House Bill 170
By: Representatives Roberts of the 155th, Burns of the 159th, Hamilton of the 24th, England of the 116th, Stover of the 71st, and others

A BILL TO BE ENTITLED

AN ACT

To amend various provisions of the Official Code of Georgia Annotated so as to provide for additional revenue necessary for funding transportation purposes in this state; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to levy a registration fee on alternative fueled vehicles; to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to limit the Governor's power to suspend the collection of certain motor fuel taxes and require ratification by the General Assembly; to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for the elimination of sales and use taxes with respect to certain sales of motor fuels; to change the rate and method of computation of the excise tax on motor fuels; to repeal the second motor fuel tax; to provide for editorial revision; to prohibit the levy of certain local sales and use taxes on motor fuel; to provide for the levy of local excise taxes on motor fuels; to amend Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank Act," so as to provide new criteria for determination of eligible projects by the Transportation Infrastructure Bank; to provide for a short title; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

This Act shall be known and may be cited as the "Transportation Funding Act of 2015."
Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising paragraph (7) of subsection (l) of Code Section 40-2-86.1, relating to certain special license plates, as follows:

"(7)(A) A special license plate to be issued for alternative fueled vehicles, which license plate shall be similar in design to the license plate issued to all other residents of this state except that the commissioner shall place a distinctive logo or emblem on the license plate which shall distinguish the vehicle as an alternative fueled vehicle eligible to travel in travel lanes designated for such vehicles under paragraph (4) of subsection (a) of Code Section 32-9-4. The words 'alternative fueled vehicle' shall be imprinted on such special license plate in lieu of the county name decal. The funds raised by the sale of this license plate shall be deposited in the general fund.

(B) As used in this paragraph, the term:

(i) 'Alternative fuel' means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more or such other percentage, but not less than 70 percent; as determined by the United States secretary of energy, by rule as it existed on January 1, 1997, to provide for requirements relating to cold start, safety, or vehicle functions; by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels other than alcohol derived from biological materials; electricity including electricity from solar energy; and any other fuel the United States secretary of energy determined by rule as it existed on January 1, 1997, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits electricity, natural gas, and propane.

(ii) 'Alternative fueled vehicle' means: (I) Any vehicle fueled solely by alternative fuel as defined in division (i) of this subparagraph;

(II) A hybrid vehicle, which means a motor vehicle which draws propulsion energy from onboard sources of stored energy which include an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; and, in the case of a passenger automobile or light truck, means for any 2000 and later model, a vehicle which has received a certificate of conformity under the Clean Air Act, 42 U.S.C. Section 7401, et seq., and meets or exceeds the equivalent qualifying California low-emission vehicle standard under Section 243(e)(2) of the Clean Air Act, 42 U.S.C. Section 7583(e)(2), for that make and model year or, for any 2004 and later model, a vehicle which has received a certificate that such vehicle meets
or exceeds the Bin 5 Tier II emission level established in regulations prescribed by
the administrator of the Environmental Protection Agency under Section 202(i) of
the Clean Air Act, 42 U.S.C. Section 7521(i), for that make and model year vehicle
and which achieves a composite label fuel economy greater than or equal to 1.5
times the Model Year 2002 EPA composite class average for the same vehicle class
and which is made by a manufacturer.

(C)(i) Pursuant to paragraph (19) of subsection (a) of Code Section 40-2-151, the
applicant for a special license plate for any alternative fueled vehicle shall provide
proof that he or she has paid the registration fee prescribed therein prior to the
issuance of any special license plate under this paragraph.
(ii) It is the intention of the General Assembly that all revenue obtained from the fees
assessed on alternative fueled vehicles pursuant to paragraph (19) of subsection (a)
of Code Section 40-2-151 shall be dedicated to funding public transit in this state."

SECTION 2-2.

