



Jill C. Fike
Director

Brian Scott Johnson
Deputy Director

Senate Research Office
204 Paul D. Coverdell Legislative Office Building
18 Capitol Square
Atlanta, Georgia 30334

Telephone
404.656.0015

Fax
404.657.0929

2011 SESSION OF THE GEORGIA GENERAL ASSEMBLY LEGISLATION PASSED

This document is our final report of all legislation passed by the 2011 Georgia General Assembly with the exception of local legislation. It contains summaries of passed legislation, and an index of vetoed legislation. If further detail on legislation is needed, please contact the Senate Research Office.

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LEGISLATION PASSED DURING THE 2011 SESSION

AGRICULTURE AND CONSUMER AFFAIRS

HOUSE BILL 125

Agricultural Education Advisory Commission

House Bill 125 extends the Agricultural Education Advisory Commission until December 31, 2016.

Additionally, this legislation moves the Georgia Agricultural Exposition Authority (Authority) from the Department of Natural Resources to the Department of Agriculture for administrative purposes as well as for matters relating to construction and acquisition of projects. The Authority will consist of ten members, including nine appointed members and the Commissioner of Agriculture, ex officio.

HOUSE BILL 223

Farm Building Structures

This legislation exempts farm buildings or structures from the state minimum building codes provided under the International Building Code and the International Existing Building Code as well as any amendment by the Department of Community Affairs or adoption of more stringent codes by municipalities or counties.

This legislation defines the term “farm building or structure” as a building or structure that is located on a farm and designated by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), not used for residential purposes, not intended for primarily public use and used primarily for or in connection with agricultural operations for the sole purposes of manure storage and animal mortality composting or winter feeding and following the standards and specifications set forth by the NRCS.

HOUSE BILL 225

Sustainable Agriculture Policy for Georgia

House Bill 225 defines “sustainable agriculture” and “sustainable agriculture practices” as meaning science-based agricultural practices, technologies, or biological systems supported by research or otherwise demonstrated to lead to broad outcomes-based improvements, so as to meet the needs of the present and improve the ability for future generations to meet their own needs while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities.

This legislation also creates a new Code section that states, “It shall be the policy of this state to promote sustainable agriculture.”

HOUSE BILL 485

Outlawing Release of Feral Hogs into Unfenced Areas (similar to SB 206)

Under this bill, it is illegal for any person to release any trapped or transported feral hog into any area that is not fenced to prevent the escape of the feral hog onto another person’s property. Any person who violates this law is guilty of an aggravated misdemeanor punishable by a possible fine of at least \$1,500. Any license or permit issued to a person under Title 27 will be revoked upon conviction for the illegal release of a feral hog for a period of three years after the date of conviction.

The license or permit holder will be notified of the revocation personally, or by a letter sent by certified mail or by statutory overnight delivery to the name and address indicated on the application for the license or permit.

APPROPRIATIONS

HOUSE BILL 77

AMENDED APPROPRIATIONS

House Bill 77 amended appropriations for the State Fiscal Year beginning July 1, 2010 and ending June 30, 2011. HB 77 provided a little more than \$163 million additional dollars to the original Appropriations Act for the Fiscal Year ending this June. Approximately \$152 million of the additional dollars were taken from the Revenue Shortfall Reserve account for K-12 Education. An additional \$31 million in Lottery proceeds was provided so that HOPE scholarships would not be interrupted due to the HOPE shortfall during 2010 Fiscal Year.

This information was provided by the Senate Budget and Evaluation Office.

HOUSE BILL 78

2011-2012 GENERAL APPROPRIATIONS ACT

House Bill 78, the Fiscal Year 2012 general budget, appropriates \$18.3 billion in state funds. Lacking Federal Stimulus funds, it is 13.6 percent below the FY2009 General Budget.

INITIATIVES

► State Health Benefit Plan

Addressing the projected \$273 million FY2012 deficit in the State Health Benefit Plan:

- \$69 million in state general funds was added to maximize \$30 million, which, combined with federal funds, brings in \$147 million to the plan;
- An increase in the per-member per-month billing for non-certificated school personnel to \$246 from \$218.20; and
- Directed the Department of Community Health to keep employee premium increases as close to 10 percent as possible in the 2012 plan year.

► Unemployment Insurance Trust Fund

House Bill 78 appropriates \$18,232,355 and directs the Department of Labor to pay the remainder out of appropriated funds to cover the interest payment on loans from the federal government to pay unemployment insurance benefit claims.

► Tax Compliance

Anticipating shortfalls due to population growth in Medicaid, Education and other areas, HB 78 adds \$12.9 million to the Department of Revenue to increase compliance functions. These compliance functions include fraud detection, out-of-state auditing, additional revenue enforcement, and alcohol and cigarette excise tax enforcement.

► General Assembly

HB 78 adds \$3.9 million for a special session to handle redistricting and reapportionment.

► Judicial Branch

- House Bill 78 adds \$102,750 to implement an appellate e-filing initiative in the Court of Appeals.

- It requires that the Office of Dispute Resolution be self-sufficient by relying on agency generated revenues.
- It adds \$109,939 to support transmission of electronic appellate records and adds \$105,910 for more personnel at the Supreme Court.
- It directs the Institute of Continuing Judicial Education to prepare for self-sufficiency in FY2013.
- HB 78 adds \$100,000 to the Judicial request of \$50,000 to the Judicial Qualifications Commission for their work in investigating and prosecuting judges.
- HB 78 reduces \$68,000 in grants to the Permanent Homes for Children program and increased funds by \$353,681 in the Judicial Council and \$300,000 for Senior Judges in Superior Court circuits in order to expand the use of the Accountability Courts.

► Department of Behavioral Health

- This bill added \$59.3 million for the Department of Behavioral Health as part of the settlement funding agreement with the U.S. Department of Justice.
- \$14.4 million to fund waiver slots for the NOW (New Options Waiver) and COMP (Comprehensive) waivers; \$7 million to annualize 150 slots from FY2011; and \$7.4 million for an additional 250 waivers slots.
- \$12.8 million in funding for 400 family supports, five crisis respite homes, and six mobile crisis teams to serve developmental disabilities consumers in community settings.
- It provides \$32 million to assist mental health consumers in the community.
- It adds \$680,411 for six months funding for 46 additional slots in the New Options Waivers (NOW)/Comprehensive Supports (COMP) Waivers to serve youth aging out of the Division of Family and Children Services (DFCS) care.
- It restores \$235,000 for the Marcus Institute.

► Department of Community Health

- HB 78 restores \$600,000 for the Erlanger Life Force Air Ambulance program.
- It restores funds for optional vision, dental and podiatry services in Medicaid.
- It adds 33 Independent Care Waiver Program slots, and restores funds to only implement a 0.5 percent provider cut and exempted skilled nursing facilities.
- It restores \$500,000 in funds to the Mercer School of Medicine operating grant.

► Department of Community Affairs

- HB 78 adds \$5 million to the Regional Economic Business Assistance (REBA) fund.

► Department of Early Care and Learning

- HB 78 implements the Governor's proposal to reduce Pre-K by \$54.6 million by eliminating \$9.5 million for transition coaches, and \$500,000 for printing the Governor's gift book.
- It adds \$3.9 million for an additional 2,000 slots, \$3.6 million for quality improvements, and it reduces \$52.1 million by cutting 20 days from the school year and increasing class sizes by two students.

► Department of Economic Development

- HB 78 eliminates state funding for the Aviation Hall of Fame, the Music Hall of Fame, and the Sports Hall of Fame.
- It adds \$10,000 for marketing the Civil War Sesquicentennial.

► Department of Education

- House Bill 78 restores \$125,512 for GALILEO and \$144,000 to preserve the Georgia Youth Science and Technology Centers.
- It restores Residential Treatment Centers to a 1 percent reduction and adds funds to QBE to fund growth, teacher training and education, and salary supplements for newly certified math and science teachers.
- It restores School Nurses to only a 4 percent cut.

► Employees' Retirement System

- House Bill 78 adds funds to cover the annual required contribution increase of \$8,375,000 for Public School Employees Retirement System.

► State Forestry Commission

- House Bill 78 adds \$146,000 to fund the remaining 2/3 for the narrow banding requirements instituted by the Federal Communications Commission.
- It provides \$414,936 to hire seasonal firefighters and support fire protection personnel to aid existing staff during fire activity.

► Office of the Governor

- It adds \$18 million to the Governor's Emergency fund to pay interest on the Unemployment Trust Fund loan.
- It restores \$6,705 for the Civil Air Patrol.

► Department of Human Services

- House Bill 78 restores \$177,859 for the Center for the Visually Impaired contract.
- It restores \$225,000 for the Alzheimer's Respite Services contract.
- HB 78 restores \$1,376,718 for the non-Medicaid Community Based respite services contract.
- It allocates \$655,000 for the Sexual Assault Centers, in order to alleviate concerns regarding the Centers' TANF eligibility.
- It adds \$1,045,000 for Meals on Wheels.

► Department of Natural Resources

- HB 78 adds \$345,944 for cleanup of assessed priority scrap tire sites.

► Department of Public Health

- HB 78 creates the Department of Public Health as a separate section in the budget and restores \$50,000 to the Georgia Poison Control Center.
- It restores \$282,202 for infant and child oral health services.
- It adds \$2,800,000 million in TANF funds to address a deficit within the Children 1st Program.
- It adds \$1,000,000 to fund three "new start" Federally Qualified Health Centers in Berrien, Baldwin, and Putnam County and one behavioral health integrated FQHC in Rockdale County.
- It restores \$250,000 for hemophilia patients to allow more time to transition on to the federal Pre-Existing Condition Insurance Plan.
- HB 78 restores \$2,484,328 in grant-in-aid to counties.
- It adds \$1,000,000 in state funds and \$2,500,000 in federal grants for a new trauma communications network.

► Department of Public Safety

- House Bill 78 adds \$600,000 to provide fuel for state trooper vehicles.
- It adds funds to hire 57 civilian weigh masters to increase operations at weigh stations.
- It restores \$294,860 to the Public Safety Training Center to continue operations at the Augusta and North Central training academies.

► Department of Revenue

- House Bill 78 adds \$1.2 million to hire additional staff to answer customer issues.
- It adds \$2.35 million in revenue processing to avoid processing delays in returns.
- It adds \$4 million to the Forestland Protection Grant program to reimburse local governments.
- It adds \$9.4 million to increase compliance activities and recover taxes due the state.

► Student Finance Commission

- House Bill 78 provides state funds to continue the operation of scholarship programs that are no longer lottery fund-eligible due to the passage of HB 326 (Accel, Engineer Scholarship, and Georgia Military Scholarship).
- It funds all lottery funded HOPE scholarships in response to the provisions in HB 326.

► University System of Georgia (Board of Regents)

- HB 78 restores \$600,000 to the Agricultural Experiment Station.
- It restores \$400,000 to the Cooperative Extension Service.
- It adds \$100,000 for the Direct to Discovery program in the Georgia Tech Research Institute.
- It transfers the Georgia Research Alliance and the contract with the Georgia Cancer Coalition to the Department of Economic Development.

► Technical College System of Georgia

- House Bill 78 adds \$50,000 for costs associated with the certification for college and career academies and it provides \$4.5 million for a commercial driving license truck driving program.

► Bonds

- House Bill 78 provides state funds for a \$675 million bond package, requiring about \$72.5 million in debt service. The FY2011 budget had \$858 million. It is \$125 million BELOW the state's debt management plan. Debt Service to Prior Year Receipts ratio will decrease compared to last year (well below the Constitutional limit and on track to go below 7 percent around 2014). Record low interest rates and a depressed construction market combine to create a very affordable time to build out Capital projects. The Governor did; however, veto approximately \$42 million of the bonds passed.

This information was provided by the Senate Budget and Evaluation Office.

HOUSE BILL 414

Georgia Aviation Authority

This bill requires that by September 1, 2011 all aviation assets previously transferred to the Georgia Aviation Authority (GAA) by the Department of Public Safety (DPS), be returned to the DPS. Assets include aircraft, personnel, airfields, hangars and associated budgeted operating funds.

Although the GAA may provide aviation support to local and state public safety and law enforcement entities when requested, it maintains its original purpose of overseeing the state's aviation assets and to provide aviation services to state air travelers.

