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UPCOMING ISSUES FOR THE 2005 LEGISLATIVE SESSION

This document is a report of selected issues that are likely to be addressed during the 2005 Session of the Georgia General Assembly, and is solely intended to provide a general overview. This document also contains an index of pre-filed legislation as of December 8, 2004. If more information on a particular area of interest is needed, please contact the Senate Research Office. This document is available on the Senate Research Office Internet Website at: http://www.legis.state.ga.us/legis/2005_06/snresearch/senresearch.html

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**Prepared by the Senate Research Office
Appropriations Section Prepared by the Senate Budget Office
December 2004**

UPCOMING ISSUES FOR THE 2005 LEGISLATIVE SESSION

APPROPRIATIONS

NATIONAL OVERVIEW

State legislatures have faced significant budget constraints in the past three fiscal years due to the most recent recession in the American economy. Many states were forced to make significant budget cuts in FY 2004 to compensate for lagging revenue sources. According to the National Conference of State Legislatures (NCSL) "State Budget Update: April 2004," 20 states faced an aggregate gap of \$5 billion in the early part of FY 2004 between state appropriations and revenues. Following budget cuts in 2004, many states reported stronger revenue receipts than projected in their initial FY 2005 budgets, and these modest increases in revenues led to 32 states projecting a surplus at the close of the fiscal year. For FY 2004, the year-end surplus was projected to be around \$6.4 billion for these states cumulatively, up from a February 2004 estimate of \$5.6 billion.

Even with the gains in revenue in FY 2004, the FY 2005 revenue estimates remained modest (5-10 percent). Many legislatures were timid about overestimating and creating another fiscal year with budget cuts looming for their amended or supplemental budgets. NCSL notes that 33 states still projected gaps for their FY 2005 budgets, with a cumulative gap estimate of \$25 billion, with \$15 billion coming just from California. Of the 17 states not projecting gaps, 12 projected surpluses above and beyond their rainy day funds for the close of FY 2005, with a cumulative surplus of \$1.9 billion. South Dakota projected the highest with a 9.9 percent surplus for year-end FY 2005 receipts.

Among the major issues that states faced in last year's session, Medicaid and other healthcare programs including state employee benefit plans are predicted to be areas of budgetary stress for FY 2006. Other issues that are at the forefront of budgetary constraints include corrections costs, K-12 educational funding, and replenishing rainy day accounts that were needed to meet the budget needs in fiscal years 2002-2005.

According to the Economic Forecasting Center (EFC) at Georgia State University, the biggest hit to employment in the recession came from a decrease in the number of jobs in small U.S. firms. Between 1958 and 2000, an average of 53.2 percent of the workforce came from companies employing less than 500 people. During that same time frame, small businesses made up 99.7 percent of the total number of firms in America. In 2001, the percentage of employment through small firms fell below 50 percent for the first time in over 40 years. According to EFC, between November 2001 and December 2003, a total of 624,000 jobs were lost nationwide. The unemployment rate has fallen to a recent level of 5.5 percent (October 2004) from a high of 6.3 percent (June 2003) for the country.

GEORGIA OVERVIEW

This year's budget comes on the heels of 7.5 percent in budget cuts directed at state agencies in FY 2004. The state currently is experiencing revenues above the projected rates for FY 2005. The estimated revenue figure for FY 2005 was \$14.2 billion in Department of Revenue collections. So far, the fiscal year collections have totaled \$4.6 billion, or roughly 32.2 percent of the total needed to be on target with the revenue projections. Last year, the state had collected only 30.5 percent of the revenue to be on target with the FY 2004 revenue estimate.

As of June 30, 2002, the state's revenue shortfall and discretionary revenue shortfall reserves totaled \$700 million. The discretionary reserves were depleted by June of 2003, leaving \$184 million in the revenue shortfall reserve. As of June 30, 2004, both the revenue shortfall reserve and the discretionary reserve were zero.

As proposed by state agencies, Medicaid and the State Health Benefit Plan (SHBP) have the two largest budget shortfall amounts. Medicaid, the combination state and federal program that helps 1.4 million low-income or disabled Georgians, is facing a

deficit of \$269.5 million of state funds. This is the result of an increase in enrollment, higher utilization of services and healthcare inflation. The Department of Community Health (DCH) has released its recommendations for cost containment to cover this deficit. The staff of DCH and the Governor are assessing the costs and benefits of moving to a managed care system for Medicaid and PeachCare (a healthcare program for children). The plan calls for those who qualify for Medicaid because of low income to be placed in care management organizations. Though low-income Medicaid recipients are 80 percent of the Medicaid population, they only account for about 40 percent of the costs. The remaining 20 percent of recipients who qualify because of age or a disability consume 60 percent of Medicaid expenditures.

The State Health Benefit Plan, which offers health insurance to state employees, teachers and their families is facing a shortfall of \$445 million. Half of this amount is recommended by the Board of DCH to be contained by expenditure controls and cuts. The other half is slated by the Board of DCH to be met with a combination of an increase in employee and employer contributions.

For the Amended 2004 Budget, legislators added \$118.6 million to Quality Basic Education (QBE) for increased enrollment in high growth K-12 school districts. The QBE increase was a 1.75 percent increase in the Full-Time Equivalent counts. In the FY 2005 budget, the Department of Education (DOE) was appropriated \$5.9 billion dollars for an FTE count of 1.4 million students.

Earlier this year the Board of Regents (BOR) was appropriated \$1.4 billion for instruction of 312,148 students in colleges and universities across the state. The BOR also was appropriated an additional \$182 million for the "B" unit budget: operations of the central office and for other organized activities. The Department of Technical and Adult Education (DTAE) was appropriated \$288 million for the instruction of approximately 300,000 Georgians.

