

**THE GOLD DOME REPORT
2010 SESSION
FINAL EDITION**

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Final Gold Dome Report July 2010

The Session began with the election of a new Speaker of the House, after the resignation of Speaker Glenn Richardson (R-Dallas) and the stepping aside of his replacement, Rep. Mark Burkhalter (R-Johns Creek). Rep. David Ralston, a Republican lawyer from Blue Ridge and former member of Georgia's Senate, took the helm of the House as its newly elected Speaker and guided it safely through the historically long 100 days of work. Speaker Ralston did a remarkable job, providing a cool and calm atmosphere even when the Capitol "seas" were rather stormy because of the funding needs of the State. With Speaker Ralston's election as the new leader of the House came other new leadership assignments as well. All of these changes led to a calmness and both chambers appeared to work more with a cooperative spirit with each other and the Governor, rather than fighting.

Where we have been

While having new leaders in the House caused an initial stir of sorts, there were other changes that took place.

In the midst of the Session, several Lawmakers resigned to pursue other offices, including Rep. Tom Graves (R-Ranger), Sen. Lee Hawkins (R-Gainesville), and Sen. David Adelman (D-Atlanta). Rep. Graves and Sen. Hawkins pursued the 9th Congressional seat with Rep. Graves winning the seat in June. Sen. David Adelman became a President Obama appointee, as the new United States Ambassador to Singapore.

The General Assembly did tackle some public policy initiatives. They passed laws such as:

- A sustainable source of funding for a true trauma network in the State, creating a Constitutional Amendment so that voters can make the final decision on whether or not to impose a fee to fund this trauma network;
- An amended seatbelt law which now requires individuals in pickup trucks and sport utility vehicles to comply with Georgia's safety belt requirements (there is an exemption from this requirement when these vehicles are used for farming purposes);
- A compromise statewide transportation funding plan;
- A prohibition against "text messaging" while operating a motor vehicle; and
- A revised "lawful carry" of guns law.

Several of these provisions reflected the new cooperative atmosphere as some of these measures had failed in prior years.

The General Assembly also passed a rewrite to Georgia law on its "trusts and estates laws" but it could not move forward HB 24, the State Bar of Georgia's proposal to adopt a new Evidence Code. Moreover, Georgia could not pass a new Juvenile Code Bill, SB 292.

Two of the issues which caused a great deal of debate, and angst, were the sustainable funding idea for a trauma treatment network in Georgia and a transportation funding plan. Both of these issues had lingered for the last few years with no resolution reached. This year, likely in part because of new leadership in the House, both achieved resolution. Those initiatives were SR 277 and HB 277, respectively, and their details are noted in the Report below.

There were also several initiatives proposed which made the news that "died" at the end of the Session. Some of those which failed included:

- Governor Perdue's Bill, carried by Sen. Don Balfour (R-Snellville), which would have altered teachers' pay by essentially rewarding those teachers who had students that performed well (SB 386);
- Another education proposal would have expanded Georgia's education voucher initiative by not only permitting children with disabilities to receive those vouchers but also children who were children of military parents or those who were in foster care (SB 361);
- Governor Perdue's cross-state selling of health insurance policies (HB 1184 and SB 309);
- A Georgia Right to Life proposal to make it a felony for physicians to perform abortions when the patient was having the procedure because of race or gender or because the patient was coerced; and
- Governor Perdue's idea to permit future governors the authority to appoint high level State officers such as the commissioners of agriculture, education, insurance and labor (SB 393).

After the lengthiest Session in Georgia history, the General Assembly finally passed a Budget for FY 2011. The Budget was the "elephant in the room" the entire time Lawmakers were "in residence" this year. This elephant made its needs known because of the economic downturn and declining State tax collections. While Lawmakers trimmed many areas of State spending, they still passed a Budget which will utilize \$17.9 billion in State funds to meet Georgians' needs in the areas such as education, health, public safety and transportation. The FY 2011 Budget is now at the level the State was spending in FY 2008. Federal stimulus money helped avoid cuts that lower State revenues would have otherwise demanded. More specific details about the Budget, HB 948, are included in a separately marked section below.