However, the bill authorizes DPS to acquire and maintain aviation assets assigned to it for public safety and legitimate state business purposes. Additionally, the bill expands the membership of the GAA to include the Commissioner of the Department of Economic Development, and it removes the GAA's July 2014 sunset provision.

BANKING AND FINANCIAL INSTITUTIONS

HOUSE BILL 239

Financial Institutions; Provide for Definitions

This is the annual Department of Banking (Department) housekeeping bill. The bill: amends several definitions including "statutory capital base" and "P.O.D. accounts"; provides the Department with additional powers to require the dissolution of financial institutions that have not conducted official business and have failed to file articles of dissolution; ensures responsibilities and liabilities of bank directors when there are fewer than five directors; and clarifies the licensing and registration process of mortgage loan originators.

HOUSE BILL 323

Changes Time of Perfection of Security Interest in a Motor Vehicle

This bill changes the time of perfection of a security interest in a motor vehicle by extending the time allowed to deliver a notice of a security interest in a motor vehicle to the commissioner or local tag agent from the current 20 days to 30 days.

ECONOMIC DEVELOPMENT

HOUSE BILL 264

Georgia Council for the Arts

Oversight of Council for the Arts

This legislation transfers the authority over the Georgia Council for the Arts (Council) from the Office of Planning and Budget to the Georgia Department of Economic Development. The Council must submit an annual report to the Governor and to the Commissioner of Economic Development concerning the appropriate methods to encourage participation in and appreciation of the arts in order to meet the legitimate needs and aspirations of persons in all parts of Georgia. The Commissioner of Economic Development will select and appoint personnel as necessary to support the Council and its programs.

EDUCATION AND YOUTH

HOUSE BILL 186

Programs of Study and Dual Enrollment Policies

This bill requires the State Board of Education, the Board of Regents of the University System of Georgia, and the Board of Technical and Adult Education to develop course competency standards, in reading, writing and math, that ensure the core curriculum of all Georgia public high schools will be accepted at any institution of higher education in Georgia starting with students entering high school in the fall of 2011. This goal of the legislation is to ensure the readiness of students who choose to continue their education and lessen the need for remedial classes in Georgia colleges and technical schools.

Additionally, the legislation would require students on the Career, Technical, and Agriculture Education (CTAE) pathway to take academic core subject courses and pass end-of-course assessments. These assessments would allow CTAE students to receive credit upon demonstration of proficiency instead of attendance or taking a specific number of mandated classes. The student's proficiency would be based upon a statewide grading which will provide common methods for recording demonstrated proficiency on high school transcripts.

Further, the Governor's Office of Workforce Development will establish a certification in soft skills to assist the current and graduating high school students in preparing for a postsecondary education and/or a career pathway. Certification will include skills relating to punctuality, ability to learn, and working in a team. The Office will work with students through collaboration with the Georgia Department of Education to ensure students have a diploma and certification in soft skills and work readiness upon graduation.

HOUSE BILL 192

State Education Finance Study Commission

This legislation creates the State Education Finance Commission (Commission) to evaluate the Quality Basic Education (QBE) funding formula, which was originally established in 1985.

The Commission will be composed of 20 members and will include members from: the education community and the business community, appointed by the Governor; the State School Superintendent; the chief financial officer of the Georgia Department of Education; four members of the Senate appointed by the Lt. Governor; four members of the House appointed by the Speaker of the House; and the Senate and House Education Chairpersons, who will serve as Co-chairpersons.

HOUSE BILL 227

Auto-Injectable Epinephrine

This bill amends provisions in current law relating to the use of epinephrine (Epi-Pen) to allow a school to keep the Epi-Pen onsite for students who cannot self-administer it themselves. However, the parent must provide a note from a doctor outlining the name of the medication, when it should be taken, in what amount, and provide a note authorizing a release for the school nurse (or another person also designated by the school) to consult with the doctor about the medication. The parent must release the school system and its employees and agents from liability.

HOUSE BILL 285

Criminal Background Checks and School Personnel

House Bill 285 requires local administration units and the Professional Standards Commission to order criminal background checks on school personnel through the Federal Bureau of Investigation and the Georgia Crime Information Center.

HOUSE BILL 314

Foster Care Students and Compulsory Attendance: "Jessie's Law"

Foster care students must be counted as present for any day or part of a day that is missed from school when attending court proceedings that relate to their foster care arrangement.

SENATE BILL 79

School Board Members' Terms of Service

This legislation establishes that as of January 1, 2012, school board members may not be elected to terms of less than four years. However, longer terms of office may be provided by a local Act or constitutional amendment.

Additionally, counties that collect a homestead option sales and use tax and a county sales and use tax that is used for educational purposes on and after January 1, 2013 must have a school board that consists of seven members from single-member districts of approximate equal population. The number of members may be reduced by local legislation; however, members must still be elected from single-member districts of approximate equal population. The members will serve staggered four-year terms, unless local law provides for any changes.

If a school system or school is placed on probation or loses accreditation for school board governance reasons and does not regain full accreditation by July 1, 2011, the State Board of Education (Board) must conduct a hearing between ten to thirty days of the loss of full accreditation. The Board must recommend to the Governor, at his or her discretion, whether to suspend all members of the school board with pay and appoint temporary replacement members.

SENATE BILL 185

Early Childcare Program Provisions

This bill establishes procedures for closing and revoking the license of an early care and education program if the death of a minor occurs, or a child's safety and welfare is in imminent danger and the cause is determined to be due to the administration or conditions of the program.

ETHICS

HOUSE BILL 232

Ethics in Government Act

This bill amends the definition of "lobbyists" as individuals who make \$1,000 (increased from \$250) in expenditures to influence legislation must register as a lobbyist; and exempts bona fide salespersons from the definition of vendor lobbyist. Additionally, the bill requires a 10 percent threshold for determining when an individual's paid lobbying activities require registration. The bill grants the Georgia Government Transparency and Campaign Finance Commission the authority to waive any penalties or fees assessed for failing to file or filing of a report with the Commission late.

HOUSE BILL 302

Adjusts Dates of General Primaries and Qualification Period

This bill moves the date of general primaries and the qualification period for primaries held in the first even-numbered year following the release of Census data to the last Tuesday in July. For 2012, the general primary will be held on July 31st. The qualification period will begin May 23rd and end on May 25th.

HOUSE BILL 454

Presidential Preference Primary

This bill allows the Secretary of State to select the date of the presidential primary.

The Secretary of State must select the date by December 1st of the preceding year, and the presidential primary must be held no later than the second Tuesday in June. Currently, presidential primaries are held on the first Tuesday in February.

SENATE BILL 82

Elections and Primaries

This is the Secretary of State's annual housekeeping bill. This bill provides for oaths of elections superintendents and designees of boards of elections. The bill clarifies who may vote in runoff primaries and clarifies the manner of appointment of registrars. Senate Bill 82 sets out when ballots must be issued to eligible electors, and the bill describes the procedure for a recount on a constitutional amendment or binding referendum question.

SENATE BILL 160

Campaign Contributions

This bill permits public utility corporations regulated by the Public Service Commission to make contributions to political campaigns. "Public utility corporation" includes electric membership corporations under this bill; however, electric membership corporations and nonprofit corporations, groups, or associations which are made up of electric membership corporations are specifically prohibited from making direct contributions to political campaigns.

Nonprofit corporations, groups, or associations made up of electric membership corporations may establish, administer, and solicit contributions for a political action committee from its officers, directors, employees, agents, contractors, and members as long as these actions and contributions do not violate any other law.

FINANCE

HOUSE BILL 95

Ad Valorem Tax: Forest Land Conservation Use Covenants

This legislation amends provisions relating to ad valorem taxation of forest land conservation use property by first adding the definition for "contiguous," which means real property within a county that abuts, joins, or touches and has the same undivided common ownership. The bill also prohibits new covenants from being entered into after the original covenant expires with respect to the tract from which a transfer was made unless the tract is greater than 200 acres.

HOUSE BILL 117

Withholding Tax on Sale or Transfer of Property; Indigent Care Trust Fund

The person or entity that is noted as the seller on a settlement statement is to be considered the seller for all purposes regarding withholding tax on the sale or transfer of real property and associated tangible personal property by nonresidents. This language seeks to specifically address property owned by relocation companies.

Further, the Indigent Care Trust Fund will be funded through a voluntary tax on service providers so federal Medicaid dollars may be drawn. The tax would be subject to services from referral from SOURCE Case Management Provider, but would not apply to certain retail sales. The fund would be segregated and sunset on June 30, 2014. Specified uses in the budget will be addressed in the subsequent budget.

HOUSE BILL 168

Federal IRS Update; Streamline Sales Tax; Bad Debt Deductions

First, this legislation amends the Internal Revenue Code to include the 2010 changes to the federal income tax code. Additionally, it adds a new paragraph relating to sales and use tax definitions to define the terms 'dietary supplement,' 'over-the-counter-drug,' and 'tobacco.'

Further, this legislation incorporates six federal tax bills that have Georgia income tax implications: Hiring Incentive to Restore Employment Act; Small Business Jobs Act; Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act; Patient Protection and Affordable Healthcare Act; Claims Resolution Act; and Regulated Investment Company Modernization Act. Some changes were made to the Georgia incorporation of the Small Business Jobs Act and the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act.

Additionally, the legislation clarifies Georgia's participation in the Streamlined Sales and Use Tax Agreement.

HOUSE BILL 234

Sales Tax Exemption: Aircraft Parts; Georgia Tourism Development Act

This bill extends an existing sales tax exemption from June 30, 2011 to June 30, 2013 for aircraft maintenance and repair parts.

Further, this legislation creates the Georgia Tourism Development Act; it originates from House Bill 321 which authorizes incremental sales tax revenue for new and expanded tourism attractions. The Governor retains the discretion to authorize the sales tax refund against the incremental sales tax revenue from the new or expanded attraction.

The duration of the sales tax refund will endure for ten years starting from either:

- The final agreement approval; or
- The opening date of the attraction.

Sales tax collections made prior to the execution of an agreement, but after approval by the Governor, will be applied to the first year's refund. The total amount of the refund allowed to the approved company over the ten years will be equal to the company's actual sales tax liability, or 25 percent of the approved costs for the attraction, whichever is less.

The company must file with the Department of Revenue (DOR) by March 31 of each year in the agreement its claim for refund. The DOR will consult with the Department of Community Affairs to draft rules and provide a form for claiming the refund.

The sales tax refund cannot be combined in any year with other state tax incentives, and any refund must first satisfy any outstanding tax obligations due the state.

HOUSE BILL 240

Special Purpose Local Option Sales Tax Project Modification

If a governing authority has entered into financing for a project that it wishes to determine as infeasible, the governing authority must first discharge the financial obligation it has incurred in full in order for the project to be deemed infeasible. If a resolution or ordinance is adopted that deems a project infeasible, the tax will be imposed for the same amount of time and for the same amount of revenue as was originally authorized.

After such resolution or ordinance is adopted, the county's governing authority must notify the county election superintendent by sending a copy of the resolution or ordinance calling for the modification of the purpose for which tax proceeds may be expended. The resolution or ordinance has to specifically state the purpose for the use of the tax proceeds and must state an estimate of the amount of the proceeds that are available to be used for the modified purpose.

HOUSE BILL 322

Sales Tax Exemption: Delta Air Lines; Unidentifiable Sales Tax Proceeds

This legislation extends an existing sales tax exemption on jet fuel for qualifying airlines. A qualifying airline is FAA approved and would have had \$15 million in tax liability in jet fuel during the previous 12 months before the exemption at an airport that has more than 750,000 takeoffs and landings in this state.

The first component of the exemption extension runs from July 1, 2011 through June 30, 2012 and applies to all sales tax liability up to \$20 million.

The second component of the exemption extension runs from July 1, 2012 to June 30, 2013 and applies to all sales tax liability up to \$10 million.

This bill also repeals a provision in current law regarding the distribution of unidentifiable sales tax proceeds. This provision extinguishes the Revenue Commissioner's authority on December 31, 2011, to make these distributions as allowed by current law. HB 322 eliminates the continuing sunset, and, therefore, the Revenue Commissioner's authority to distribute these revenues becomes permanent.