Education, health and human services, and corrections have historically been the largest aggregate slice of the Georgia's total budget. In FY 2005, Education, which includes K-12, Regents and DTAE, received \$7.8 billion in state fund appropriations, or roughly 48.7 percent of the total state budget. This year, Health and Human Services, which includes the DCH and the Department of Human Resources (DHR), received \$3.4 billion, or 21.3 percent of the state budget. The Department of Corrections (DOC) received \$882 million, or roughly 5.5 percent of the total state budget. These three pieces of the budget accounted for 75.5 percent of the total state budget, leaving 24.5 percent for all other state agencies, or roughly \$4 billion.

For the amended budget requests to FY 2005's general appropriation bill, the Governor's Office of Planning and Budget (OPB) has informed the state agencies that there will not be a payroll shift of one calendar day, meaning agencies must absorb an extra payday into their budgets without additional state funding. Additionally, OPB has instructed state agencies to prepare three separate budget requests for the FY 2006 Governor's Budget Request. These agency requests include a 97 percent budget (a 3 percent cut), a continuation budget (funding equal to the FY 2005 - the Governor has decided not to move one FY 2005 pay date into FY 2006, yet no additional funding will be budgeted for personal services), and a 105 percent budget request (a 5 percent increase in appropriations over FY 2005). The Governor will recommend some combination of these budget requests to the General Assembly in January 2005.

AGRICULTURE AND CONSUMER AFFAIRS

GIFT CARDS AND CERTIFICATES

Senate Bills 443 and 618 stalled in the Senate during the 2004 Legislative Session. These pieces of legislation sought to restrict dormancy fees and expirations on gift cards and certificates in one of two ways:

- Have issuers of such gift cards and certificates disclose the terms of the cards or certificates to the purchaser at the time of purchase and conspicuously print the expiration date and terms of any servicing fee(s) on the front of the gift card or certificate; or
- Stipulate that it will be unlawful to impose a non-use, handling, dormancy, activation, or maintenance fee on such gift cards and certificates and if an expiration date is not specifically identified, the gift card or certificate must be redeemable at any time for the full value of the gift card or certificate.

Opponents of the legislation contend that dormancy fees cover the costs of establishing and administering gift card programs by the issuers. Opponents contend that dormancy fees and expiration dates typically do not apply until a card is two or three years old or more. Furthermore, retailers are not able to account for gift cards or certificates as a sale until the money is spent; hence, using the card or certificate is good for both the retailer and the consumer.

THE COURTS AND CIVIL JUSTICE

CIVIL JUSTICE REFORM

Civil justice reform will be one of the most contested issues of the upcoming session. Given the dramatic increase in medical liability premiums, many healthcare providers and hospitals are faced with the decision of getting out of certain high-risk specialties, leaving the practice of medicine completely, or continuing to treat patients with inadequate or no liability insurance. In addition, these increases have been blamed for a decrease in the number of new physicians in our state as well as a sharp decline in the number of providers in certain high risk specialties such as obstetrics and radiology. The shortages in providers are especially hard on rural areas of our state.

Advocates of civil justice reform believe that these sharp increases in premiums have resulted from a dramatic increase in the frequency and amount of jury awards in medical liability and other personal injury claims. The costs of defending such lawsuits, particularly large class action lawsuits, have also been blamed for an increase in costs to consumers for certain products and services. In addition, our current justice system has been said to hurt the economic development of the state, as companies are hesitant to set up headquarters in a state with laws that are viewed as plaintiff friendly or in a state that has a problem with access to good healthcare for its employees.

All these factors have resulted in a movement by business leaders and groups representing the healthcare industry to change Georgia's current system of civil justice. In the healthcare arena, these changes will most likely focus on providing immunity for healthcare providers in emergency rooms, which are particularly vulnerable to liability lawsuits; limiting the liability for individual physicians, in an effort to reduce the growth of liability insurance premiums; and requiring that experts in liability lawsuits meet more stringent criteria before their testimony will be admissible.

With regards to procedural issues that would affect all personal injury lawsuits, not just those that involve medical malpractice, the advocates for reform will most likely push for reforms that put the defendant on a more equal playing field and protect them from defending frivolous lawsuits. One such reform would be apportioning monetary awards based on the degree of fault that is attributed to each defendant. Venue reform is also another issue that may be discussed, in an effort to curtail the practice of forum shopping and to ensure that lawsuits are brought in the proper jurisdiction. Further reforming our class actions laws, so that they conform to federal law, may also be a priority of civil justice reform advocates.

On the other side of the issue, trial lawyers and consumer groups favorably view the current system because it provides access to citizens who have been injured. Access to our court system is seen as a fundamental right of the citizens of our state so that they may seek redress for harms done to them. In addition, they see our current system as a deterrent to incompetent physicians and dangerous products. As such, plaintiff's

rights advocates would prefer that our system of justice remain as it exists or that only minor changes be made. One such change would be to implement a mandatory, non-binding arbitration or mediation process before a lawsuit could proceed to trial. This is seen as a good way to lower the overall costs of the legal system and to achieve a faster resolution of claims.

Trial lawyers and other consumer groups see the increase in premiums for medical liability insurance as a result of the manner in which insurance companies invest the premiums they receive, rather than a result of the legal system. Therefore, they would prefer to see some reform to the manner in which insurance companies set their premiums and the manner in which those premiums are invested.

As it was in the previous two sessions, the issue of civil justice reform will undoubtedly be a very important issue in the 2005 Session. The complexity of the issues involved requires a balancing act between the rights of our citizens to have access to our court system and the need for access to quality healthcare throughout the state.