There were a number of tax-related initiatives taken up this Session. Some of the more significant ones which passed included the imposition of new or revised "fees." Those initiatives included:

HB 1055, originally offered by Rep. Kevin Levitas (D-Atlanta), became a vehicle for additional items and culminated with an agreement made by the Senate to the House Amendment to the Senate Substitute on April 14, 2010. HB 1055 outlines approximately 75 fees, currently in law, which will be increased. HB 1055 was signed by the Governor on May 12, 2010 as **Act No. 360**, generally taking effect upon signature except for Part II of the

Bill, the portion relating to the hospital provider fee, which took effect on July 1, 2010. Of the many fees addressed in HB 1055, a sampling includes:

- Numerous filing fees with the Secretary of State to form new business entities are increased:
 - Annual registration for corporations, partnerships, associations, limited partnerships, and limited liability companies are raised from \$30.00 to \$50.00.
 - Recording fees for a professional association will not be required pursuant to O.C.G.A. § 14-10-4(a)(2).
- Fees for filing lawsuits are also increased. Obtaining "uncertified" copies of court documents doubles in cost, moving from \$.25 per page to \$.50 per page in Superior Court Clerk's offices.
 - Superior Court fees raised include the fee for issuing an appointment/reappointment for a notary public, costing \$20.00 rather than \$13.00; registering and filing a trade name will cost \$15.00 rather than \$8.00; obtaining an issued/signed/sealed subpoena will cost \$5.00 rather than \$1.00; preparation costs for a record and transcript of a case to be filed with the Supreme Court or Court of Appeals will cost \$10.00 per page rather than \$1.50 per page; and in cases where no transcripts of evidence or proceedings are necessary, the fees will be \$35.00 rather than \$5.00.
- Probating an estate will cost \$130.00 for the initial proceeding rather than \$90.00 in probate courts. Numerous other probate court fees are also raised.
- Magistrate court filing fees are increased for filing of a civil matter costing \$22.00 rather than \$20.00.
- Sheriff's fees are also raised (for example, it now costs \$25.00 to serve a copy of process and the return of an original but the new fee is \$50.00 for the same service; similarly, garnishment summons which are served will cost \$50.00 rather than \$25.00).
- Lobbyists and elected officials will also see various increases in fees (for example, a lobbyist's annual registration or renewal will be \$300.00; until July, no fee was collected).
- Motor vehicle registrations will see increases (such as prestige plates will require a payment of \$35.00 on an annual basis rather than a \$25.00 fee and special license plates will also see a fee increase to \$35.00 (e.g. "Georgia Educators Make a Difference")).

These fees (or taxes) included in HB 1055 are anticipated to bring in approximately \$96 million annually to the State.

HB 1055 also became the vehicle for HB 307 as mentioned above, the Governor's Bill to impose a hospital provider tax of 1.45 percent based on the net patient revenue of the hospital. These assessments on hospitals will be overseen by the Department of Community Health and paid into the Indigent Care Trust Fund, expecting to generate approximately \$175 million.

HB 994, by Rep. Penny Houston (R-Nashville), passed requiring that the Department of Community Health also obtain licensure fees from all healthcare and businesses which it currently licenses in O.C.G.A. § 31-2-4. This includes hospitals, nursing homes, and other

entities. The Governor signed this measure on June 4, 2010 as **Act No. 650** and took effect on July 1, 2010.

HB 1023, originally championed by Rep. Tom Graves (R-Ranger) who left the House mid-Session to pursue a Congressional seat, passed both the House and Senate. It originally proposed a number of increases in fees collected by the Secretary of State in relation to corporations, partnerships, limited partnerships, and limited liability companies. In the end, this Bill created a tax credit of between \$25.00 and \$100.00 for employers to be known as the "Georgia Works Tax Credit" for those entities who hire persons receiving employment security benefits so that they would be entitled to a credit against employer contributions to statewide reserve ratio. However, Governor Perdue vetoed this Bill on June 4, 2010 as **Veto No. 8**, noting concern for long-term fiscal implications in the initiative.

HB 1221, by Rep. Larry O'Neal (R-Bonaire), implements a "streamlined sales tax" approach in Georgia in Title 48 and based on a national model law promoted by National Conference of State Legislatures. This Bill is intended to have entities selling goods to Georgians to voluntarily remit sales taxes (this is an attempt to get internet-based companies such as Amazon.com to remit the sales taxes directly to the State). This Bill is projected to bring approximately \$30 million in revenue into the State. Governor Perdue signed this Bill into law on May 27, 2010 as **Act No. 507**; it takes effect on January 1, 2011.