HOUSE BILL 325

Student Scholarship Organizations

This bill first amends the definition of "eligible student," adding that students who are deemed eligible would continue to qualify as such until graduation, turning 20, or returning to a public school. It also amends other definitions, including "qualified school or program" and "student scholarship organization." The bill also adds requirements to what must be included in each student scholarship organization's report to the Department of Revenue, and notes that the Department must post the information included in the reports from student scholarship organizations on its website. Each student scholarship organization must maintain an independent board with at least three members. The maximum amount of the yearly tax credit will be indexed to state and local output inflation.

Additionally, the legislation outlines penalties for student scholarship organizations that fail to comply with the requirements within 90 days of being notified of deficiencies.

HOUSE BILL 346

Income Tax;

Taxable Nonresident; Taxpayer Data Sharing; Conservation Use Credits Transfers

Employers must withhold Georgia income tax on all deferred compensation and stock options which are required to be included in Georgia income of the taxable nonresident.

This legislation includes language which allows interdepartmental sharing of specific tax data, upon written agreement and prior security clearance, for the purpose of drafting fiscal revenue notes.

Further, tax credits earned by property owners for conservation use agreement but not claimed against income tax liability may be transferred or sold to another Georgia taxpayer. To transfer, the seller must inform the Department of Revenue within 30 days of credit transfer and provide certain information such as the credit balance before the transfer and the remaining balance after the transfer. Credits cannot exceed a taxpayer's income tax liability. No additional rights are created by transfer of the credit.

Clean energy tax credits claimed in 2012, 2013, or 2014 cannot be taken in one year but must be taken over four years in equal installments in the four years after the credit is allowed. The full amount of the clean energy tax credit cannot exceed \$5 million in each 2013 and 2014.

HOUSE BILL 382

Lodgings Excise Tax: City of Atlanta

This legislation authorizes public lodging excise taxes for promotion of tourism, conventions, and trade shows in the City of Atlanta. It requires municipalities which impose an existing excise tax to leave the excise tax in effect at a rate of 7 percent, and allows them to levy up to an additional 1 percent excise tax, as long as the combined rate is not greater than 8 percent. In addition, taxes that are collected in excess of 7 percent must be expended to promote conventions and tradeshow by a non-profit destination marketing organization located in the municipality and in existence and operation on January 1, 2011.

GOVERNMENT OVERSIGHT

SENATE BILL 141

Martin Luther King, Jr. Advisory Council

This bill creates the Martin Luther King, Jr. Advisory Council (Council) within the Department of Community Affairs (DCA) to develop, coordinate, and advise the state of appropriate ceremonies and activities relating to the observance of the birthday of Martin Luther King, Jr., as well as prepare an annual report. The Council will be composed of nine members as follows: the Commissioner of DCA; six members to be appointed by the Governor, two of whom must be between the ages of 18 and 22 years; one member to be appointed by the President of the Senate; and one member to be appointed by Speaker of the House of Representatives.

HEALTH AND HUMAN SERVICES

HOUSE BILL 99

Allows Fingerprinting/Record Checks for Licensed Practical Nurse Applicants

This bill requires applicants for licensure as a licensed practical nurse to undergo a fingerprint record check. Application for a license constitutes express consent for a criminal background check, and applicants are responsible for all fees associated with such a background check.

HOUSE BILL 145

Revises the Definition of Physical Therapy

This bill revises the Georgia Physical Therapy Act's definition of physical therapy to include dry needling.

HOUSE BILL 147

Revises the Patient Right to Know Act of 2001

The Patient Right to Know Act of 2001 requires the Georgia Composite Medical Board (Board) to create profiles of all physicians licensed by the board. This bill requires that such a profile include whether the physician carries malpractice insurance and provides that a patient has a right to know whether a physician carries malpractice insurance. In addition, the Board must provide an annual report to the Governor and the General Assembly containing certain information obtained from physician profiles in addition to other information collected by the Board.

HOUSE BILL 200

Increases Penalties for Human Trafficking/Assistance to Victims

This legislation increases penalties for the trafficking of persons for labor or sexual servitude and strengthens protections for the victims of such crimes. Georgia's human trafficking statute defines labor servitude and sexual servitude to include work or sexually explicit conduct obtained by "coercion." This bill expands the definition of "coercion" to include situations in which a person causes or threatens to cause financial harm to any person or using financial control over any person. The bill also provides that the age of consent for sexual activity or lack of knowledge of the age of the person being trafficked is not a defense against a human trafficking charge, and a court must have a probative hearing before hearing evidence of the sexual history or history of commercial sexual activity of an alleged victim or the alleged victim's familial relationship to the accused.

Penalty provisions include the following:

- Increases the penalty for human trafficking to ten to 20 years imprisonment and/or a fine of up to \$100,000;
- Increases the penalty in cases in which the victim is under 18 years of age and was coerced or deceived into being trafficked for labor or sexual servitude to a felony offense punishable by 25 to 50 years or life imprisonment and/or a fine of up to \$100,000;
- Allows for forfeiture of property used in human trafficking; and
- Increases the penalty for a person convicted of keeping a place of prostitution, pimping, or pandering in a case involving the conduct of person who is 16 or 17 years old to a felony punishable by five to 20 years imprisonment and/or a fine of \$2,500 to \$10,000 or ten to 30 years imprisonment and/or a fine of up to \$100,000 if the conduct involves the conduct of a person under 16.

This bill protects trafficking victims from being convicted of certain sexual crimes based on conduct committed under coercion or deception while the victim was being trafficked, and it allows trafficking victims to receive compensation from the Georgia Crime Victims Emergency Fund. The bill requires law enforcement and court personnel to provide human trafficking victims with written information on compensation available to them from the federal government and requires the Georgia Peace Officer Standards and Training Council and the Georgia Public Safety Training Center to develop guidelines and procedures related to dealing with human trafficking victims.

Finally, this bill adds identifying and investigating human trafficking violations to the duties of the Georgia Bureau of Investigation (GBI) and authorizes the GBI to issue a subpoena to compel the production of materials related to an investigation involving human trafficking.

HOUSE BILL 214

Establishes a Department of Public Health/ Hemophilia Advisory Board

This bill establishes the Department of Public Health (the Department), which is to have the same functions as the current Division of Public Health and the Office of Health Improvement of the Department of Community Health (DCH). A nine-member Board of Public Health, appointed by the Governor, will establish the general policy to be followed by the Department, and a Commissioner of Public Health, also appointed by the Governor, will serve as the Department's chief administrative officer. The Department will succeed to all rules, regulations, policies, procedures, and administrative orders of DCH in effect on June 30, 2011, that relate to the functions being transferred to the Department.

The bill also creates a Hemophilia Advisory Board (the Board) that is to review and make recommendations to the Commissioner of Public Health and the Commissioner of Community Health regarding issues that affect persons with hemophilia and other bleeding disorders. The Board is to make an annual report to the Governor and the General Assembly on its recommendations, and the Commissioner of Public Health is to make an annual report on the status of implementing these recommendations. The Commissioner of Public Health and the Commissioner of Community Health are to serve as nonvoting members of the Board. The voting members of the Board are to include the following: a physician, nurse, and a social worker, each of which must treat persons with hemophilia and other bleeding disorders; a representative of a federally funded hemophilia treatment center; a representative of a nonprofit organization primarily devoted to serving persons with hemophilia and other bleeding disorders; a person with hemophilia; a caregiver of person with hemophilia; and one member who either has a bleeding disorder other than hemophilia or who is the caregiver of such a person. The Commissioner of Public Health and the Commissioner of Community Health have the discretion to add up to five additional nonvoting members.

HOUSE BILL 249

Requires Parents of Newborns be given Information on Pertussis Disease

This bill requires hospitals to provide parents of newborns information on pertussis disease (whooping cough) and the availability of a vaccine for this disease. This provision is not to be construed to require any hospital to provide or pay for a vaccination against pertussis disease.

HOUSE BILL 275

Clarifies Who May Carry Out an Order Not to Resuscitate

This bill clarifies that a nurse, physician assistant, or caregiver may effectuate an order not to resuscitate. Likewise, the bill clarifies that a patient may revoke his or her consent to an order not to resuscitate by communicating his or her wishes to a nurse, physician assistant, or caregiver.

Current law provides that a person who is not a patient in a hospital, nursing home, or licensed hospice and who has an order not to resuscitate must wear an identifying bracelet or necklace with certain information on an orange background. Under this bill, wearing an identifying necklace or bracelet is now optional for such a patient, but the patient is required to have a notice posted in his or her home. The bill deletes the requirement for an orange background.

HOUSE BILL 303

Authorities Delegated to a Physician Assistant or Advanced Practice Registered Nurse

This bill allows physicians to delegate to a physician assistant (PA) or to an advanced practice registered nurse (APRN) the following authorities:

- The authority to request, receive, and sign for professional samples and distribute professional samples to patients. The PA's or APRN's office or facility must maintain a list of professional samples approved by the physician for request, receipt, and distribution, and professional samples distributed by a PA or APRN must be noted on the patient's medical record; and
- The authority to sign health care related documents provided to a patient within his or her scope of practice. However, PAs and APRNs are not allowed to sign death certificates or assign a percentage of a disability rating.

Current law requires that when a patient receives medical services from a PA more than twice in a 12-month period, the supervising physician must see the patient at least once during this period. This bill deletes this provision and replaces it with a requirement that the supervising physician's involvement in the patient's care be appropriate to the nature of the practice and the acuity of the patient's medical issue.

HOUSE BILL 307

Includes Burn Centers in the Georgia Trauma Care Network

This bill adds and revises definitions related to the Georgia Trauma Network Commission so as to include burn trauma centers and trauma burn patients within the Georgia Trauma Care Network. Although facilities designated by the Department of Community Health as burn trauma centers will now fall under the definition of a "trauma center," burn trauma centers are not to be considered trauma centers for purposes of certificate of need requirements.

HOUSE BILL 324

Revises Provisions on the Habilitation of the Developmentally Disabled

This bill revises definitions related to the habilitation of developmentally disabled persons, including deleting references to comprehensive evaluation teams and deleting the definitions of the terms "developmentally disabled person in need of community services" and "developmentally disabled person requiring temporary and immediate care." The bill also repeals and reserves various code sections, although the bill provides that no hospitalization of a person with developmental disabilities that was lawful prior to July 1, 2011, may be deemed unlawful because of the repeal of these code sections. Current law provides for hearing officers to hold hearings related to a petition for continuation of court-ordered habilitation. This bill replaces hearings by hearing examiners with hearings by administrative law judges.

HOUSE BILL 343

Crisis Stabilization Units/ Hospital Immunity

This bill authorizes the Department of Behavioral Health and Developmental Disabilities (DBHDD) to license crisis stabilization units to provide psychiatric stabilization and detoxification services in a community-based setting. DBHDD must establish minimum standards for licensure of crisis stabilization units. Crisis stabilization units provide brief, intensive crisis services 24 hours a day, seven days a week. They are allowed to admit individuals on a voluntary basis and may provide individuals with 24-hour observation, detoxification and stabilization services, medication prescribed by a physician, and other appropriate services. A crisis stabilization unit is deemed to be an emergency receiving facility and an evaluation facility under Georgia law, but it is not deemed to be a treatment facility. Crisis stabilization units are not required to have a certificate of need. The bill also provides that the intent of the General Assembly is that patients without private health care coverage receive priority consideration for crisis stabilization unit placement.

Current law provides immunity from civil or criminal liability for physicians and other persons who act in good faith in compliance with Georgia law related to the hospitalization of persons for mental illness. This bill extends such immunity to hospitals, although the bill expressly states that this provision is not to be construed to relieve hospitals or other providers of liability for failing to meet the applicable standard of care for treating patients.

HOUSE BILL 457

Remote Automated Medication Systems/ Drug-Free Commercial Zones/ Food Service Establishments

This bill authorizes pharmacists to dispense prescriptions from a remote location for the benefit of a skilled nursing facility or hospice that uses a remote automated medication system. A “remote automated medication system” is defined as an “automated mechanical system that is located in a skilled nursing facility or hospice...that does not have an on-site pharmacy and in which medication may be dispensed in a manner that may be specific to a patient.” Use of remote automated medication systems requires licensure from the State Board of Pharmacy, which may establish rules and regulations related to these systems.

Under current law, possession of controlled substances or dangerous drugs for most persons is legal only if the drugs are in their original container. This bill excludes the possession, filling, and use of canisters for remote automated medication systems from this restriction. The bill also provides that a remote automated medication system is not considered a vending machine under Georgia law.