CRIMES AND CRIMINAL JUSTICE

Although the General Assembly has passed legislation to address the methamphetamine problem in Georgia, it continues to plague our state. According to the Georgia Bureau of Investigation, police raided 701 methamphetamine labs in Georgia last year, in comparison to 29 methamphetamine labs four years ago.

In 2003, the General Assembly passed Senate Bill 205 which prohibits the illegal possession and/or theft of anhydrous ammonia, a key component used in making methamphetamine. Senate Bill 205 also prohibits anyone, other than a pharmacist or a practitioner, from possessing any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine in an amount which exceeds 300 individual units (pills, tablets, etc.). These ingredients are found in some cold medicines and have been used to make methamphetamine. In 2004, the General Assembly passed Senate Bill 467. Commonly known as the "Child Endangerment Bill," Senate Bill 467 prohibits anyone from engaging in activities associated with the manufacture or possession of the drug in the presence of children.

Subsequently, in August 2004, Governor Perdue and the Georgia Council on Substance Abuse hosted a two-day, federally-funded summit on methamphetamine in which over 250 federal, state, and local officials were invited. Some preliminary recommendations include restricting the sale of tablets which contain pseudoephedrine, such as Sudafed, to pharmacies. Pharmacies would be required to keep the drugs behind their counters and customers would have to show photo identification and sign for the medicine. Oklahoma instituted similar provisions in April 2004 and now reports a decrease in methamphetamine labs since their law took effect. The number of labs raided, for example, dropped from 100 in March 2004 to 50 in June 2004. The National Crime Prevention Council plans to submit a final report of the summit to the Governor's Office.

Additionally, the House Protection from the Dangers of Methamphetamine Manufacture Study Committee is currently studying the methamphetamine problem in Georgia. The Committee is focusing on possible statewide policy initiatives which include methods for: uniform statewide reporting of clandestine laboratories that are discovered; protecting current and future occupants of properties affected by clandestine laboratory operation; and regulating chemical precursors used in the manufacture of methamphetamine. The Committee is also examining public education programs/campaigns and the feasibility of funding certain substance abuse programs. The Committee will submit a report of its findings in December 2004.

ECONOMIC DEVELOPMENT AND TOURISM

The Senate Economic Development and Tourism Committee conducted a listening tour which consisted of a series of hearings throughout Georgia. Traveling to different cities allowed the Committee to focus on the economic issues which are important to the various regions of our state. The discussions resulting from the statewide meetings helped the Committee to prepare for the 2005 Legislative Session.

Incentives for the Film and Television Industry

Over 500 movies, films, and commercials have been made in Georgia which underscores the film, video, and music industry's economic impact on our state. However, Georgia is losing its competitive edge to attract films and movies because other states, such as South Carolina and Louisiana, have enacted tax incentives to draw film productions to their states. In Georgia, legislation such as House Bill 1775 was introduced during the 2004 Legislative Session in an effort to provide income tax credits for motion picture production companies based upon the amount of base investment the company expends in the state as direct production costs. Although House Bill 1775 did not pass, Georgia's motion picture industry representatives support enacting tax incentives for film companies which produce films in our state.

Funding and Incentives for the Arts

The Americans for the Arts (AFTA) defines creative industries as arts-centric businesses, institutions, and organizations that range from museums, symphonies, and theaters to film, architecture, and advertising companies. There are 15,086 creative industry-related businesses in Georgia which account for 81,057 jobs. Georgia's arts industry representatives support increasing funding for the Georgia Council for the Arts; providing incentives for film and television-related projects; and creating a State Department of Cultural Affairs to house all government cultural agencies.

Promote Tourism

Tourism is a vital component of Georgia's economic system and is the state's second largest industry behind agriculture, which includes the forestry/timber industry. The tourism industry is composed of 9,000 tourism-related businesses which employ 200,000 people. Moreover, Georgia receives a \$7.74 return for every dollar spent advertising tourism in our state. Industry representatives support additional funding to promote tourism in Georgia to include creating public/private marketing partnerships to promote investment in our state.

Other Issues

Economic development relies on the collaboration of various elements. Industry representatives support enhancing the quality-of-life components vital to the economic well-being of our state to include workforce development, education, and healthcare. Industry representatives also support helping the other critical elements of our economic system, such as small businesses, manufacturing, and agriculture, in order to stay competitive in the global economy.

EDUCATION AND HIGHER EDUCATION

CLASS SIZE REDUCTION

Beginning with the 2000-2001 school year, state schools were required to begin reducing the number of students in each classroom in an effort to meet state-imposed maximum class size limits. Because of the current budget climate, the implementation of these limits has been postponed in recent years. Current law, however, still requires the reductions; therefore, the General Assembly will likely have discussions about whether to again postpone the implementation or whether to follow the current law and require schools to comply with the maximum class size limits.

CHARTER SCHOOLS

Another issue that will likely be discussed this legislative session is charter schools. Charter schools are seen as breeding grounds for new and innovative ideas in the

educational arena, as these schools are not subject to the same state rules and regulations that apply to traditional public schools. Often, a collaboration between the local community, business leaders, and parents, charter schools create a non-traditional learning environment that provides a traditional education to students while also preparing those students to play a significant role in the community.

TEACHER ISSUES

The improvement of conditions for teachers in our state is a perennial issue for the General Assembly. Advocates for teacher unions are consistently pushing for salary increases as well as improving the climate in our public schools, to ease the classroom pressures that so many teachers face. The issues that most likely will be discussed are reduction in class sizes and the creation of an additional classification that would provide financial incentives for teachers who choose to remain in the classroom throughout their careers.

HOPE SCHOLARSHIP

The General Assembly will likely be monitoring the changes that were made to the HOPE Scholarship program during the 2004 Legislative Session. Lottery revenues are not growing quickly enough to keep up with the increase in the number of students eligible for the program. Should it become evident that further changes are needed to keep the program in the black, the Legislature will likely again address possible options.

