may be removed within a 500 feet viewing zone. Pine trees with a diameter outside bark of less than 12 inches may be removed until the minimum standards for full stocking of such trees is reached, as determined by the Georgia Forestry Commission, over an area of not less than 250 feet. Signs which are lowered or have a maximum height less than 35 feet will have an increased viewing area of 350 feet for the removal of trees.

Each permittee must provide a performance bond in an amount adequate for the requirements of the permit. Trees or other vegetation on state rights-of-way shall only be trimmed or removed in accordance with the permit by the department or an authorized agent or contractor. If a sign to which a permit under these provisions is applicable goes unused for advertising for six consecutive months or more, the sign must be removed. On and after July 1, 1999, no outdoor advertising sign permitted under these provisions can be maintained in such a condition of disrepair as to be unusable for advertising or an order directing the removal of such unusable sign must be issued. A violation of the terms of the permit will result in a civil fine of not less than \$10,000 nor more than \$20,000, and restitution for the value of the trees or vegetation removed.

Senate Bill 337 also establishes the "Roadside Enhancement and Beautification Fund" for roadside enhancement and beautification projects and for the administration of the tree and vegetation trimming permit program. The department will administer the fund and prepare a yearly accounting of the funds received, including those from any distinctive wildflower license plates, and expended. It must publish a report for members of the State Transportation Board and members of the public. This Section of the bill will not become effective unless approved by the voters in the November general election, pursuant to the passage of Senate Resolution 559.

HOUSE BILL 1486

TOLL ROADS OR BRIDGES

This legislation allows local governments to enter into contracts for rights relating to private toll roads, bridges, and for highway approaches, and allows local governments to use the powers of eminent domain on behalf of such projects.