Drug-Free Commercial Zones

Current law provides special penalties for drug violations committed in a drug-free commercial zone. Under this bill, any drug-free commercial zones adopted by a local government on or before March 28, 2011, and registered with the Department of Community Affairs will be subject to these penalties. Note: this provision is similar to the content of House Bill 491.

Food Service Establishments

This bill excludes indoor public school functions (other than school cafeteria food service) from the definition of “food service establishment.” This means that such functions are not subject to food service establishment permit requirements, among other provisions.

HOUSE BILL 509

Abolishes State Medical Education Board

This bill abolishes the State Medical Education Board and assigns all of this entity’s current powers and duties to the Georgia Board for Physician Workforce. The bill also increases the representation of rural communities in the membership of the Georgia Board for Physician Workforce (the Board). Under current law, the membership of the Board includes five primary physicians and five non-primary care physicians. Under this bill, at least three physicians from each of these membership categories must be from a rural area. Similarly, at least two of the Board’s three members who serve as hospital representatives must represent a rural hospital. The bill also provides that one of the purposes of the Board is to increase the number of physicians practicing in underserved rural areas. The Board is authorized to award service cancelable loans and scholarships, as provided by law.

SENATE Bill 36

Monitoring of Controlled Substances/Security Requirements for Prescriptions

This bill requires the Georgia Drugs and Narcotics Agency (GDNA) to establish an electronic database of controlled substance prescriptions dispensed in Georgia and a method to electronically review such prescriptions. The review process is to be established and maintained in consultation with the Georgia Composite Medical Board. Dispensers will be required to submit certain information to GDNA regarding prescriptions dispensed for controlled substances on a weekly basis. Information must be protected by confidentiality procedures. GDNA may only provide collected data to certain persons or under certain circumstances.

Other provisions of the bill include: (1) establishing an Electronic Database Review Advisory Committee; (2) limiting the liability of dispensers or prescribers on the basis that the dispenser or prescriber did or did not obtain information from the database; (3) providing criminal liability for dispensers who knowingly and intentionally fail to provide correct information to the Board, for persons who knowingly and intentionally or negligently use, release, or disclose information unlawfully, or for persons who knowingly request, obtain, communicate, or falsify database information; and (4) authorizing a civil cause of action for persons injured by any violation of these provisions.

In addition, this bill provides that pharmacists must require persons picking up a Schedule II controlled substance prescription to present government-issued photo identification or other identification that documents legibly the full name of the person taking possession of the Schedule II controlled substance subject to Board of Pharmacy rules. This bill also requires hard copies of prescription drug orders written in this state for a Schedule II controlled substance to be written on security paper, effective October 1, 2011. Note: These provisions are similar to the provisions of House Bill 469.

SENATE BILL 76

Georgia Trauma Network Commission/ Background Checks for EMS Personnel

This bill authorizes the Georgia Trauma Care Network Commission to distribute appropriated funds to cover uncompensated emergency medical care provided to trauma patients transported to out-of-state-hospitals.

This bill also authorizes the Department of Community Health (DCH) to perform criminal background checks on applicants for initial licensure as emergency medical services personnel. DCH is to establish a procedure for requesting fingerprint based criminal history records checks from the Georgia Crime Information Center and the Federal Bureau of Investigations. Any conviction data received by DCH is confidential and may not be publicly disclosed. The bill also provides that the Georgia Crime Information Center, DCH, or any law enforcement agency is immune from civil liability related to the dissemination of data collected pursuant to these provisions. Note: These provisions are similar to provisions contained in House Bill 247.

SENATE BILL 81

Mental and Physical Examinations of Applicants for Pharmacy Licenses

This bill authorizes the Board of Pharmacy (Board) to, upon reasonable grounds, require a registered pharmacy technician, applicant for registration as a pharmacy technician, or a licensee or applicant for the practice of pharmacy to submit to a mental or physical examination or to obtain records relating to the mental or physical conditions of such persons. The results of an examination or the records obtained by the Board are admissible in any Board hearing, notwithstanding any contrary legal claim of privilege.

However, if a registrant, licensee, or applicant could otherwise claim a privilege to prevent the disclosure of the examination results or his or her records, then the information is to be received by the Board in camera and may not be publicly disclosed or used in any other type of proceeding. Licensees, registrants, and applicants are deemed to have given their consent to such an examination or the Board's obtaining of such records. If a registrant, licensee, or applicant refuses to submit to a required examination, the Board may enter a final order upon proper notice, hearing, and proof of such refusal. A registrant, licensee, or applicant who is prohibited from practicing as a pharmacy technician or pharmacist under these provisions must be afforded the opportunity to demonstrate to the Board that he or she can resume practicing with reasonable skill and safety to patients.

SENATE BILL 93

Controlled Substances

This bill adds to and revises the lists of drugs classified as Schedule I, Schedule III, Schedule IV, or Schedule V Controlled Substances or dangerous drugs. Among its provisions, the bill adds commonly abused drugs that are marketed as bath salts to the list of Schedule I controlled substances. The bill also provides for pseudophedrine to be considered an exempt over-the-counter Schedule V controlled substance; this exemption takes effect immediately and does not require rulemaking by the Board of Pharmacy. Wholesale drug distributors regulated by the U.S. Drug Enforcement Administration (DEA) may not be subject to any Board requirements for storing or recording drug products with pseudophedrine that are more stringent than those included in DEA regulations.

SENATE BILL 100

Nursing Education Programs/Use of the Title "Nurse"/Licensure Requirements for Graduates of Non-traditional Nursing Education Programs/Perfusionists

Nursing Education Programs

This bill allows an unaccredited nonprofit postsecondary four-year institution of higher learning to qualify as an approved nursing education program if the institution's curriculum has been determined by the Board of Nursing to meet criteria similar to and not less stringent than criteria established by the Board for other approved nursing programs.

Use of the Title "Nurse"

This bill also prohibits any person from using the title "nurse" or from using an abbreviation that represents oneself as a nurse unless the person is licensed as a registered professional nurse, an advanced practice registered nurse, or a licensed practical nurse. Note: The provisions described in this paragraph are the same as the provisions of Senate Bill 67.

Graduates of Non-Traditional Nursing Education Programs

This bill revises the licensure requirements for graduates of non-traditional nursing education programs. Graduates of a nontraditional nursing education program seeking licensure by examination may be required to complete a preceptorship, depending on their experiences prior to entering the program and when they entered the program. Except as stated otherwise, such preceptorships must be completed in an acute inpatient care facility or long-term acute care facility, and preceptorships must have the approval of the Board of Nursing (the Board). No preceptorship is required if the applicant entered the program as a licensed practical nurse (LPN) with clinical training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness, provided that he or she have at least two years of clinical experience within the past five years in an acute care inpatient facility or a long-term acute care facility.

Preceptorships are required for the following:

- Applicants who entered the program as an LPN with clinical training in the required specialties, and have two years of experience as an LPN but not two years of experience in the past five years, excluding night duty in a skilled nursing facility, then he or she must complete a 320 hour preceptorship. If the applicant can show that he or she cannot find a preceptorship in an acute care inpatient facility or a long-term acute care facility, the Board may authorize a preceptorship in a skilled nursing facility with 100 or more beds.
- Applicants who entered the nontraditional program as a paramedic with at least two years of experience OR as an LPN with less than two years of clinical experience in the past five years must complete a 480-hour preceptorship.
- Applicants who entered the program as a military medical corpsman with at least two years of experience as a military corpsman must complete a preceptorship of 320 to 640 hours, as determined by the Board.
- For any applicant who does not fall into one of the above categories and who entered the program before July 1, 2008, and completed the program no later than June 30, 2015, he or she must complete 640 hour postgraduate preceptorship.

The bill also revises the requirements for graduates of non-traditional nursing education programs seeking licensure by endorsement, and it removes the requirement that nontraditional programs must require applicants to be a LPN, military medical corpsman, or paramedic. Note: These provisions are similar to the provisions of House Bill 470.

Perfusionists

This bill revises the continuing education requirements for clinical perfusionists. Under current law, the Georgia Medical Composite Board is authorized to require persons seeking renewal of their license as clinical perfusionists to perform not less than 40 hours of continuing education biennially. Under this bill, the board would be authorized to set the number of continuing education hours required biennially for clinical perfusionists and to approve courses offered by institutions of higher learning, specialty societies, or professional organizations. This bill also revises the definition of “perfusion.” Under the new definition, “perfusion” is defined as the functions necessary for the support or treatment of the cardiovascular, circulatory, or respiratory system and the monitoring of such systems under physician supervision, including extracorporeal support, associated extracorporeal support functions, heart failure therapy and support, blood management, and other clinical functions. The bill also removes the requirement that perfusionists be currently certified by the American Board of Cardiovascular Perfusion in order for their license to be renewed. Note: These provisions are the same as the provisions of Senate Bill 66.

SENATE BILL 135

Chiropractors

This bill prohibits any person other than a doctor of chiropractic from rendering chiropractic services or chiropractic adjustments.

SENATE BILL 178

Assisted Living Communities

This bill provides for the regulation and licensing of assisted living communities. Assisted living communities are personal care homes with a minimum of 25 beds that are licensed as assisted living communities by the Department of Community Health (DCH). Assisted living communities may not admit or retain any individual who is not ambulatory unless the individual is capable of “assisted self-preservation.”

This means that the individual is capable of being evacuated from the assisted living community within an established period of time as determined by the Office of the Safety Fire Commissioner. An assisted living community may not admit or retain an individual in need of continuous medical or nursing care. However, the bill allows assisted living communities to employ medication aides for the purpose of assisting with the administration of certain medications; medication aides are to meet certain training requirements and are to be certified by DCH. Assisted living communities must establish a written care plan for each resident. Assisted living communities are not permitted to enroll as a provider of medical assistance or receive Medicaid funds.

The bill also gives DCH rulemaking authority regarding assisted living communities but provides that these rules may not curtail the scope or levels of services provided to personal care homes as of June 30, 2011. This bill states that these provisions do not preclude the ability of DCH to issue waivers to assisted living communities or personal care homes. The bill also provides that an unlicensed personal care home will be deemed to be negligent per se in the event of any personal injury or wrongful death claim of a resident.

HIGHER EDUCATION

HOUSE BILL 49

State Board of Technical and Adult Education Name Change

This bill changes the name of the State Board of Technical and Adult Education to the State Board of the Technical College System of Georgia.

HOUSE BILL 60

Service Cancelable Loans for Veterinarians

This bill creates the State Veterinary Education Board (Board) which will make service cancelable loans of up to \$80,000 available to a maximum of five Georgia veterinarians per year. The veterinarians must practice food animal specialties in a Board-approved rural county in Georgia. The loan is cancelable at a rate equivalent to \$20,000 per year, and funding for the loans will come from state appropriations.

HOUSE BILL 326

HOPE Program: Comprehensive Revisions

This is the Governor's HOPE reform bill. The bill eliminates fee and book payments and reduces the amount of the HOPE scholarship and grant. The bill creates the Zell Miller Scholarship which pays the full tuition at public institutions and the full private HOPE award at private institutions for scholars with a 3.7 high school GPA who maintain a 3.3 college GPA. The bill also places restrictions on the incentive pay structure for employees of the Georgia Lottery and reduces the number of HOPE reserve funds from three accounts to one account.

HOUSE BILL 500

Georgia Work Ready Program

This bill authorizes the Governor's Office of Workforce Development to administer and implement the Georgia Work Ready Program (Program). The Technical College System of Georgia will provide the services and locations necessary for the Program. The Program is subject to federal funding and will be made available to job seekers free of charge. The bill also extends the eligibility period for persons receiving extended unemployment benefits.

SENATE BILL 161

Technical and Adult Education

This bill establishes the Office of College and Career Transitions (OCCT) which is charged with coordinating the efforts of various education agencies in the professional development, curriculum support, and development and establishment of college and career academies (academies). The OCCT, in collaboration with the Department of Education, will establish a certification process for academies. Petitioners who have submitted or drafted a petition for an academy may submit applications for start-up funds to the State Board of Technical and Adult Education (Board). The Board will establish the eligibility criteria, requirements, and procedures for the disbursement of any Board-authorized funding to academies.