ELECTIONS

ELECTRONIC VOTING AND PAPER RECEIPTS

Georgia was one of the first states to purchase electronic voting machines and is one of only a few states to be totally electronic. Throughout the nation and in Georgia, critics of touch-screen voting began calling for a voter-verified paper audit trail after a series of reports last year that questioned the security of electronic voting. Critics assert that the machines can be manipulated to change the outcome of elections, and that a paper record of an electronic ballot which voters could check for accuracy would ease such worries.

In September 2004, Nevada became the first state to employ electronic voting machines with printers that allow voters to confirm their computer selections against a paper receipt. Nevada election officials believe those paper trails instill new confidence in electronic voting. Voters cast an electronic ballot on machines similar to Georgia's, but Nevada's machines have a small black box attached to them that contains a paper copy of the voter's ballot under a piece of clear plastic. The voter reviews their selections to ensure they match the choices that were made on the computer. If they do, the voter touches the screen to make the piece of paper disappear into a locked box. If the paper does not match, the voter can cancel the paper ballot and vote again. If the paper trail is canceled, it prints "VOIDED." Voters cannot take the paper record with them as a receipt.

The Secretary of State's Office has several concerns about utilizing a paper verification system. Aside from voter privacy issues, the Secretary of State's Office has pointed out that uniform technological standards for the printers have not been developed on a national level. Spending about \$16 million to outfit Georgia's machines could prove unwise if different standards were later developed that made them obsolete. There are also concerns that the printers could pose a logistical problem for poll workers already overwhelmed by learning a new voting system.

NONPARTISAN ELECTIONS – COUNTY SHERIFFS

Many sheriffs in Georgia are supporting legislation that will allow them to run as nonpartisan candidates. Last session, Senate Bill 26 passed the Senate but stalled in the House Government Affairs Committee.

ETHICS

In recent years, Governor Perdue's Floor Leaders have introduced legislation to change the state's ethics laws as they relate to political campaigns and state government. Some of the more substantive provisions included: prohibiting former legislators from immediately becoming lobbyists and providing a time frame as to when they can lobby; addressing campaign contributions and the manner in which they are reported; and providing restrictions regarding conflicts of interest, requiring certain financial disclosures, and applying some of the provisions to family members as well. To date, there has not been a majority to agree to any significant changes. It is presumed that Governor Perdue's Floor Leaders will introduce similar legislation this session.

FINANCE

AD VALOREM TAXATION

There will likely be several bills addressed that will propose limitations on millage rate or property valuation increases. Several bills proposing a constitutional amendment that would authorize the General Assembly to provide by general or local law for limitations on the rate of increase of the ad valorem tax millage rate, and for limitations on the increase in valuations of property have already been pre-filed.

Additionally, the General Assembly will probably debate the issue of replacing local school property taxes with an increase in the state sales tax. The Fiscal Research Center at Georgia State University's Andrew Young School of Policy Studies reported that on average, 55 percent of property taxes go to the local school system, and that in some counties, that average can be as high as 77 percent. The Department of Revenue reported that \$4.6 billion in property taxes was collected for school maintenance and bonds for the 2003 tax year.

Advocates for the proposal say the measure would provide much needed relief to property owners from increasingly high property taxes. Opponents of the measure claim it would adversely affect the elderly and lower income populations of Georgia.

TAX EXEMPTIONS AND THE SALES TAX HOLIDAY

Each legislative session, bills providing sales tax exemptions are introduced. This legislative session will be no different. Measures to provide sales tax exemptions to certain non-profit entities, and sales tax exemptions or tax credits to certain businesses that will help promote economic development have already been pre-filed.

Additionally, a proposal for the sales tax "holiday" to begin at 12:01 A.M. on July 28th, 2005 and end at Midnight on July 31st, 2005 for school-related supplies has been pre-filed.

HEALTH AND HUMAN SERVICES

NON-SMOKING LEGISLATION

It is likely that legislators will readdress statewide anti-smoking legislation which would prohibit smoking in places such as public buildings, restaurants, and most places of employment. During the 2004 Legislative Session, the Georgia Senate passed the "Georgia Smokefree Air Act of 2004," but it did not pass the House of Representatives. Proponents of public place smoking restrictions assert that the negative health effects of exposure to secondhand smoke warrant state action to protect nonsmokers. In addition, proponents contend that restricting smoking positively affects the public's health. Opponents to public place smoking regulations argue that these statutes and regulations infringe on the rights and social behaviors of people who use tobacco products. Opponents also argue that state regulation interferes with issues that should be left to local authorities, and such statewide restrictions would have an overall negative financial impact on Georgia's economy.

CAUSE OF DEATH REPORTING REQUIREMENTS

According to the Coalition of Advocates for Georgia's Elderly (CO-AGE), a senior citizens advocacy group, interested parties such as: coroners, adult protective services workers, and long-term care ombudsmen may not learn of deaths of individuals who pay for care in long-term care facilities, or in their own homes. Legislation may be introduced this session to change the law to provide for mandatory notification of such deaths to the coroner. Such legislation will also likely provide the coroner with the authority and discretion to investigate such deaths.

“WOMAN’S RIGHT TO KNOW ACT”

During the upcoming legislative session, it is likely that legislators will again consider the “Woman’s Right to Know Act.” Senate Bill 23, which passed the Senate in 2003, but failed to pass the House of Representatives, requires physicians to provide women with certain information at least 24 hours prior to an abortion. Opponents argue that such legislation is an attempt to thwart legal access to abortion. However, proponents of the bill suggest that such a law would guarantee that all women considering an abortion would be given complete information by their physician about all the risks of the procedure before being referred for an abortion.