Said title is further amended by adding a new paragraph to subsection (a) of Code Section
40-2-151, relating to the annual license fees for the operation of vehicles, as follows:

"(19)(A)(i) Upon registration of an alternative fueled vehicle not operated
for commercial purposes ..................................... 200.00
(ii) Upon registration of an alternative fueled vehicle operated for
commercial purposes ........................................ 300.00
(B)(i) The fees in this paragraph shall be in addition to any other fee imposed on the
vehicle by this Code section.
(ii) The fees in this paragraph shall be automatically adjusted on an annual basis by
multiplying the percentage of increase or decrease in a given year in the Construction
Price Index published by the United States Census Bureau by the current fee. The
first adjustment shall be calculated and implemented on January 1, 2016."

PART III

SECTION 3-1.

Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor,
is amended by revising Code Section 45-12-22, relating to the Governor's authority to
suspend the collection of taxes, as follows:

"45-12-22. (a) Except as provided in subsection (b) of this Code section, the Governor may
suspend the collection of taxes, or any part thereof, due the state until the meeting of the

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next General Assembly but no longer; but he or she shall not otherwise interfere with the collection of taxes.

(b) Unless there has been a state of emergency declaration by the Governor, the Governor shall not suspend or modify in any manner the collection of any rate of prepaid state taxes as defined in paragraph (24) of Code Section 48-8-2 and calculated pursuant to Code Section 48-9-14 as it applies to sales of motor fuel and aviation gasoline as such terms are defined in Code Section 48-9-2. Any suspension or modification of any rate of prepaid state taxes under this subsection by the Governor shall be effective only until the next meeting of the General Assembly which must ratify such suspension or modification by a two-thirds' vote of both chambers. In the event the General Assembly fails to ratify the Governor's actions, prepaid state taxes under this subsection shall be collected at the rate specified absent such suspension or modification and any amounts unpaid due to such suspension or modification shall be collected using such rate.”

PART IV

SECTION 4-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new paragraph to Code Section 48-1-2, relating to definitions relating to taxation, as follows:

“(27) ’Transportation purposes’ means and includes roads, bridges, public transit, rails, airports, buses, seaports, and all accompanying infrastructure and services necessary to provide access to these transportation facilities.”

SECTION 4-2.

Said title is further amended by revising subsections (a) and (b) of and adding a new subsection to Code Section 48-8-3.1, relating to sales tax exemptions as applied to motor fuels, to read as follows:

“(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent of the state sales and use taxes levied or imposed by this article and shall be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel, other than gasoline, which motor fuel other than gasoline is purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article.”
“(d) Any sales and use tax levied by a county, municipality, consolidated government, or other political subdivision of this state on sales of motor fuels, as defined in paragraph (9) of Code Section 48-9-2, and authorized under Article 2, 2A, 3, or 4 of this chapter shall be discontinued upon the expiration of the most recent authorization for the levy of such tax. No new or renewed local sales and use taxes on motor fuels levied by a county, municipality, consolidated government, or other political subdivision of this state shall be permitted; provided, however, that after the expiration of any local sales and use taxes on motor fuels, a county, municipality, consolidated government, or other political subdivision of this state may each levy an excise tax of up to 3¢ per gallon on motor fuels by passage of an ordinance by the governing authority of such county, municipality, consolidated government, or other political subdivision. If a county, municipality, consolidated government, or other political subdivision decides to levy an excise tax on motor fuels for more than 3¢ per gallon, it must first be approved in a referendum presented to the qualified voters of such county, municipality, consolidated government, or other political subdivision. No county, municipality, consolidated government, or other political subdivision shall levy an excise tax on motor fuels to exceed 6¢ per gallon. Any such local excise tax shall be dedicated to transportation purposes as defined in paragraph (27) of Code Section 48-1-2.”

SECTION 4-3.

Said title is further amended by revising Code Section 48-8-82, relating to authorization of counties and municipalities to impose a joint sales and use tax, as follows:

“48-8-82.