HB 1069, by Rep. Joe Wilkinson (R-Atlanta), was another Bill making several Tax Code changes. While not a "fee" Bill, it also passed. Governor Perdue signed this Bill as **Act No. 679** on June 4, 2010. It took effect upon signature. Changes include:

- Income tax credits for certain qualified equipment that reduces business or domestic energy or water usage;
- Income tax credits for certain qualified investments for a limited period of time (the "Angel Investor Tax Credit.");
- Changes to powers, duties, and authority of the State Revenue Commissioner; and
- Prioritization of certain income tax credits for certain clean energy property.

It further repealed the income tax credits for low-income residents in O.C.G.A. § 48-7A-3. This language relating to low-income residents' tax credits elimination had previously been a stand-alone proposal, HB 1219, by Rep. David Knight (R-Griffin). This portion of HB 1069 became effective upon approval of the Governor and will apply to tax years beginning on or after January 1, 2011.

One of the more significant pieces of "tax" legislation permits our current Governor to essentially establish tax law for future governors through the establishment of a "council." HB 1405, a proposal championed by Rep. Larry O'Neal (R-Bonaire), passed and was signed into law on June 1, 2010 as **Act No. 541**, taking effect upon signature. It creates in Chapter 12 of Title 28 the "2010 Special Council on Tax Reform and Fairness for Georgians and the Special Joint Committee on Georgia Revenue Structure." This Council will consist of twelve members, including economists, who have to conduct a thorough study of Georgia's current

revenue structure and make a report of its findings and recommendations for legislation to the Speaker of the House and the Lieutenant Governor no later than January 10, 2011. Further, this Council will then introduce legislation "incorporating without significant changes the recommendations of the Council, and such legislation shall, after its introduction, be referred directly and only to the special joint committee." This Council decides on whether changes may be made and the joint committee will forward the proposal to the Floor for an up or down vote before moving to the other chamber, essentially circumventing the Committee process presently in place. This Council will hold its first meeting on July 28, 2010 at 1:00 p.m. at the Capitol. Aside from Governor Perdue, appointments made to this Council are as follows: D.E. "Skeeter" McCorkle; Bradford Dixon, CPA; Dr. David Sjoquist; Dr. Jeffrey Humphreys; Dr. Roger Tutterow; Dr. Christine Ries; A.D. Frazier; Roy Fickling; 2010 Chair for the Georgia Chamber of Commerce; and 2010 Chair for National Federation of Independent Business.

The Budget for FY 2011

The General Assembly adopted a State Budget for FY 2011 totaling \$17.9 billion in State funds. Of this total, \$2.07 billion will be used by the Department of Community Health and another \$6.89 billion will be consumed by the Department of Education. In order to achieve the necessary State funds to arrive at this Budget in HB 948, various fees will be increased. Most of those fees were included in HB 1055, HB 1023, HB 994, and HB 1221. There are no statewide mandated furloughs; however, Departments may utilize furlough days to achieve their budget savings requirements. The \$17.9 billion total was approximately \$300 million *less* than the Governor's original proposal. In terms of total State spending, Georgia's Budget for the year which began on July 1, 2010 is also *less* than State spending was in FY 2008.

Specifics about the FY 2011 Budget (HB 948)

Department of Behavioral Health and Developmental Disabilities

For the new fiscal year which began on July 1, this Department will have a total of \$1,019,266,073 to fund this work. This Department was the only part of State government to receive additional funding and that was due to the Department of Justice investigation regarding treatment of the mentally ill in Georgia. Some additional highlights of changes made to this area of the Budget are as follows:

Child and Adolescent Addictive Disease Services

This Program will utilize slightly more than \$14 million for these efforts.

Child and Adolescent Forensic Services

Under this Program area, \$3.09 million will be designated to fund this work.

Child and Adolescent Mental Health Services

In total, this Program area will receive more than \$80 million.

- More than \$8.7 million in federal Medicaid funds are cut.
- \$3.3 million is added to reflect the FMAP changes from the ARRA legislation.