INSURANCE

MANDATED HEALTH INSURANCE BENEFITS

Over the past decade, mandating health insurance benefits has been very popular among legislators in all 50 states and in Congress. Benefit mandates require health plans (generally group plans offered by employers) to cover specific benefits and services, allow access to certain types of providers, or extend benefits to certain populations.

Mandates are both beneficial and costly to consumers. Benefit mandates are popular because they are intended to provide health care consumers with greater access to particular services, many of which are important preventive services or critical to the treatment of particular disorders. Without such mandates, supporters argue that these services might otherwise be under-provided. Moreover, mandating certain preventive services could reduce a health plan’s overall costs and improve worker productivity through early intervention in potentially serious health conditions. Another argument in favor of mandates is that the additional services might improve the quality of patient care. Thus, benefit mandates appeal to consumers who are concerned about access to care and the potential for the under-provision of important services.

Critics of mandated benefits argue that the losses from mandate laws detract from their gains. The financial costs of benefit mandates are not well documented and estimates vary widely, although the majority of studies agree that mandating a health benefit raises costs to some degree depending on which benefit is mandated. An employer offering health insurance coverage to its employees, who is now required to provide coverage for a newly-mandated benefit, will see its premiums increase. Consequently, that additional cost may ultimately be paid by workers in the form of lower wages, lower levels for other benefits, or lower employment. Additionally, opponents claim that as a result of higher costs, some employers may drop coverage or some consumers may decline coverage, both of which contribute to a higher uninsurance rate. Furthermore, opponents argue that mandates limit the flexibility that plans have in designing policies that match the preferences and the budgets of a diverse set of purchasers.

Considered individually, a mandate may add only 1 to 2 percent to the total cost, but the accumulation of coverage mandates over time could add considerably to the total annual cost of a health insurance premium. Thus, opponents argue that laws requiring health plans to cover certain services and benefits may contribute to higher premiums and lower coverage rates.

Senate Bill 50, which passed the Senate Insurance and Labor Committee last session but was not addressed on the Senate Floor, would have allowed insurers to offer group

and individual plans which may include some or all of the state mandated health benefits. The legislation specified the 29 mandates which may be offered as options.

HEALTH INSURANCE HIGH-RISK POOLS

Introduced during the 2003-2004 term of the Georgia General Assembly, House Bill 1038, which stalled in the House, sought to establish the Georgia Health Insurance Risk Pool. Currently, 32 states have established government programs called high-risk pools that offer health insurance coverage to uninsurable residents whom private insurers might turn down because of their health status. Approximately 175,000 people are enrolled in high-risk pools across the United States.

High-risk pools typically offer coverage similar to that sold by private insurers. However, in some states, high-risk pool benefits are limited (for example, imposing high deductibles or limiting coverage for certain services such as mental health care or maternity care). Also, like private insurance companies, high-risk pools will impose a waiting period of 6-12 months on the coverage of pre-existing conditions. In some states, high-risk pools will waive the pre-existing condition exclusion period if the individual had prior coverage.

Cost To Purchase a Policy Through a High-Risk Pool

High-risk pool premiums are always more expensive than coverage sold by private insurers. This is because states set high-risk pool premiums at some multiple of average private plan premiums. In most state high-risk pools, premiums are 1.5 to 2 times higher than those charged by private insurance companies. In addition, all state high-risk pools adjust premiums for age, which can make coverage especially expensive for people in their 50s or early 60s.

Financing High-Risk Pools

Generally, establishing a solid financing mechanism is the greatest obstacle when establishing a high-risk pool. As a result, each state has established some type of funding mechanism to cover pool losses. Of the five states that have most recently created a high-risk pool, New Hampshire and South Dakota fund their pool losses with an assessment on all health insurance carriers in the state, based on the number of people each carrier covers. Maryland and West Virginia finance losses with an assessment on hospitals, while Florida recently passed legislation to create a new pool to be financed first and primarily by enrollees' premiums, then by legislative appropriations. However, no appropriation was included to finance this project.

If Georgia is to create a high-risk pool to serve the state's medically uninsurable population, it must ensure that there is a financing option that is an equitable, stable means of funding pool premium shortfalls.

JUDICIARY

INDIGENT DEFENSE STANDARDS

The Georgia Indigent Defense Act of 2003 established a statewide, circuit-based public defender system with the Georgia Public Defender Standards Council as the oversight agency. The Act was amended in 2004 to establish a Legislative General Oversight Committee to determine which of the standards adopted by the Standards Council has a fiscal impact. Those deemed to have a fiscal impact must be ratified by joint resolution of the General Assembly and enacted into law in order to be effective, otherwise the standard is considered only a guideline. The following standards adopted by the Standards Council that may be considered to have a fiscal impact and therefore must be ratified by the General Assembly are:

- § Determining indigence;
- § Definition of a "case";
- § Limiting caseloads and determining size of legal staff in the circuit public defender offices; and
- § Performance.

HATE CRIME LAW

In October, 2004, the Georgia Supreme Court declared Georgia's 2000 hate crime law unconstitutional on the basis that it was written so vaguely that people of common intelligence must guess at its meaning. In its ruling, the Georgia Supreme Court indicated that the Legislature may decide, that "bias-motivated offenses warrant greater maximum penalties" and that such law, if drafted appropriately, may meet the ascertainable standards required by the due process rights guaranteed by the state and federal constitutions.

FBI statistics indicate that reports of hate crimes nationally have increased 67 percent since 1991. In 2000 alone, there were 9,562 hate crime cases handled, broken down in the following manner: 54 percent were based on race, 16 percent on religion, 16 percent on sexual orientation and 12 percent on national origin. Forty-eight states currently have "hate crime" statutes and it is likely that in the upcoming session, legislation will be introduced that imposes an enhanced penalty on a crime motivated by bias or prejudice.