SENATE BILL 190

Georgia Capitol Museum

This bill transfers operation of the Georgia Capitol Museum from the Secretary of State to the Board of Regents of the University System of Georgia. The Board of Regents is authorized to designate a director of the museum, and to receive grants or donations for use in the museum. The Board of Regents must maintain the museum's exhibits and is permitted to conduct tours of the museum and state capitol and perform any other duties normally exercised in the operation of a museum.

INSURANCE AND LABOR

HOUSE BILL 47

Out-of-State Health Insurance Policies

This legislation seeks to increase the availability of health insurance coverage by allowing insurers authorized to transact insurance in other states to issue individual accident and sickness policies in Georgia. The Insurance Commissioner will approve such policies as long as the insurer, or insurer's affiliate or subsidiary is also authorized to transact insurance in Georgia and provided that any such policy meets the requirements set forth in this legislation. Additionally, any insurer authorized to transact insurance in this state can offer a policy with benefits equivalent to those in any policy currently approved for sale in Georgia under this legislation.

The Commissioner will have the authority to determine whether an insurer satisfies the standards required by this legislation and may not approve a plan that he or she finds lacks compliance with this legislation.

Requirements

Policies must satisfy actuarial standards set forth by the National Association of Insurance Commissioners (NAIC) and any regulation promulgated by the Commissioner that is not inconsistent with NAIC standards. The Commissioner will determine whether policies satisfy the requirements of this legislation in the same manner as he or she does with an individual accident and sickness insurance policy approved pursuant to existing State law. Policies must comply with Code Section 9-9-2(c)(3) and not require the insured or his or her beneficiary to arbitrate disputes arising under the policy.

Each written application for a policy must contain the following language in boldface type at the beginning of the document:

'The benefits of this policy may primarily be governed by the laws of a state other than Georgia; therefore, all of the laws applicable to policies filed in this state may not apply to this policy. Any purchase of individual health insurance should be considered carefully since future medical conditions may make it impossible to qualify for another individual health insurance policy.'

Each policy must contain the following language in boldface type at the beginning of the document:

'The benefits of this policy providing your coverage may be governed primarily by the laws of a state other than Georgia. The benefits covered may be different from other policies you can purchase. Please consult your insurance agent or insurer to determine which health benefits are covered under this policy.'

Any dispute resolution mechanism or provision for notice and hearing in existing law will apply to insurers issuing and delivering policies pursuant to this legislation.

Each policy must contain a side-by-side chart that compares the definitions of each benefit covered by the policy that has been sold in the other state with the definitions of the benefits covered under current Georgia laws where the specified benefit is similarly termed but defined differently.

HOUSE BILL 66

Certificates of Insurance

This legislation establishes new standards and uniformity for certificates of insurance and requires them to be filed and approved by the Insurance Commissioner. Approved certificates may not be subsequently altered or modified.

HOUSE BILL 189

Dental Insurance and Noncovered Services

This legislation prohibits any contract between a dental insurer and dentist from requiring the dentist to provide a discount for dental care services not covered under a patient's dental benefit plan.

HOUSE BILL 248

Health Care Sharing Ministries; and Prepaid Air Ambulance Services

Health Care Sharing Ministries

This legislation creates health care sharing ministries which are faith-based, nonprofit organizations that are tax exempt under the Internal Revenue Code.

Prepaid Air Ambulance Services

This legislation also provides that a membership subscription, the acceptance of applications for membership subscriptions, the charging of membership fees, and the furnishing of prepaid or discounted air ambulance service to subscription members by a membership provider does not constitute the writing of insurance.

HOUSE BILL 292

Unemployment Insurance Contributions

This legislation makes several changes to unemployment contributions that employers pay into the trust fund.

Section 1 – Rate of New Employer Contributions

Under current law, the rate that new employers pay into the Unemployment Compensation Fund will increase from 2.62 percent to 2.7 percent on January 1, 2012. This legislation delays the increase until January 1, 2017.

Section 2 – Variations from the Standard Rate of Employment Security Contributions

This section delays the December 31, 2011 sunset provision for O.C.G.A. § 34-8-155(c) and (e), which establish variations from the standard rate of contributions, to December 31, 2016.

Section 3 – Suspension of the Statewide Reserve Ratio Surcharge

In addition to paying unemployment insurance payroll taxes, solvency taxes are assessed on employers when the balance in the state's unemployment fund falls below a specified level. Georgia's solvency tax is commonly referred to as the Statewide Reserve Ratio surcharge. Current law has suspended this surcharge through December 31, 2011; however, in the event the Statewide Reserve Ratio is less than 1.25 percent, the Commissioner of Labor has the option to impose an increase in the overall rate of up to 35 percent, as of the computation date, for each employer whose rate is computed under a rate table provided for in O.C.G.A. § 34-8-155.¹

This legislation extends the suspension of the Statewide Reserve Ratio surcharge through December 31, 2012 and increases the Commissioner's option to impose an increase of the overall maximum rate from the current 35 percent to 50 percent.

Sections 4 through 6 – Administrative Assessment; Extend Sunset

Current law authorizes the Labor Commissioner to collect an administrative assessment of .08 percent upon the wages collected for the Unemployment Compensation Fund and to deposit the funds in the clearing account of the Fund; this currently sunsets on December 31, 2011. Section 4 extends the provision so that it will sunset on December 31, 2016. Moreover, Section 5 extends the sunset provision from December 31, 2011 to December 31, 2016 for newly covered employers.

Article 6 of Chapter 8 of Title 34 of the O.C.G.A., which provides for the aforementioned administrative assessments, is set to sunset on December 31, 2011. Section 6 delays the sunset until December 31, 2016.

HOUSE BILL 341

Establishes Limited Purpose Subsidiary Life Insurance Companies

This legislation authorizes domestic life, accident, and sickness reinsurers to organize domestic limited-purpose subsidiaries that comply with the provisions of this legislation and that are wholly owned by the organizing domestic reinsurer. Before assuming risk under a reinsurance agreement, the Insurance Commissioner must approve the subsidiary's plan of operation and grant a certificate of authority.

¹The Statewide Reserve Ratio is computed on June 30 of each year by dividing the balance in the trust fund, including accrued interest, by the total covered wages paid in the state during the previous calendar year.

HOUSE BILL 413

Surplus Line Insurance and the Federal Nonadmitted and Reinsurance Act of 2010; Public Officials – Licensing Exemptions Prohibited; and Risk-Based Capital Levels and Property and Casualty Insurer Solvency

Surplus Line Insurance and the Federal Nonadmitted and Reinsurance Act of 2010

This legislation seeks to comply with the federal Nonadmitted and Reinsurance Act of 2010 which provides that only an insured's home state may require premium tax payment for nonadmitted insurance and authorizes, but does not require, states to enter into a compact that establishes procedures that allocate among the states the nonadmitted insurance premium taxes.

The Governor, on behalf of the state, and advised by and in consultation with the Insurance Commissioner, is authorized to enter into a cooperative agreement, compact, or reciprocal agreement with another state or states. The Governor must select the agreement, if any, that provides the best financial advantage to Georgia. The Governor must consider the impact on the state's premium tax revenue, administrative burden to the state and surplus line brokers, and other relevant criteria.

The cooperative agreement must substantially follow the form of the model Surplus Lines Insurance Multi-State Compliance Compact, also known as SLIMPACT-lite, created by the National Conference of Insurance Legislators or the model Nonadmitted Insurance Multi-State Agreement, also known as NIMA, created by the National Association of Insurance Commissioners; as such documents exist on July 1, 2011.

In the event the Governor enters into an agreement with another state or states, notice of such action must be communicated to the respective chairs of the House and Senate Insurance Committees. The Insurance Commissioner must then issue an annual report to the committees that assesses whether, in his or her opinion, the agreement continues to be in the state's best financial interest.

Public Officials – Licensing Exemptions Prohibited

This legislation prohibits the Insurance Commissioner from exempting himself or herself from the testing requirements when applying for license as an agent, limited subagent, counselor, adjuster, or surplus line broker.

This legislation also prohibits a public official from waiving any legal, educational, or testing requirement for himself or herself relative to the issuance of any license to himself, herself, or to his or her business. Any license that has been issued by a public official by waiving any legal, educational, or testing requirement can not be renewed until and unless the license holder has satisfied all of the requirements for securing a renewal license as well as any requirement that had been waived for the issuance of the original license. Any person who knowingly violates this provision will be subject to a fine up to \$10,000 and restitution to the state of any pecuniary benefit received as a result of such violation.

Risk-Based Capital Levels and Property and Casualty Insurer Solvency

The Risk-Based Capital (RBC) system provides a solvency standard that is related to risk, raises a safety net for insurers, and provides regulatory authority for timely action. Separate RBC models apply to life companies, property and casualty companies, and health insurers. These different formulas reflect the differences in the economic environments facing these different companies.

This legislation addresses RBC requirements by establishing additional parameters for which property and casualty insurers would be subject to “trend testing” or examinations for solvency issues by setting caps on capital risk levels. Note: This legislation contains the language from House Bill 347 and House Bill 370.

HOUSE BILL 423

Residential Roofing Contractors as they relate to Insurance Claims; Licensed Real Estate Brokers – Unfair Trade Practices

Residential Roofing Contractors as they relate to Insurance Claims

This legislation allows a person who contracts with a residential roofing contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy to cancel the contract prior to midnight on the fifth business day after the insured has received written notice from the insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. Cancellation must be evidenced by the insured giving written notice of cancellation to the contractor at the address stated in the contract. Notice of cancellation, if given by mail, will be effective upon deposit into the U.S. mail.

The legislation also requires the roofing contractor to provide the consumer with a written statement detailing the consumer's right to cancel pursuant to this legislation.

In circumstances in which payment may be made from the proceeds of a policy, a residential roofing contractor may not require any payments from an insured until the five-day cancellation period has expired. If, however, the residential roofing contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the residential roofing contractor will be entitled to collect the amount due for the emergency services.

Any provision in a contract that requires the payment of any fee for anything except emergency services will not be enforceable against any insured who has cancelled a contract under this legislation.

Prohibited Acts

Residential roofing contractors may not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems. This does not apply to public adjusters.

Finally, this legislation prohibits public adjusters from knowingly advertising or promising to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of goods or services.

Licensed Real Estate Brokers – Unfair Trade Practices

This legislation also revises language regarding licensed real estate brokers. It deletes provisions regarding undisclosed commissions and other exchanges for consideration relating to real estate transaction. The bill provides new language that falls under an unfair trade practice for failure to disclose any of the following:

1. Receipt of a fee of other valuable item made on behalf of a principal for which it is a reimbursement;
2. Payment of commission to another broker for referral; or
3. Receipt of anything of value for referral or any service.

Further, language is deleted regarding failure to cause or preventing disclosure of these fees or valuable considerations.

The failure to obtain written agreement for referral to a licensed broker is added, but the bill deletes language regarding estimates of consideration.

Note: This legislation contains language from Senate Bill 250.

HOUSE BILL 461

Health Care Compact

This legislation enters Georgia into the Health Care Compact, which is an agreement between two or more states that restores authority and responsibility for health care regulation to the member states and provides a funding mechanism for the states to fulfill that responsibility.

Note: This bill is similar to the original language in Senate Bill 177 in the House Insurance Committee.

SENATE BILL 17

Special Advisory Commission on Mandated Health Insurance Benefits

This legislation creates the 20-member Special Advisory Commission on Mandated Health Insurance Benefits, effective February 1, 2012, to advise the Governor and the General Assembly on the social and financial impact of current and proposed mandated health benefits and providers.

SENATE BILL 166

Continuing Care Providers and Facilities

This legislation establishes new provisions relating to the regulation of continuing care facilities and communities. The legislation establishes the concept of "limited continuing care" which is defined as furnishing, pursuant to a continuing care agreement, lodging that is not in a skilled nursing facility, an intermediate care facility, or a personal care home; food; and personal services, whether such personal services are provided in a facility such as a personal care home or in another setting designated by the continuing care agreement, to an individual not related by blood or marriage to the provider furnishing such care upon payment of an entrance fee.

SENATE BILL 251

License Renewals: Transition from Annual to Biennial

This legislation changes the license renewal frequency and continuing education requirements from annual to biennial for agents, subagents, counselors, adjusters, principal or branch office of an agency, and surplus line brokers.

SENATE BILL 252

Certificates of Authority for Reinsurers

This legislation requires the Insurance Commissioner to determine if an insurer is a reinsurer and to designate that on its certificate of authority. A "reinsurer" means an insurer that is principally engaged in the business of reinsurance, does not conduct significant amounts of direct insurance as a percentage of its net premiums, and is not engaged in an ongoing basis in the business of soliciting direct insurance.