Direct Care Support Services

- \$21.3 million is added to "enhance operations and quality of care."

Department of Community Health

A few highlights from the FY 2011 Department of Community Health Budget include:

Aged, Blind and Disabled Medicaid

- Conferees restored the proposed 1.98% rate reduction for all fee-for-service and non-emergency transportation providers, exclusive of home and community-based services and inpatient and outpatient hospital services.
- Funded more than \$50 million for projected expenditures and properly align the funding between "ABD" and "LIM" (the Governor had proposed a \$17.4 million cut in State money).
- Conferees placed \$25.4 million, from the hospital provider payment agreement funds, to increase inpatient and outpatient hospital reimbursement rates by 12 percent and hold the critical access hospitals harmless in the adjustments (no other providers' rates are increased.).
- Conferees added the use of \$8.7 million to increase the nursing home provider fee to maintain fair rental value and quality incentive for these facilities.

Emergency Preparedness/Trauma System Improvement

- \$23 million is transferred from funds for the Georgia Trauma Care Network Commission from the Emergency Preparedness/Trauma System Improvement Program to reflect creation of the attached agency program.

Health Care Access and Improvement

- \$600,000.00 was added for operating costs of the Erlanger Life Force Air Ambulance Program offering critical trauma care services in Northwest Georgia. However, Governor Perdue **vetoed** this line item. Rather, the Department is to use its existing dollars and authority to obtain these services.

Healthcare Facility Regulation

- \$478,181 was added to fund six new State licensure inspector positions, related travel and telecom expenses to implement HB 994 of the 2010 Session.

Infant and Child Essential Health Treatment Services

- A reduction of \$387,396 was made to the Babies Born Healthy Program.
- A \$324,000 reduction was made in State funds, which are then replaced with federal funds, in the Healthy Mothers/Healthy Babies Program.

Low-Income Medicaid

- The proposed 1.98 percent Medicaid provider rate reduction was restored.
- \$29.8 million was added, using the hospital provider payment agreement act funds, to increase inpatient and outpatient hospital reimbursement rates by 12 percent and hold critical access hospitals harmless in the adjustments (again, no other providers' rates were impacted.).
- \$17.9 million was added to provide funds for benefit needs from the removal of the Medicaid CMO premium tax exemption.
- \$2.7 million was added for replacement of one-time Indigent Care Trust Fund prior year reserves with hospital provider payment agreement funds.
- A reduction of \$37.5 million was made to reflect the discontinuation of the CMO quality assessment fees effective October 1, 2009.
- A reduction of \$2.5 million was taken to reflect savings from capping CMO risk adjustments at 50 percent of the rate range.
- \$37 million plus was added to fund projected expenditures and properly align funding between ABD and LIM.
- \$1,275,000 was added for funding the family planning Medicaid demonstration waiver.
- \$8 million was taken as a reduction in contracts with CMOs to reduce per member per month rate reimbursements.

PeachCare for Kids

- \$1.26 million was added, using the hospital provider payment agreement act funds, to increase inpatient and outpatient hospital reimbursement rates by 12 percent and hold critical access hospitals harmless in the adjustments (no other providers' rates will be increased.).
- \$1.86 million was added to provide funds for benefit needs from the removal of the Medicaid CMO premium tax exemption.
- The proposed 1.98 percent Medicaid provider rate reduction was restored.
- \$4.96 million was cut to reflect the discontinuation of the CMO quality assurance fee effective October 1, 2009.

- \$6.5 million savings was reflected by deferring the June 2011 CMO Cap payment until July 2011.
- \$2.26 million savings was reflected by increasing member cost-sharing in the PeachCare program by developing a graduated scale that meets federal guidelines.

Department of Economic Development

- Reduction of \$5,000 in State funds for the Historical Marker Program with the Georgia Historical Society;
- Reduction of \$35,000 in contract funds for the Georgia Historical Society;
- Reduction of \$89,050 in contract funds for the Georgia Humanities Council;
- Reduction of \$40,000 in funding for the Civil War Trails;
- Reduction of \$15,000 in contract funding for the Civil War Commission;
- Reduction of \$22,500 in funding for the Aviation Hall of Fame;
- Reduction of \$200,000 in State funding for the Georgia Music Hall of Fame Authority (Macon), leaving a total of \$386,208 for this initiative; and
- Reduction of \$200,000 to the Georgia Sports Hall of Fame Authority (Augusta), leaving \$312,329 in funding for this venue.