EQUAL STRIKES

According to prosecutors, one of the most glaring imbalances in Georgia's criminal justice system is the fact that the criminal defense has twice as many jury "strikes" as the prosecution in felony trials. In practice, this means that defense attorneys can dismiss 12 potential jurors during the jury selection process, while the prosecution can only dismiss six. Forty-four states and the federal court system have equal strikes for the defense and the prosecution, and among the six other states with unequal strikes, Georgia is the most liberal with the defense being allowed six more strikes. To correct this imbalance, legislation will likely be introduced to provide the state with an equal number of strikes when impaneling a jury.

SALARIES FOR JUVENILE COURT JUDGES

The purpose of our juvenile courts is to protect the well-being of children, provide guidance and control conducive to child welfare and the best interests of the state, and secure care for children removed from their homes. The exclusive, original jurisdiction of juvenile courts extends to delinquent children under the age of 17 and deprived or unruly children under the age of 18. Juvenile courts have concurrent jurisdiction with superior courts in cases involving capital felonies, custody and child support cases, and in proceedings to terminate parental rights. In the 2004 Legislative Session, House Bill 502, which changed juvenile court judges' salaries to state funding instead of a "grant" in the amount of \$85,000 and added any annual salary adjustments provided to state officials, passed both the House and the Senate but was vetoed by the Governor. In the 2005 Legislative Session, a 5 percent increase in funding to counties for juvenile judges' salaries will likely be pursued.

ADDITIONAL SUPERIOR COURT JUDGES

Rapidly growing caseloads are straining several court systems across the state and could severely delay lawsuits that affect people's lives. Officials say that court delays may affect commerce and the ability of companies to conduct business. Additionally, the added workload takes a toll on the judges. To address these concerns, the Judicial Council will likely recommend funding for additional superior court judgeships. The recommendations are listed by priority of need:

- | | | | | |
|----------------|---|----------------|---|---------------------|
| 1. Southern | - | 5th Judgeship | - | Judicial District 2 |
| 2. Gwinnett | - | 9th Judgeship | - | Judicial District 9 |
| 3. Flint | - | 3rd Judgeship | - | Judicial District 6 |
| 4. Cherokee | - | 4th Judgeship | - | Judicial District 7 |
| 5. Appalachian | - | 3rd Judgeship | - | Judicial District 9 |
| 6. Dublin | - | 3rd Judgeship | - | Judicial District 8 |
| 7. Coweta | - | 6th Judgeship | - | Judicial District 6 |
| 8. Cobb | - | 10th Judgeship | - | Judicial District 7 |
| 9. Southern | - | 6th Judgeship | - | Judicial District 2 |
| 10. Gwinnett | - | 10th Judgeship | - | Judicial District 9 |

LABOR

UNEMPLOYMENT INSURANCE PROGRAM

Unemployment insurance (UI) pays temporary cash benefits to workers who have lost jobs through no fault of their own. Weekly benefits replace a percentage of lost wages up to a ceiling. Someone who becomes unemployed and files a claim is usually entitled to a maximum of 26 weeks of benefits over the next 52 weeks. The only way a worker can collect after those benefits are exhausted is to re-enter the workforce and earn enough to establish a future entitlement. During recessionary periods, the federal and state governments regularly extend the 26-week benefit period.

The UI system is administered as a federal-state partnership. To finance the program, the State levies and collects payroll taxes from employers. The State undertakes most UI administrative activities related to both paying benefits and collecting from employers the payroll taxes that support the program. The funds collected are managed in a trust fund administered by the federal government.

Some of the specific issues the legislature may address in 2005 concerning the unemployment insurance program include:

- The UI system operates counter-cyclically, paying out benefits during recessionary times and collecting revenue during recovery times. Is there a better alternative to this pattern which would provide for a more stable trust fund balance in times of recession and recovery periods?
- How many months' worth of benefit payments should Georgia's UI trust fund maintain to provide an adequate reserve of money available to be paid as benefits?
- What is the ratio of Georgia's UI trust fund balance to Georgia's annual total wages in covered employment that would fund an adequate reserve?
- Is Georgia's UI experience rating system and benefit financing model sound and sustainable? Should the system and the model be amended or revamped?

LOCAL GOVERNMENT

ANNEXATION

Several counties have voiced a concern that some cities are abusing their power to annex, by utilizing annexation as a means simply to expand a city's tax base rather than to provide municipal services otherwise unavailable from the county. In other instances, counties contend that annexations are sought by developers anxious to circumvent a county's land use plan, zoning ordinance, or alcoholic beverage ordinance. According to the Association County Commissioners of Georgia (ACCG), these methods cause service delivery problems, loss of county revenues, and a disregard for land use plans and zoning and licensing ordinances of the county. The Georgia Municipal Association (GMA), however, believes that all cities should have the ability to exercise all annexation powers currently available and that all property owners currently possess the right to be annexed into a city following the due process provisions outlined in State law.

Legislation to resolve land use, environmental, service delivery and financial impacts of annexation on counties and unincorporated residents is expected to be addressed during the 2005 Session.

INCORPORATION OF SANDY SPRINGS

The incorporation of the city of Sandy Springs will be addressed during the 2005 Legislative Session. Throughout the 2003-2004 Sessions, several hearings were held studying the incorporation issue and its fiscal impact on Fulton County and Atlanta. House and Senate members worked on a comprehensive compromise bill (House Bill 315) which ultimately never passed out of the House. For the 2005 Legislative Session,

two pieces of legislation (Senate Bill 7 and Senate Bill 8) related to Sandy Springs have already been pre-filed.