When the imposition of a joint county and municipal sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality located wholly or partially within the special district shall levy a joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article, except that the joint tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3. After the expiration of the current authorization for the joint tax imposed under this article, such joint tax shall not be levied on the sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2.”
SECTION 4-4.

Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating to the creation of special districts and use of proceeds of the homestead option sales and use tax, as follows:

"(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is conterminous with that of the special district shall levy a local sales and use tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and use tax levied pursuant to this article, except that the sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3. After the expiration of the current authorization for the tax imposed under this article, such tax shall not be levied on the sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2."

SECTION 4-5.

Said title is further amended by revising subsection (c) of Code Section 48-8-110.1, relating to the authorization for the county special purpose local option sales tax and subjects of taxation, as follows:

"(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this part, except that a tax imposed under this part shall apply to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3. After the expiration of the current authorization for the tax imposed under this part, such tax shall not be levied on the sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2."

SECTION 4-6.

Said title is further amended by revising subsection (c) of Code Section 48-8-201, relating to the intergovernmental agreement for the distribution of tax proceeds from the water and sewer projects sales tax, as follows:

"(c) In the event a tax imposed under this article is imposed only by the municipality:
(1) No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall apply to:

(A) Sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;

(B) The sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3;

(C) The sale of natural or artificial gas used directly in the production of electricity which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3; and

(D) The furnishing for value to the public of any room or rooms, lodgings, or accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;

and

(2) A tax imposed under this article shall not apply to the sale of motor vehicles; and

(3) After the expiration of the current authorization for the tax imposed under this article, such tax shall not apply to the sale of motor fuel as defined in paragraph (9) of Code Section 48-9-2."

SECTION 4-7.

Said title is further amended by revising paragraph (1) of subsection (a) of Code Section 48-9-3, relating to an excise tax on motor fuel, as follows:

"(a)(1) An excise tax is imposed at the rate of 7 1/2¢ per gallon on distributors who sell or use motor fuel within this state. An excise tax is imposed at the rate of 33¢ per gallon on distributors who sell or use diesel fuel within this state. It is the intention of the General Assembly that the legal incidence of the tax be imposed upon the distributor. Beginning on January 1, 2016, and annually thereafter, the amount of this excise tax per gallon on distributors shall be automatically adjusted on an annual basis in accordance with the formula provided in this paragraph. Using 2014 as a base year, the department shall determine the average miles per gallon of all new vehicles registered in this state pursuant to Code Section 48-5C-1 using the average of combined miles per gallon published in the United States Department of Energy Fuel Economy Guide. Beginning on January 1, 2016, the department shall again calculate the average miles per gallon of all new vehicles registered in this state in 2015. Any percentage increase or decrease in fuel efficiency shall be multiplied by the excise tax rate to determine a preliminary excise tax rate. Such preliminary excise tax rate shall be multiplied by the annual percentage of increase or decrease in highway construction costs as measured by the Construction..."
Price Index published by the United States Census Bureau. The result of such calculation shall be the new excise tax rate for the next calendar year.

SECTION 4-8.

Said title is further amended by repealing in its entirety Code Section 48-9-14, relating to the second motor fuel tax, and designating said Code section as reserved.

PART V

SECTION 5-1.

Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank Act," is amended by revising subsection (b) of Code Section 32-10-127, relating to loans and other financial assistance and the determination of eligible projects, as follows:

"(b) The board shall determine which projects are eligible projects and then select from among the eligible projects qualified projects. Preference may be given to eligible projects which have local financial support in tier 1 and tier 2 counties, as defined in Code Section 48-7-40 and by the Department of Community Affairs. When determining eligibility, the board shall make every effort to balance any loans or other financial assistance among all regions of this state."

PART VI

SECTION 6-1.

(a) This Act shall become effective on July 1, 2015.

(b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the effective date of this Act.

SECTION 6-2.

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