Department of Education

Non-Quality Basic Education Formula Grants Program

- \$141,153 was cut in funding the "SB 618" grant program, which relates to the educational instruction of children in the custody of residential treatment centers. There are still moneys available for these children in the amount of \$3.6 million despite this cut in State Funds.

Department of Human Services

The Department of Human Services will utilize \$482,139,875 in State funds and with federal dollars will have more than \$1.87 billion to do its work for Georgians. Some highlights from this Department's budget include:

After School Care

- The Department will maintain its \$14 million in federal funding for these efforts; no State dollars will be used.

Child Care Licensing

- Elimination of one vacant position for a cost reduction of \$49,877 in State funds.
- Transfer of one position from the Office of Investigative Services to Residential Child Care for an addition of \$51,000.

- A replacement of \$782,672 of State funds with TANF funds.

Child Welfare Services

Child Welfare will see an overall reduction of more than \$10.2 million in total money used for this program area. In HB 119, the FY 2010 Budget, it proposed \$283 million to be used for this work; the FY 2011 Budget will have a total of \$272.8 million to handle these needs. More specifics include:

- \$2,455,000 reduction from Promoting Safe and Stable Family State funds match to reflect match obtained from private providers.
- \$700,000 reduction for Independent Living Program (to the required State mandatory match).
- Conferees chose to recognize \$1.5 million savings from substance abuse screening program re-design.
- \$3.7 million reduction was made by utilizing existing TANF funds.

Federal Eligibility Benefit Services

- More than \$97.6 million in State funds was appropriated for this program. This funding is coming from transfers of funds from the Eligibility Determination, Food Stamps Eligibility and Benefits and Support for Needy Families-Family Assistance programs.

Out-of-Home Care

In total, \$241.3 million was designated for this purpose.

- A reduction of \$211,547 in State funds was made to reflect changes in the Medicaid federal participation rate from 64.95% to 65.27%.

Support for Needy Families – Work Assistance

As the base begins, it contains \$7.6 million in State funds, garnering total funds of \$27.9 million with federal dollars included. However, State funds for this program decreases more than \$4 million, leaving \$3.57 million in State funds. Federal funds *increase* this program to \$189 million as an added \$149 million is included to reflect funds to provide employment opportunities and short-term, non-recurrent benefits.

- An increase of \$672,000 was added for one-time \$100 payments to TANF eligible youth for back-to-school supplies and clothing with the 20% match provided through private partnerships.

Department of Juvenile Justice

A total of \$310.5 million in State and federal money will be used to fund this Department's programs.

Administration

- A cut of \$35,000 in State funds was made to the delivery of mental health services at secure facilities by streamlining the delivery of those services with existing staff.

Community Non-Secure Commitment

In total, this program was provided \$41.7 million.

- Conferees restored the earlier proposed cut of \$1.1 million when the Senate had proposed reduction of funds for *Youth Villages/Inner Harbour* (Youth Villages is a nonprofit entity serving children and adolescents) contract "due to an Intensive Family Intervention modifier which allows these services to be Medicaid eligible."

Secure Commitment

This program was funded with a total of \$72.7 million for the year, taking an approximately \$21.8 million cut. Some highlights of these cuts include:

- \$1.2 million reduction in funds for a regional principal, an assistant principal, and 17 certified teaching positions, replacing those with 15 GED instructors.
- \$1.45 million cut by reducing the Macon YDC bed capacity beds (by 60 beds in total) due to declining revenues.
- \$19 million savings by closure of the Bill Ireland YDC effective January 2010.

Looking forward to 2011

In sum, many of Georgia's legislative seats are "in flux" this year. Lawmakers have, in some instances, abandoned or retired their respective seats. Some have decided to try other opportunities; others have elected to bow out of politics altogether. Two lawmakers were defeated in the recent primary elections: Sen. John Wiles (R-Marietta); and Rep. Don Wix (D-Mableton). Thus, the composition of the 2011 General Assembly will have many new faces with a new Governor and seven new Constitutional Officers as well as other new leaders in top jobs.