SERVICE DELIVERY STRATEGY AGREEMENTS

The intent of the Service Delivery Strategy Act is: (1) to provide a flexible framework for local governments and authorities to agree on a plan for delivering services efficiently, effectively and responsively; (2) to minimize any duplication and competition among local governments and authorities providing local services; and (3) to provide a method to resolve disputes among service providers regarding service delivery, funding equity, and land use.

The Legislature is expected to address several concerns some counties and municipalities have voiced over the drafting and the operation of service delivery strategy agreements. Among the provisions that may be addressed include: (1) Dispute resolution procedures; (2) Providing the Department of Community Affairs (DCA) with more flexibility when imposing sanctions and penalties; (3) Allowing DCA to rescind any provision of a strategy if it is discovered later that the strategy omits a requirement of the service delivery law; and (4) Although county Constitutional Officers were removed from the Service Delivery Strategy Act in 2004, cities still contend that tax funds supporting those positions should still be negotiable between a municipality and its respective county in an effort to reach tax equity.

NATURAL RESOURCES AND THE ENVIRONMENT

WATER ISSUES

In 2004, the Georgia General Assembly passed House Bill 237, the Comprehensive Statewide Water Management Plan (Plan), which requires the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources to devise a draft Plan and bring it before the Water Council by July 1, 2007, and for a vote in the General Assembly by 2008.

In the meantime, while the EPD devises such a Plan, water issues, such as piping of streams and interstate and intrastate water allocations, will continue to be legislative priorities. A hotly contested issue in 2004, the piping of streams or springs, which was taken out of Senate Bill 460 before its final passage, has been approved by the Board of Natural Resources during its October Board meeting and scheduled for a final vote in December. The proposal would allow developers to pave over intermittent streams, which are those streams with a drainage area of 20 acres or less and only carry water during and for a short duration after it rains.

Developers feel the state rule that requires a 25-foot buffer between a river, stream, lake, or drainage ditch and construction is too harsh and prevents them from building on land even when they are able to engineer environmentally friendly drainage systems. Environmentalists would prefer stronger state protections for rivers, streams, and estuaries. Opponents of the proposal to allow developers to pave over intermittent streams believe a buffer helps to decrease pollution in Georgia's waterways.

An ongoing topic of conversation in Georgia is the continued battle of interstate and intrastate water withdrawals. The boost in population growth of many metro Atlanta counties has increased their need for water. In order to accommodate this need, legislators have pondered such matters as interbasin transfers, which became a highly disputed issue among legislators, environmentalists, and state agencies. Additionally, a water sharing agreement between Georgia, Alabama, and Florida has yet to be reached, and more litigation is pending.

LAND CONSERVATION

In August, the Georgia Land Conservation Partnership published a statewide land conservation plan (Plan) for the Governor that includes eight policy recommendations. The Plan promotes the creation of public-private partnerships that would utilize various land conservation tools, such as conservation easements, zoning, and other land use

regulations as a means of preserving land. In order to institute the recommendations in the Plan, it will be necessary to create a reliable source of funding. Legislation may be introduced that creates a source of funding for the Plan and sets up an authority under the Department of Natural Resources to manage land conservation issues.

PUBLIC SAFETY AND MILITARY AFFAIRS

Both the Association County Commissioners of Georgia (ACCG) and the Georgia Municipal Association (GMA) have identified their 2005 legislative issues. Several of these issues have been outlined below.

STATE INMATES IN COUNTY JAILS

Because of overcrowding in the state prison system, counties maintain some state inmates in county jails. According to ACCG, the state only reimburses about half the cost of housing these inmates and counties only begin receiving reimbursement for a state inmate if he/she is still in the county facility 15 days after he/she has been sentenced. ACCG supports increasing the per diem for maintaining sentenced state inmates to an amount equal to the state's cost for housing them, beginning on the day the inmate is sentenced. Currently, the state reimburses counties \$20 per day per inmate.

Some state inmates who violate the provisions of their probation are housed in county correctional facilities; however, the counties are not reimbursed for inmates who are serving time in county facilities for these technical probation violations. ACCG supports reimbursing counties for housing technical probation violators.

PRE-TRIAL PROGRAMS

ACCG also supports fully expanding the state's "Probation Options Program" to keep probationers out of county jails. The "Probation Options Program," enacted by House Bill 1161 in 2004, allows the Georgia Department of Corrections to move probationers through an administrative sanctioning process, rather than requiring an arrest and time in the county jail. The program is a pilot project currently operating in four judicial circuits (Clayton, Macon, Rome, and Tift) and will end in 2006. ACCG supports granting greater authority to county sheriffs and judges to establish pre-trial release programs in their communities.

Similarly, GMA supports authorizing municipal courts to establish pre-trial diversion programs. GMA also supports providing additional tools for municipal courts to collect fines to include pre-trial diversion programs and alternative enforcement mechanisms. It is GMA's position that allowing collection alternatives will enable courts to more effectively enforce sentences without having to rely entirely on traditional probation. In an effort to simplify court fines, GMA supports a flat percentage for state fine add-ons collected in municipal courts.

INCREASE 911 FEES

Law enforcement communication systems and 911 centers are critical to the public safety network. Both ACCG and GMA support increasing the fees charged to phone customers to \$2.00 per month in order to increase support to local 911 systems. Currently, Georgia law allows local governments to charge a maximum fee of \$1.50. ACCG also supports requiring 911 fees to be used exclusively to support 911 services.

Currently, radio compatibility issues prevent effective communication between state and local public safety agencies. The high cost of new radio technology and the lack of a unified plan between local governments and the state are key factors which have hindered the creation of an integrated statewide public safety communications system. Both ACCG and GMA support establishing a statewide communication network.