JUDICIARY

HOUSE BILL 24

Evidence Code Revision

The purpose of this bill is to amend the Georgia evidence statutes and adopt the Federal Rules of Evidence. The intent of the General Assembly is to incorporate the Federal Rules of Evidence into the Georgia Code almost entirely, while maintaining current Georgia evidence laws if preferable or there is no similar federal rule.

HOUSE BILL 30

Restrictive Covenants in Employment Contracts

In 2009, the General Assembly passed HB 173, which was enacted. The bill required a constitutional amendment, which was passed in 2010 as HR 178 and ratified by the voters. This bill is intended to re-enact HB 173 to ensure validity.

The following contracts will be considered against public policy and will not be enforced: contracts tending to corrupt legislation or the judiciary; contracts in general restraint of trade; contracts to evade or oppose foreign revenue laws; wagering contracts; and contracts of maintenance or champerty. As a general rule, Georgia law will permit enforcement of contracts that restrict competition according to a restrictive covenant, as long as the restrictions are reasonable in time, geographic area and scope of prohibited activities.

HOUSE BILL 41

Court Fees

This bill eliminates the fee charged by the court clerk to the Attorney General for a copy of the record in a case of appeal by defendants convicted of capital felonies and reduces the fee charged by superior court clerks for: preparation of an appellate record and transcript, from \$10 to \$1 per page; and preparation of copies of the record in cases where a defendant was convicted of a capital felony, from \$5 to \$1, except that there will be no fee charged to the Attorney General. These sections will apply retroactively. House Bill 41 also abolishes the judicial operations fund fee for issuing certificates for the appointment of notaries public *only*.

HOUSE BILL 53

Private Security Training Exemption; Limits on Real Estate Disclosures

This bill exempts peace officers with valid certification from annual training requirements relating to work as employees or independent contractors for licensed private security businesses. Such peace officers will also be exempt from seeking licensure from the state board of private security and detective agencies. Also, licensed real estate brokers and related professionals are currently required to disclose all fees, commissions and other valuable consideration for any service related to a real estate transaction. This bill amends this onerous requirement so that licensees will only be required to disclose specified things to the principal.

HOUSE BILL 87

Illegal Immigration Reform and Enforcement Act of 2011

July 2011 Update: A federal judge has placed an injunction on the following sections of the bill, meaning they cannot be enforced until the lawsuit to determine the constitutionality of the entire bill is complete: Section 7, which places criminal sanctions on transporting or harboring illegal immigrants, or encouraging illegal immigrants to come to Georgia; and Section 8, which empowers law enforcement officers to attempt to determine immigration status during an investigation.

This bill requires the use of a federal work authorization program by private employers with more than ten employees. House Bill 87 creates new crimes relating to illegal immigration:

transporting illegal immigrants; harboring illegal immigrants; and enticing an illegal immigrant to enter the country. This bill allows law enforcement to check immigration status during the investigation of criminal suspects and creates the Immigration Enforcement Review Board.

HOUSE BILL 114

Prohibits Court Fees above \$10 on Foreclosures for Abandoned Vehicles

House Bill 114 prohibits additional fees on top of the current \$10 per vehicle fee in lien foreclosure actions on abandoned motor vehicles. When an abandoned motor vehicle is towed and stored, this bill requires the person who stores the vehicle to allow the owner to retrieve certain specified contents, such as eyeglasses and child safety restraining devices.

HOUSE BILL 142

Annual Code Corrections

This bill makes technical corrections throughout the Code.

HOUSE BILL 143

Annual Election Code Corrections

This bill makes technical corrections to the Election Code, which is separate from the main Code corrections bill due to the requirement that all changes to election laws in Georgia be approved by the federal government.

HOUSE BILL 144

Annual Non-Fiscal Retirement Code Corrections

This bill makes technical corrections to the Retirement Code, which is separate from the main Code corrections bill because changes to retirement laws require a certification from the state auditor.

HOUSE BILL 162

Registered Sex Offenders Prohibited from Photographing Minors

Prohibits registered sexual offenders from intentionally photographing a minor without consent from the parent or guardian; current law prohibits anyone from doing so.

HOUSE BILL 167

Insurance Delivery Enhancement Act of 2011

House Bill 167 amends insurance prompt pay requirements to also apply to third party administrators.

HOUSE BILL 238

Changes Governing Structure of Georgia Public Defender Standards Council (GPDSC)

All current GPDSC members will cease to serve on July 1, 2011, though they will be eligible for reappointment. The nine members of the council will be appointed to serve four-year terms. All non-county commission members must have significant experience with the criminal justice system or a strong commitment to the provision of adequate representation of indigent defendants; however, prosecutors may *not* serve on the council. HB 238 also authorizes the director to remove a circuit public defender for cause; any appeal will go to the GPDSC, which may overturn the director's decision with a two-thirds vote. The circuit public defender who is appealing his/her removal will continue to serve until the GPDSC reaches a decision.

HOUSE BILL 265

2011 Special Council on Criminal Justice Reform

This bill creates the 2011 Special Council on Criminal Justice Reform for Georgians (Council) in order to conduct a study of the criminal justice system and report its findings and recommendations. Also creates the Special Joint Committee on Georgia Criminal Justice Reform (Committee), to consist of 18 legislative members. The bill states that the Committee may introduce legislation in 2012 based on the Council's recommendations.

HOUSE BILL 339

Powers of Judiciary in Declared Public Health Emergencies

During declared public health emergencies, this bill clarifies which judges may hear challenges to quarantines, vaccination orders, etc. to eliminate duplication and confusion.

HOUSE BILL 373

Sentence Modification for Designated Felony Acts

Under current law, a juvenile convicted of a designated felony act must serve the entirety of his/her sentence. This bill allows the sentence to be modified upon motion by the juvenile or the Department of Juvenile Justice (DJJ) if the juvenile has completed at least one year of the sentence. All motions must: include a written recommendation for release, modification or termination from the juvenile's DJJ counselor or supervisor; be filed in the court that committed the child; and served on the prosecuting attorney.

HOUSE BILL 390

Direct Appeal by the State in Certain Criminal Cases

The state will be allowed to directly appeal non-final orders, decisions and judgments, and will not be required to have a certificate of immediate review from an order, decision or judgment: (1) suppressing or excluding illegally seized evidence; or (2) granting a motion for new trial or an extraordinary motion for new trial in superior court.

HOUSE BILL 415

Jury Composition Reform Act of 2011

The Council of Superior Court Clerks must establish a statewide master jury list and to distribute county master jury lists to each county board of jury commissioners using voter and drivers' license data. Clerks will be required to keep a computer-based jury management system for the purpose of maintaining the county master jury list.

HOUSE BILL 421

Amends Court Procedure to Determine Mental Competency to Stand Trial

This bill requires judges to inquire into an accused's mental competency when information arises that is sufficient to raise a bona fide doubt. The court may order the Department of Behavioral Health to conduct an evaluation. If the accused files a special plea alleging that he/she is mentally incompetent to stand trial, the court will hold a bench trial. However, either the state or the accused may request a special jury trial to determine the accused's competency.

HOUSE BILL 503

Rape Kits to be Paid for by Georgia Crime Victims Emergency Fund

Current law states that the investigating law enforcement agency is responsible for the cost of medical examinations for collecting evidence in cases of rape and sodomy; this bill states that such examinations will be paid for by the Georgia Crime Victims Emergency Fund.

SENATE BILL 30

Municipal Court Judges

This bill requires municipal court judges to be active members of the State Bar of Georgia. However, any judge already in office as of June 30, 2011 who is not an attorney will be grandfathered in, as long as annual training requirements are met. This law will supersede any conflicting local rule.

SENATE BILL 39

Mental Health Courts

This bill will allow criminal courts the option to establish mental health court divisions as an alternative to the traditional court system for defendants with mental illness and/or developmental disability. The court may assign such a defendant's case to the mental health court either prior to entering the sentence, with the prosecutor's consent; as part of the sentence; or upon consideration of a petition to revoke probation.

SENATE BILL 47

Training for Magistrate Court Judges

Senate Bill 47 allows senior magistrates, in addition to elected and appointed magistrate judges, to serve on the Georgia Magistrate Courts Training Council. This bill gives the Georgia Magistrate Courts Training Council the authority to require 12 to 20 hours of annual training to be completed by every magistrate and senior magistrate judge. This bill removes language in current law that: allowed different training requirements for magistrates who took the bench earlier than 1998; and suspended training requirements for 2009 and 2010 as a cost-saving measure. The bill adds language allowing a magistrate judge to carry over and apply excess training hours, not to exceed six, to the next calendar year.

SENATE BILL 64

Reinstatement of Corporations; Corporate Seals

The current process by which a corporate entity becomes reinstated after administrative dissolution by the Secretary of State's office is inefficient and requires the payment of a \$100 flat fee plus late fees. This bill abolishes that procedure and makes reinstatement a one-step process that has a one time \$250 flat fee. Also, notwithstanding the lack of a corporate seal, instruments executed by a corporation releasing or transferring a security agreement will be conclusive evidence that the execution of the instrument on behalf of the corporation has been duly authorized if signed by the president, vice president, secretary or assistant secretary of the corporation.

SENATE BILL 112

Military Parents' Rights Act

Current law requires a parenting plan in child custody cases. If a military parent is a party, this bill will require the plan to also include eventualities in case of that parent's deployment. This bill prohibits a military parent's absences due to deployments from being the sole factor considered in changing a child custody plan. However, the court may consider evidence of the effect of the deployment in assessing a claim of a change in material conditions or circumstances of either party or the child.

SENATE BILL 134

Changes in Trust Code

Regarding trusts, the following persons will have the rights of a qualified beneficiary: the Attorney General, for charitable trusts; and persons appointed to enforce a trust created for the

care of an animal. This bill exempts supplemental needs trusts created under federal law by an agent for a settlor from the requirement of a power of attorney that contains an express authorization to create or declare a trust.

SENATE BILL 139

Appeals in Child Custody Cases; Personal Jurisdiction

Under this legislation, whether a judgment or order granting nonmonetary relief in a child custody case is directly appealable or requires an application to appeal, the original judgment or order will stand until reversed or modified by the reviewing court, unless the trial court states otherwise. Also, SB 139 allows a Georgia court to exercise personal jurisdiction over non residents and their executors for a specific list of acts or omissions. Regarding divorce and other domestic relations actions, personal jurisdiction is allowed if the nonresident maintains a matrimonial domicile in Georgia or if the defendant resided in Georgia before the action commenced. Current law states this is true notwithstanding the subsequent departure of one of the parties as long as one party resides here; the bill eliminates this provision.

SENATE BILL 172

Home Study Required Before Adoptions

This bill prohibits a child from being placed with an adoptive family unless a home study recommends such placement.² However, if the home study has not occurred before placement of the child, the third-party adopter must petition the court for an order authorizing the child's placement before the completion of the home study.

If the court finds that the placement is in the best interest of the child and the petition is granted:

- 1) The child will be allowed to remain in the home of the third party with whom the parent or guardian placed the child;
- 2) The order will be delivered to the Department of Human Services and the home study evaluator will be selected by the clerk of court within 15 days of the order³;
- 3) If not already in process, the home study will be initiated by the evaluator within 10 days of receiving the court order; and
- 4) A copy of the court order must be included with the petition for adoption.

SENATE BILL 193

New Administrative Procedure for Habeas Writs in Superior Courts

Current law directs superior court clerks to send an annual list of each writ of habeas corpus sought in that court to the Commissioner of Administrative Services; this bill requires the list to be sent instead to the Council of Superior Court Judges of Georgia.

NATURAL RESOURCES

HOUSE BILL 274

Tire Disposal Fee; Yard Trimmings in Landfills

Current law imposes a \$1 fee on each new replacement tire sold in this state. This legislation extends the sunset date of this fee from June 30, 2011 to June 30, 2014. Cities, counties, or

² 19-8-1: "Home study" means an evaluation of the petitioner's home to determine suitability, including the petitioner's physical health, emotional maturity, financial circumstances, family and social background.