Senators known not to be returning in 2011 include:

Sen. Jeff Chapman (R-Brunswick), who was a candidate for Governor
Sen. John Douglas (R-Social Circle), Candidate for Public Service Commission
Sen. J.B. Powell (D-Blythe)

Sen. Seth Harp (R-Midland), who was a candidate for Insurance Commissioner
Sen. Dan Weber (R-Dunwoody)
Sen. Gail Buckner (D-Jonesboro), Candidate for Secretary of State
Sen. Ralph Hudgens (R-Hull), Candidate for Insurance Commissioner
Sen. Chip Pearson (R-Dawsonville)
Sen. Preston Smith (R-Rome), Candidate for Attorney General
Sen. Don Thomas (R-Dalton)
Sen. Dan Moody (R-Alpharetta)

Representatives from the House who are known not to be returning in 2011 include:

Rep. Tom Graves (R-Ranger), newly elected Congressman for the 9th District
Rep. Barry Loudermilk (R-Cassville), Candidate for State Senate
Rep. Mark Butler (R-Carrollton), Candidate for Labor Commissioner
Rep. Tom Knox (R-Cumming), who was a candidate for Insurance Commissioner
Rep. Rob Teilhet (D-Smyrna), who was a candidate for Attorney General
Rep. Mark Burkhalter (R-Johns Creek), now a lobbyist with McKenna Long
Rep. Georganna Sinkfield (D-Atlanta), Candidate for Secretary of State
Rep. Ron Dodson (D-Jonesboro)
Rep. Mike Glanton (D-Jonesboro), Candidate for State Senate
Rep. Fran Millar (R-Atlanta), Candidate for State Senate
Rep. Kevin Levitas (D-Atlanta)
Rep. Randal Mangham (D-Decatur), who was a candidate for Governor
Rep. Bobby Reese (R-Sugar Hill), Candidate for Public Service Commission
Rep. Melvin Everson (R-Snellville), who was a candidate for Labor Commissioner
Rep. John Lunsford (R-McDonough)
Rep. Jeff May (R-Monroe), Candidate for Public Service Commission
Rep. Bob Smith (R-Watkinsville)
Rep. Jim Cole (R-Forsyth), newly named member to State Board of Transportation
Rep. DuBose Porter (D-Dublin), who was a candidate for Governor
Rep. Austin Scott (R-Tifton), Candidate for Congress
Rep. Bob Lane (R-Statesboro)
Rep. Burke Day (R-Tybee Island)
Rep. Terry Barnard (R-Glenntown), newly named member to State Board of Pardons and Parole
Rep. Mike Keown (R-Coolidge), Candidate for Congress
Rep. Jay Shaw (D-Lakeland), newly named member to State Board of Transportation
Rep. Jerry Keen (R-St. Simons Island)

At the beginning of the summer, there were fourteen individuals who qualified to run for Georgia's "top job" as Governor. Of those, one dropped out of the running. In the recent primary elections, former Secretary of State Karen Handel and former Congressman Nathan Deal must now engage in a run-off to determine who will be the Republican nominee; on the Democratic side, former Governor Roy Barnes will compete for his old job in the November elections. Whoever is elected in November will bring new staff and new ways of tackling the job.

The FY 2012 Budget will be more challenging to Budget writers. There will likely be no federal stimulus money to backfill our holes in the Budget unless Congress takes further actions to help states. Georgia's tax revenues have been in a decline over the last year and now are more than ten percent behind collections for FY 2009. Thus, there will be even more cuts necessary in order to meet some of the basic needs of Georgians. There has been some speculation made that lawmakers will reinstate the sales tax on food and possibly increase the excise tax on tobacco in an effort to assure enough revenues to plug the hole in the FY 2011 Supplemental budget and possibly make FY 2012's Budget less of a challenge. Georgia also needs Congress to approve the increase to Georgia's "FMAP" or Federal Medical Assistance Percentage as the FY 2011 Medicaid Budget is built on the increased percentage rate that Georgia was to receive. Otherwise, Georgia will have another "hole" of \$375 million to fill. In the meantime, Governor Perdue has already instructed Departments to cut their spending by four percent as the FY 2010 ended with revenues down 9.1 percent over FY 2009.