HOUSE TRUCK AND HIGHWAY SAFETY STUDY COMMITTEE

The House Truck and Highway Safety Study Committee is currently studying the conditions, needs, and issues relating to highway crashes in Georgia involving large

trucks. According to the Georgia Department of Highway Safety, over 15,000 people have lost their lives in our state in motor vehicle crashes in the past 10 years. Moreover, for the past five years Georgia has ranked within the top five states for motor vehicle crash fatalities involving large trucks. The Study Committee will end its work in December 2004. There will likely be legislative recommendations in the Committee's final report that will improve large truck safety in Georgia.

VETERANS AND MILITARY AFFAIRS

As the number of Georgians volunteering for the Georgia National Guard and Reserves has increased during this time of war, the Senate Veterans and Military Affairs Committee addressed various issues that create hardships for those called to active duty. For example, the Committee has looked at allowing Georgians called to active duty, the ability to terminate a signed lease without penalties, and without such action being reported against their credit reports.

REGULATED INDUSTRIES AND UTILITIES

THE GEORGIA REGULATORY REFORM ACT

Small businesses in Georgia have indicated a desire for regulatory reform in order to reduce some of the financial burdens they encounter when government entities impose or change rules and regulations. During the 2004 Legislative Session, the Senate passed Senate Bill 361, the Regulatory Reform Act; however, it did not pass the House. The Act would require all regulations to be reviewed every four years to determine their necessity and it requires that notification of changes in regulatory law be provided, thus allowing more flexibility for small businesses in the review process, and in compliance and enforcement regulations imposed. The review would include a cost-benefit analysis and a risk assessment for substantive regulatory changes. It would provide for agency review of existing regulations, and would stipulate that a contested regulatory case be pursued by an agency only after a reasonable attempt to achieve compliance with the regulation has failed.

TRANSPORTATION

Historically, legislation addressing the distribution of funding for public transportation among Congressional Districts has been an important issue before the Senate Transportation Committee. Currently, state law requires that transportation funds be spent equally among all the state's Congressional Districts.

Legislation has been introduced that would exempt interstate and developmental highways, the Georgia Regional Transportation Authority and MARTA from congressional balancing as well as changing the balance formula.

There is interest in how Georgia will allocate transportation funds between mass transportation and other transportation options. Other transportation ideas being considered are public-private partnerships, a revolving state loan fund for transportation, and new ways to charge and use tolls and high-tech solutions such as synchronization of traffic lights and interstate ramp meter access control. Regardless of the particular outcome, the allocation of transportation dollars between mass transit, roads, highways, ports, airports, and other transportation systems is an issue of interest to many legislators and their local communities.

In Georgia, gas taxes can be spent only on roads and bridges. Many local officials would like to see a new law that would allow communities to impose local taxes for transportation improvements, such as street cars or bus rapid transit.

**INDEX OF 2005 LEGISLATIVE SESSION PRE-FILED LEGISLATION
(AS OF DECEMBER 8, 2004)**

- SB 1 Early Care/Learning; provide voluntary parent education services
 - SB 2 Trial; jury panels in misdemeanor, felony, death; peremptory challenges
 - SB 3 Torts; evidentiary matters, civil practice; revisions of provisions
 - SB 4 Public Funds; balancing of federal/state funds; change provisions
 - SB 5 Georgia Public-Private Infrastructure Act; comprehensive regulations
 - SB 6 Criminal Background Checks; authorize national exchange of information
 - SB 7 City of Sandy Springs; charter
 - SB 8 Municipal Corporations; application of distance requirements; change time
 - SB 9 Georgia Smokefree Air Act; smoking in certain areas/facilities; prohibit
 - SB 10 Ethics; penal institutions; public officers; comprehensive revision
 - SB 11 Workers' Compensation; premium discount; remove limitation
 - SB 12 Call Centers; construction; qualifications; governmental service provisions
 - SB 13 Taxes; qualified home improvement expenses; tax credits; conditions/limitations
 - SB 14 Taxes; qualified home improvement expenses; tax credits; conditions/limitations
 - SB 15 Gwinnett County; Redevelopment Powers Law; provide referendum
 - SB 16 Consumer Choice Health Insurance; state mandated health benefits; exceptions
 - SR 1 CA; Motor Fuel Taxes; appropriated funds provide adequate system of roads/bridge
-
- HB 1 Bona fide conservation use property; breach of covenant; exceptions
 - HB 2 Ad valorem tax; exempt certain nonprofit museums; referendum
 - HB 3 Ad valorem tax; exempt certain income of nonprofit museums; referendum
 - HB 4 "Baby's Right to Know Act"; enact
 - HB 5 Sales tax exemption; certain school clothes, supplies, computer items; limited time
 - HB 6 Misdemeanor traffic offenses; fines to be paid into state treasury
 - HB 7 Ethics in government; amend provisions
 - HB 8 Fraud, waste, abuse in state operations; whistleblower; prohibit retaliation
 - HB 9 Campaign contributions; political parties; maximum allowable limits
 - HB 10 Female genital mutilation; define offense; penalties; exceptions
 - HB 11 Sales tax exemption; certain prescribed medical equipment
 - HB 12 Taxable net income; certain business relocations; exclude attributable income
 - HB 13 Aggravated sodomy; change age limitation; provide for imposition of death penalty
 - HB 14 Education; local boards adopt code of ethics
 - HR 1 Ad valorem tax; limitations on millage rate or valuation increases – CA
 - HR 2 Ad valorem tax; limitations on millage rate or valuation increases – CA
 - HR 3 Ad valorem tax; limitations on millage rate or valuation increases – CA
 - HR 4 Rules of House; amend Rule 13
 - HR 5 Fair Tax Act; urge Congress to enact