³ 19-8-1: "Evaluator" means a licensed child-placing agency, DHR, or licensed professional with adoption experience. In counties where none such are available, the court may appoint a guardian ad litem or special advocate.

solid waste management authorities may, but are no longer required to, impose restrictions on yard trimmings; however, under no circumstances may yard trimmings be placed in or mixed with municipal solid waste, except at: landfills restricted to construction or demolition waste; inert waste landfills; or lined municipal solid waste landfills having operating landfill gas collection systems.

HOUSE BILL 277

Hunting Deer and Feral Hogs over Bait

This bill allows the hunting of deer and feral hogs over bait in the northern zone for hunting deer with firearms, other than state or federal land, if the hunter is at least 200 yards away from, and not within sight of, such feed or bait; and in the southern zone for hunting of deer with firearms, other than state or federal land, if the hunter has written permission of the landowner. However, the feed or bait must not cause hunting on any adjoining property to be prohibited under the provisions in current law which prohibit a person from hunting any game bird or game animal over feed or bait.

SENATE BILL 122

Public – Private Water Supply Act

Senate Bill 122 authorizes local governments, local water authorities, and the Georgia Environmental Facilities Authority to enter into public – private partnerships to plan, finance, construct, and maintain water supply and water treatment projects including reservoirs. Nothing in this legislation is construed to delegate the power of eminent domain to any private entity with respect to any project commenced or proposed.

SENATE BILL 157

Solid Waste Management Planning

This bill removes the requirement in current law that cities and counties report annually to the Department of Community Affairs (DCA) on the status of solid waste management in their jurisdiction. This bill also requires DCA to promulgate solid waste planning guidance that a city or county may use to update or amend their plans. Any county that proposes to update or amend its solid waste management plan must publish notice of the proposed action in the county legal organ or on the county's website at least two weeks prior to adopting the update or amendment to its plan. To be included as part of a plan, each city and county part of the plan must adopt the plan and any plan updates by local ordinance or resolution.

SENATE BILL 211

Lead Poisoning Prevention Act: Enforcement Powers

Senate Bill 211 re-codifies an enforcement provision in the Lead Poisoning Prevention Act that was repealed by Senate Bill 78 in the 2010 Legislative Session. SB 211 requires the Department of Natural Resources (DNR) to make available certain federal regulations and authorizes DNR to charge certain fees and issue corrective orders.

SENATE RESOLUTION 15

Joint Committee on Water Supply

This resolution re-authorizes the Joint Committee on Water Supply (Committee) that was created in the 2010 Legislative Session that must undertake a study and analysis of the current status and future needs of the state's reservoir system. The Committee will be composed of 10 members: five members appointed by the Speaker and five members appointed by the President of the Senate.

SENATE RESOLUTION 228

Tennessee River Basin

This resolution urges the Department of Natural Resources, the Water Supply Division of the Georgia Environmental Facilities Authority, and private enterprises to study the feasibility of surface water withdrawal, storage, and distribution from a certain portion of the basin of the Tennessee River.

PUBLIC SAFETY

HOUSE BILL 101

Bicycles and Bike Lanes

This legislation establishes minimum guidelines for bicycle lanes and the proper operation of bicycles on bike lanes and roadways.

Bicycle Lanes

A bicycle lane is defined as a portion of the roadway that has been designated by striping, pavement markings, or signage for the exclusive or preferential use by bicycles. Bike lanes must at a minimum, unless impracticable, be required to meet accepted guidelines, recommendations, and criteria with respect to planning, design, operation, and maintenance as set forth by the American Association of State Highway and Transportation Officials. Motor vehicles must yield to a person operating a bicycle in a bicycle lane and must not block or impede the bicycle lane. Bicycles in a bike lane must ride in the same direction as traffic on the roadway.

Operating a Bicycle upon a Roadway

Every person operating a bicycle upon a roadway must ride as near to the right side of the roadway as practicable, except when:

- Turning left;
- Avoiding hazards to safe cycling;
- The lane is too narrow to share safely with a motor vehicle;
- Traveling at the same speed as traffic;
- Exercising due care when passing a standing vehicle or one proceeding in the same direction; or
- There is a right turn only lane and the person operating the bicycle is not turning right.

Persons riding bicycles upon a roadway must not ride more than two abreast except on bicycle paths, bicycle lanes, or parts of roadways set aside for the exclusive use of bicycles, or when a special event permit authorizes riding more than two abreast.

Bicycles may be ridden upon a paved shoulder but are not required to do so.

Motor Vehicles Overtaking and Passing Bicycles

The legislation requires motor vehicles, when feasible, to leave a safe distance of at least three feet between the vehicle and a bicycle when overtaking and passing a bicycle that is proceeding in the same direction on the roadway. The vehicle must maintain such clearance until safely past the overtaken bicycle.

Miscellaneous Provisions

- Any person operating a bicycle may signal a right turn with his or her right arm and hand extended horizontally or with his or her left hand and arm extended upward.

- Children under the age of one year will no longer be required to wear a bike helmet due to the fact that no manufacturer produces such a helmet and no helmet would benefit a child that young.
- Every bicycle when in use at nighttime must be equipped with a light on the front that emits a white light visible from a distance of 300 feet to the front and with a light on the back that emits a red light visible from a distance of 300 feet to the rear. However, bicycles equipped with a red reflector on the rear that is approved by the Department of Public Safety are not required to have a light on the rear of the bicycle.

HOUSE BILL 107

Continuation of Health Coverage – State Employees

This legislation entitles the surviving spouse and dependents of a state employee killed while acting in the scope of his or her employment to continue coverage under their state health insurance plan upon agreeing to pay premiums at the same rate as required for state employees.

HOUSE BILL 123

Prohibits Removing Stun Guns and Tasers from Law Enforcement Personnel

This legislation makes it a crime for anyone to knowingly remove or attempt to remove a stun gun or taser from law enforcement personnel acting within the scope of their duty. A conviction will result in jail time from one to five years and a fine up to \$10,000.

HOUSE BILL 203

Investigations by the Georgia Peace Officers Standards and Training Council

This legislation requires the Georgia Peace Officers Standards and Training Council (Council) to notify the head of a law enforcement agency whenever one of its officers is being investigated or disciplined by the Council.

Investigations

In the case of an investigation, the Council will only need to identify the officer and state that a disciplinary investigation has been opened. If the investigation is completed without any further action, notice of the termination of the investigation must be provided to the employing chief or sheriff. In the case of disciplinary action, the notice must identify the officer and state the nature of the disciplinary action taken. The notice of disposition will be sent only after the Council's final action.

Certification Suspensions and Revocations

If the officer's certification is suspended or revoked by either the executive director or the Council, then the Council must notify the officer's chief or sheriff; the district attorney of the judicial circuit in which the law enforcement agency is located; and the solicitor of the state court, if any. It will be sufficient for this notice to identify the officer and state the length of time, if known, that the officer will not have powers of arrest.

HOUSE BILL 261

Open Records Exemptions

This legislation exempts any government-sponsored program concerning training relative to governmental security measures from the state's Open Records law that would identify persons being trained, instructors, or would reveal other specific sensitive security information.

HOUSE BILL 266

Authorize Constables to Carry Weapons under Certain Circumstances

Current law prohibits the carrying of a firearm by certain people or in certain areas except by certain people, such as law enforcement, military personnel, district attorneys, and U.S. attorneys. This legislation exempts constables from the current restrictions so that they can freely carry in certain restricted areas.

HOUSE BILL 269

Driver's Licenses; and Scrapped Motor Vehicles

This legislation updates and clarifies several statutes related to scrapped motor vehicles, driver's licenses, suspensions, renewals, commercial driver's licenses (CDLs), driving schools, and the Department of Driver Services (DDS).

Significant provisions include the following:

- Increases the value of a vehicle that can be scrapped from \$750 to \$850;
- Establishes procedures for notifying the Department of Revenue regarding the cancellation of titles to scrap vehicles;
- Adds falsifying a statement regarding cancellation of title of a scrap vehicle to the list of acts deemed to be felonies;
- Clarifies current law that allows 14 and 15 year olds to operate a vehicle for a visually impaired parent or guardian;
- Allows for the driver's license suspension of anyone convicted of manufacturing, selling, or distributing false identification documents;
- Clarifies language related to mandatory use of ignition interlock devices under the DUI code;
- Prohibits the issuance of limited driver's permits to persons convicted of multiple but separate traffic offenses that result in a license suspension;
- All defensive driving courses required by a court through sentencing must be certified by the state;
- Incorporates into state law the federal regulations that prohibit CDL drivers from texting while operating a commercial vehicle;
- Extends the validity of ID cards for disabled persons from four to five years; and
- Increases the surety bond requirement for driver's education schools from \$2,500 to \$10,000.

SENATE BILL 94

Runaway Youth Safety Act

Under current law, it is a misdemeanor to assist children who have run away because it may contribute to their continued status as a runaway and interfere with parental custody. While the law does not specifically mention shelters and was likely intended to serve as an instrument to protect children from predators, it can possibly be used against the very organizations that seek to protect runaways.

This legislation allows shelters to provide emergency services to a runaway youth without fear of criminal liability. The Act provides a limited exemption from criminal liability for registered or licensed service providers that contact a child's legal guardian within 72 hours of the child's acceptance of services or make a child abuse report pursuant to the mandatory reporter statute. If the child's parent cannot be reached or if the child will not disclose his or her parent's name, the Division of Family and Children Services must be contacted within 72 hours.

SENATE BILL 95

Peace Officer Employment Background Checks

This legislation requires an employer to disclose employment-related information to an investigating law enforcement agency when an investigation is conducted for the purpose of hiring, certifying, or continuing the certification of a peace officer. Disclosure will only be required if the agency's written request is accompanied by a copy of a signed, notarized statement from the applicant, candidate, or peace officer releasing and holding harmless such employer from any and all liability for disclosing complete and accurate information.

REGULATED INDUSTRIES

HOUSE BILL 116

Public Service Commission: Exempting Certain Local Exchange Companies from Procedures Regarding the Issuance of Debt

Current law requires companies under the jurisdiction of the Public Service Commission (PSC) to obtain approval from the PSC before issuing stocks, bonds, notes, or other debt payable more than 12 months after the date issuance.

This bill exempts local exchange companies (telecommunications companies authorized to provide local exchange service) from PSC approval before issuing stocks, bonds, notes, or other evidences of debt as part of a debt transaction that is an interstate transaction.

HOUSE BILL 256

9-1-1 Charges on Prepaid Wireless Services

The legislation allows counties and municipalities that operate a 9-1-1 answering system to impose a 75 cent 9-1-1 charge for each retail transaction. For these transactions, the seller would collect the amount from the consumer and the charge would be stated on the receipt or told to the consumer by other means. Additionally, sellers can deduct and keep 3 percent of the charges that are collected.

The counties or municipalities that operate a 9-1-1 answering system and impose the 9-1-1 charges would be able to receive a certain amount of the funds. These funds would be deposited in a separate fund called the Emergency Telephone System Fund and would be maintained by the local government.

HOUSE BILL 280

Emergency Telephone System Fund; Transfer of Municipal Property

This legislation amends the Georgia Emergency Telephone Number 9-1-1 Service Act of 1977 by expanding the permitted uses of the fund revenue including cost recovery. This includes actual costs associated with employees and related benefits regardless if the benefits stem from third-party providers, self-funding risk programs, or group programs.

This legislation also amends provisions relating to the transfer of municipal property; municipal corporations can lease for use or to operate, or manage real or personal property owned by the city.

SENATE BILL 108

Energy Independence and Rate Payer Protection Act; Universal Service Fund

This legislation amends existing language regarding the natural gas universal service fund (USF). Specifically, the USF receives revenue from several sources, and this legislation adds to

these sources proceeds from sale or lease of facilities that are financed by the fund itself. Expansion of facilities may include a natural gas fueling station but only at discretion of the Public Service Commission.

SCIENCE AND TECHNOLOGY

SENATE RESOLUTION 68

Science and Technology Strategic Initiative Joint Study Commission

This resolution creates the Science and Technology Strategic Initiative Joint Study Commission (Commission) to develop a strategic plan for science and technology in Georgia. The Commission will be composed of 11 members.

SPECIAL JUDICIARY

HOUSE BILL 40

Chief's Law (Requires Bitter Additive in Anti-Freeze)

House Bill 40 creates a new requirement that antifreeze sold in Georgia manufactured after July 1, 2012, which contains more than 10 percent ethylene glycol, must also include denatonium benzoate in order to make the antifreeze unpalatable. This requirement will apply to all antifreeze manufacturers, packagers, distributors, recyclers and sellers, but not to sellers of a motor vehicle that contains antifreeze nor to wholesale containers of 55 gallons or more of antifreeze.