Reapportionment is imminent. As the United States Census has now closed, districts will be redrawn in the coming months. This matter will become serious in 2011.

As for the national health reform and the impact that it has to Georgia, that all remains unclear. Georgia, along with a handful of other states, filed a lawsuit concerning the constitutionality of the requirements. Those lawsuits are pending. Meanwhile, Georgia is still having issues with the federal government's Department of Justice concerning its provision of mental health services to citizens. An impasse has now occurred and a third-party intervener is likely. Whatever may occur with Georgia's mental health, it will likely have more community treatment teams and more goals for community-based housing.

More actions taken in 2010

The following pieces of legislation provide an outline of some of the many Bills that the *Gold Dome Reports* reported on this year. While the list is rather lengthy, it is not a complete compilation of all legislation either introduced or moved in the process. The list of legislation is organized by subject matter as it would appear in the Official Code of Georgia, using the first Code Section referenced in the Bill to guide this organization.

Alcoholic Beverages

SB 335, by Sen. Jack Murphy (R-Cumming), stalled in the House Rules Committee. It specifically proposed amending O.C.G.A. § 3-3-21(e) permitting counties and municipalities, with approval of the local housing authority board of commissioners, the ability to obtain exceptions relating to the sale of alcoholic beverages for consumption on the premises near housing authority property.

Buildings and Housing

SB 369, by Sen. Bill Hamrick (R-Carrollton), cleared the House and Senate and became **Act No. 445** on May 24, 2010. It expands the types of investments that housing authorities and political subdivisions of governments may make in O.C.G.A. § 8-3-30(a)(5) and in O.C.G.A. § 36-82-7. These modifications took effect on July 1, 2010.

SB 384, by Sen. John Bulloch (R-Ochlocknee), passed and was signed by Governor Perdue as **Act No. 420** on May 20, 2010. It creates a new Part 3A in Article 2 of Chapter 2 of Title 8 to provide that a person who owns or has the right to use real property may install and occupy a pre-owned manufactured home on such property provided that such pre-owned manufactured home is in compliance with the provisions of this part and any applicable county or municipal zoning ordinances; to provide for health and safety standards for pre-owned manufactured homes based on the age of the home and it also permits them to establish an inspection program for these pre-homed homes which are relocated from their current locations; and to provide for certain immunities to the county, municipality or inspector. The changes took effect upon the Governor's signature.

HB 1196, by Terry England (R-Auburn), passed creating a new Code Section at O.C.G.A. § 8-2-4 so that "neither the state residential and fire building code nor any residential and fire building code adopted by a political subdivision of the state adopted after the effective date of this Code section shall include a requirement that fire sprinklers be installed in a single-family dwelling or a residential building that contains no more than two dwelling units." It became **Act No. 461** on May 24, 2010 and took effect upon signature.

Civil Practice

SB 108, by Sen. Bill Cowsert (R-Athens), failed in the House after being reported out twice from the House Judiciary Committee and made no movement in 2010. It would have amended Georgia's "Civil Practice Act" in Chapter 11 of Title 9 so that special masters could be appointed and that a stay of discovery be imposed when a motion to dismiss is filed. Rep. Matt Ramsey (R-Peachtree City) and also a Floor Leader for Governor Perdue filed a similar proposal, HB 414, which would have permitted stays of discovery when a motion to dismiss is filed in a case in O.C.G.A. § 9-11-12 but HB 414 also failed. Rather, that language, on a motion to dismiss, was passed and signed into law in 2009 in HB 29 on April 21, 2009, and took effect on July 1, 2009, as **Act No. 25**. Rep. Roger Lane (R-Darien) also offered HB 73 on the special master idea; his Bill also failed.

HB 545, by Rep. Wendell Willard (R-Sandy Springs), failed, stalling in the Senate Rules Committee. It proposed a number of revisions in O.C.G.A. § 9-11-4:

- Permitting a certified process server under Code Section 9-11-4.1, provided that the sheriff of the county, for which process is to be served, allows such servers to serve process in such county.
- Amending provisions relating to "SERVICE UPON PERSONS RESIDING IN GATED AND SECURED COMMUNITIES."
- Requiring that the person serving process be required to make such proof of service with the court in the county in which the action is pending within five business days of the service date. If the proof of service was not filed within five business days, the time for the party served to answer the process would not begin to run until such proof of service was filed.
- Adding a new Code Section in O.C.G.A. § 9-11-4.1 for "certified process servers."