SENATE BILL 115

Foster Care Payments

Senate Bill 115 adds foster care payments paid by the Department of Human Services or other agency for providing licensed foster care to a child to the list of public benefits that are excluded from gross income for the purpose of determining the amount of a child support award.

STATE INSTITUTIONS AND PROPERTY

HOUSE BILL 90

Use of Heritage Preserves

This legislation authorizes the sale of property designated as a heritage preserve by the State of Georgia and the Department of Natural Resources to a county or local government.

HOUSE BILL 197

Emergency Health Care Service for Detention Facilities

This legislation provides additional requirements for hospitals and health care facilities that provide emergency services to inmates in municipal or county detention facilities.

HOUSE RESOLUTION 71

Conveyance of Real Property to Grady County

The State of Georgia conveyed approximately 2,933 acres of real property located in Grady County, Georgia to Grady County on September 2, 1994, via a Quit Claim deed.

This deed was subject to certain conditions, and Georgia would like to now release the property from the conditions and restrictions and release any interest that Georgia has in the property to Grady County by executing a new Quit Claim Deed.

HOUSE RESOLUTION 95
State Property Conveyances

This resolution authorizes the conveyance, exchange, leasing, and sale of certain state-owned real property located in the Georgia counties of Appling, Baldwin, Wilkinson, Bibb, Burke, Calhoun, Carroll, Chatham, Clarke, Colquitt, DeKalb, Fulton, Greene, Haralson, Lowndes, Madison, Monroe, Polk, Stephens, Toombs, and Upson.

SENATE BILL 80
“Johnia Berry Act”

This legislation authorizes the collection of blood, an oral swab, or a sample from a noninvasive procedure for DNA analysis from anyone convicted of a felony offense who is held in a detention facility or placed on probation, or any person who has been convicted of a felony prior to July 1, 2011 and who is currently in a detention facility serving a probation sentence or serving under the jurisdiction of the Board of Pardons and Paroles. Once the DNA analysis produces identification characteristics of the person from whom the sample was taken, that information will be stored in a DNA data bank maintained by the Georgia Bureau of Investigation.

SENATE BILL 214
Transfer of Records

This legislation allows probation supervision records to be made available and transferable between officials employed by the State Board of Pardons and Paroles (Board), and probation officials employed by the Department of Corrections (Department) and allows parole records to be transferred from Board employees to probation Department employees.

SENATE RESOLUTION 103
Granting of Easements

This resolution authorizes the granting of easements on property owned by the State of Georgia in Baldwin, Barrow, Butts, Cherokee, Effingham, Floyd, Fulton, Gordon, Gwinnett, Houston, Thomas, and Wheeler Counties.

SENATE RESOLUTION 114
Conveyance of State Owned Real Property

This resolution authorizes the conveyance of property located in Gwinnett County and owned by the Georgia Department of Transportation.

STATE AND LOCAL GOVERNMENTAL OPERATIONS

HOUSE BILL 92

This bill amends the current law by changing advance voting in Georgia general elections to begin on the fourth Monday preceding a primary and general election, and as soon as possible prior to a runoff.

HOUSE BILL 158

This bill changes the month for filing a notice of candidacy in a nonpartisan election in the office of the Secretary of State from June to April. It also changes the provision that a notice of

candidacy must be filed in the office of the election superintendent on the third Wednesday in June instead of the last Monday in July.

HOUSE BILL 290

This bill corrects oversights in the law relative to state purchasing cards (P-Cards), by mandating revisions to the definitions “agency” or “agencies” to include any department, agency, division, council, bureau, boards, commission, public corporation or authority.

SENATE BILL 10

Local Referendum of Sunday Alcohol Sales

This legislation allows local counties or municipalities to put to referendum the ability to allow local licensed retailers to sell alcohol on Sundays, between the hours of 12:30 P.M. and 11:30 P.M., if approved by a majority of voters. The referendum will specify the hours during the period when alcohol sales may occur.

SENATE BILL 121

Refunding of Certain Fees

This legislation authorizes the Secretary of State’s office and the Department of Natural Resources to set up a procedure to refund fees collected in error or overpayments which do not belong to the state department.

This legislation also includes provisions from Senate Bill 150, which authorizes sale of wine and distilled spirits by the drink on public golf courses subject to whether the facility has a retail consumption license. Current law only authorizes the sale of malt beverages by the drink on public golf courses

SENATE BILL 156

This legislation removes the requirement that a local government file a separate audit form for 9-1-1 charges or wireless fees collected. The funds and expenditures will now be documented in their annual audit, already required by state law.

Senate Bill 156 also includes the provisions from House Bill 256, which explains that the intent of the legislature regarding 9-1-1 charges and prepaid wireless services is to move the collection of existing charges to the retail point of sale. The bill outlines the regulations regarding 9-1-1 charges on prepaid wireless services and allows counties and municipalities that operate a 9-1-1 answering system to impose a 75 cent 9-1-1 charge for each retail transaction. For these transactions, the seller would collect the amount from the consumer and the charge would be stated on the receipt or told to the consumer by other means. Additionally, sellers can deduct and keep 3 percent of the charges that are collected.

The counties or municipalities that operate a 9-1-1 answering system and impose the 9-1-1 charges would be able to receive a certain amount of the funds. These funds would be deposited in a separate fund called the Emergency Telephone System Fund and would be maintained by the local government.

Further, sellers of prepaid wireless services could not be liable for damages that result from the 9-1-1 services.

TRANSPORTATION

HOUSE BILL 112

Department of Public Safety Housekeeping Bill

This bill codifies the Department of Public Safety's rules and regulations and brings provisions in current law relating to hazardous materials transport, motor carrier, temporary license plates, and commercial motor vehicle safety equipment into compliance with federal regulations.

HOUSE BILL 137

Department of Transportation Housekeeping Bill

Significant changes in this bill include: authorizing law enforcement agencies to move property during a declared state of emergency; authorizing the Department of Transportation to outsource accident reports and requiring law enforcement agencies, if they choose to submit their accident report data electronically, to transmit the data using a nonproprietary electronic format; and exempting DOT and persons named in an accident report from having to make a written request for the report.

HOUSE BILL 156

Indemnification Payments for State Highway Employees; Spencer Pass Law

This legislation increases the indemnification payments for state highway employees to match those of other public safety employees. The payments represent increases from \$12,000 to \$35,000 in the case of partial permanent disability suffered in the line of duty, from \$25,000 to \$75,000 in the case of total permanent disability suffered in the line of duty, and from \$40,000 to \$100,000 in the case of death or organic brain damage suffered in the line of duty (payments will be made to the surviving unmarried spouse or dependents).

House Bill 156 also includes the language of Senate Bill 168 which dedicates Georgia's "Move Over Law" as the "Spencer Pass Law" in memory of Spencer Pass, a HERO operator with the Department of Transportation who was tragically killed after being hit by a passing truck while he was helping a motorist on the side of Interstate Highway 85 in Atlanta, Georgia, on January 31, 2011. The "Move Over Law" provides certain procedures for motorists when passing stationary authorized emergency vehicles, stationary towing or recovery vehicles, or stationary highway maintenance vehicles.

HOUSE BILL 179

Outdoor Advertising

This bill revises the procedure and fee schedule for the issuance of outdoor advertising sign permits. Of significance, House Bill 179 allows owners of signs to apply for a permit to remove all trees and vegetation from the target view zone of the sign. "Target view zone" is defined in this legislation as an area of the viewing zone extending from the sign to the roadway to which the sign is permitted which must be angled as requested by the applicant to maximize the visibility of the sign; however it must not exceed: (1) 250 feet along the right of way fence or boundary; and (2) 350 feet along the pavement edge, to include any emergency lane or paved shoulder. In order to obtain a vegetation maintenance permit for signs which exceed 75 feet in height, the owner of the sign must agree to reduce the sign to 75 feet in height or less, unless lowering is precluded by local government code or regulation.

HOUSE RESOLUTION 507

Road and Bridges Dedication Bill

This bill dedicates various bridges and roads in honor of certain people.

SENATE BILL 54

Weight of Load Limitations

Current law imposes weight limits on vehicles and loads on all state highways and county roads. These limits may be exceeded within certain limits when hauling certain products. This legislation allows these limits to also be exceeded when hauling poultry waste from the point of origin to a farm. Further, this legislation grants a vehicle a 5 percent variance from the weight and load limits when hauling these products within a 250-mile radius of the farm or point of origin. Finally, this legislation authorizes the Commissioner of the Department of Transportation to issue a multitrip permit to any vehicle or load allowed by federal law.

SENATE BILL 57

Overtaking a School Bus Violations

Current law requires the driver of a vehicle meeting or passing from either direction any school bus stopped on the highway to stop before reaching the school bus when there are in operation visual signals on the bus; the driver must not proceed until the bus resumes motion or the visual signals are no longer actuated. For purposes of enforcement, this legislation provides that a driver of a motor vehicle is liable for a civil monetary penalty if the vehicle is found, as evidenced by recorded images, to have been operated in disregard of these provisions. The amount of the fine is \$300 for a first offense, \$750 for a second offense, and \$1,000 for each subsequent offense in a five-year period.

SENATE BILL 88

Child Restraint Systems

Senate Bill 88 increases the age requirement from six to eight years old for children to be placed in a child restraint system when in a moving vehicle. The law goes into effect on July 1; however, there is a grace period for parents if convicted on a first offense between July 1 and January 1, 2012 – if the parents have purchased a child restraint system and can show the court a receipt, the fine of \$50 will be waived.

SENATE BILL 240

Personal Transportation Vehicles

This legislation creates a new class of motor vehicles, personal transportation vehicles, which are defined as any motor vehicle: with a minimum of four wheels; capable of a maximum level ground speed of less than 20 miles per hour; with a maximum gross vehicle unladen or empty weight of 1,375 pounds; and capable of transporting not more than eight persons. The term does not include wheelchairs, scooters, or all-terrain vehicles. Further, personal transportation vehicles must have certain equipment such as a lights and a braking system appropriate for the weight and passenger limit of the vehicle. SB 240 exempts any county or city that has enacted, prior to January 1, 2012, an ordinance authorizing the operation of motorized carts.

SENATE RESOLUTION 29

Efficiency of the Georgia Department of Transportation

This resolution urges the Georgia Department of Transportation to contract out to the private sector to the maximum degree practicable and set a goal of a 25 percent reduction in employees to 3,750 employees by June 30, 2015.

SENATE RESOLUTION 30

Winter Weather Emergency Preparation

The General Assembly urges GDOT to: identify and qualify contractors to assist in weather emergencies; develop an action plan to remove snow and ice; and preauthorize local governments to clear state routes during a weather emergency.

SENATE RESOLUTION 31**Winter Weather Emergency Preparation**

The Senate urges GDOT to: identify and qualify contractors to assist in weather emergencies; develop an action plan to remove snow and ice; and preauthorize local governments to clear state routes during a weather emergency.

SENATE RESOLUTION 233**Sound Barriers on I-95 near Blythe Island**

The Senate requests that GDOT reconsider the feasibility of sound barriers for two sections of I-95 near Blythe Island.

SENATE RESOLUTION 312**Savannah Harbor Deepening**

The General Assembly endorses the proposed deepening of the federal navigation channel at Savannah Harbor, located in Chatham County, Georgia, to -48 feet mean low water. The construction of the Savannah Harbor Expansion Project by the U.S. Army Corps of Engineers should be undertaken expeditiously, and in keeping, with the authorization of the project by the United States Congress.

SENATE RESOLUTION 343**Road and Bridges Dedication Bill**

This bill dedicates various bridges and roads in honor of certain people.

VETOED LEGISLATION

(This does not include local legislation)

SB 19	Coin Operated Amusement Machines
SB 58	Spencer Pass Hero Memorial Act and the Jarrett Little Act
SB 86	Comprehensive Plans by Local Governments; Retirement Communities
SB 96	The Peace Officers' Annuity and Benefit Fund
SB 140	Georgia Higher Education Facilities Authority; Bonding Authority
SB 163	Campaign Communications
HB 226	Individual Development Accounts
HB 489	Medicaid Recovery Audit Contractors