Commerce and Trade

HB 369, by Rep. Ron Stephens (R-Savannah), stalled in the House Insurance Committee. It proposed in O.C.G.A. § 10-1-393(b)(34) that the use of a pharmacy benefit manager to favor any pharmacy for the filling or refilling of prescriptions would be an unfair and deceptive business practice. Further, it proposed to change O.C.G.A. § 26-4-110.1(c) so that each enrollee would be entitled "to exercise free choice in selecting his or her pharmacy." Further, it would be "unlawful for any pharmacy benefit manager, either directly or indirectly, to require or encourage the use of, or to favor in any way, a particular pharmacy or chain of pharmacies in approving the use of a prescription drug."

HB 1072, by Rep. Ron Stephens (R-Savannah), cleared and became **Act No. 645** on June 4, 2010. It makes several revisions in Article 22 of Chapter 1 of Title 10 to change the law on motor vehicle franchise practices. Among the changes include: clarification of provisions relating to voluntary releases entered into by a dealer; prohibition of a franchisor from assessing a surcharge against a dealer for warranty repairs; requirement of a franchisor to pay a dealer terminated as a result of a bankruptcy or industry reorganization the fair market value

of the terminated franchise as of the notice of termination or 12 months prior, whichever is greater; clarifications of franchisor termination assistance requirements with regard to repurchase of new vehicles acquired by a dealer; requirement of a franchisor to reimburse a dealer terminated as a result of a bankruptcy or industry reorganization for upgrades or renovations to dealership facilities performed within two years of bankruptcy or reorganization; prohibition of a franchisor from demanding exclusive facilities, personnel, or showrooms if the imposition of such requirements is unreasonable in light of economic conditions; prohibition of a franchisor from conditioning a franchise agreement or renewal of a franchise agreement or participation in franchisor programs and incentives on the relocation or exclusivity of a dealership facility; prohibition of a franchisor from conditioning franchise agreements or renewals of franchise agreements, addition of line makes, approval of relocation, sale or transfer on dealer's or prospective dealer's willingness to enter into a site control agreement; clarification of existing law to prohibit a franchise from charging back dealers for transactions that took place more than 12 months prior to an audit, investigation, or independent inquiry of the franchisor; and prohibition of a franchisor from charging back, withholding payment, or denying vehicles to a dealer based on exportation by customer unless the franchisor can demonstrate that dealer had knowledge that customer intended to export new vehicle. These changes took effect upon signature on June 4, 2010.

HB 1345, by Rep. Mike Jacobs (R-Atlanta), passed and was signed into law on May 20, 2010 as **Act No. 372** creating the "Georgia Kosher Food Consumer Protection Act." Language is added at O.C.G.A. § 10-1-392(a) adding several defined terms including a new definition for the term "food" which now means "articles used for food or drink for human consumption, chewing gum, and articles used for components of any such article." In O.C.G.A. § 10-1-393.11 which requires a "person who makes a representation regarding kosher food shall prominently and conspicuously display on the premises on which the food is sold, in a location readily visible to the consumer, a completed kosher food disclosure statement which shall be updated within 14 days of any changes in the information required." It further outlines what must be contained in a "kosher food disclosure statement." It also makes it "unlawful for any person to: (1) Fail to complete and prominently and conspicuously display a kosher food disclosure statement as required by this Code section; (2) Otherwise fail to comply with this Code section; or (3) Knowingly or intentionally, with intent to defraud, make a false affirmation or disclosure in a kosher food disclosure statement." Rep. Kevin Levitas (D-Atlanta) proposed a similar Bill, HB 1177, with his proposal written in O.C.G.A. § 26-2-330 *et seq.*; HB 1177 remained in the House Judiciary Committee. Rep. Greg Morris (R-Vidalia) also offered a bill dealing with kosher foods but he proposed repealing Article 11 of Chapter 2 of Title 26, concerning kosher food labeling, altogether; his idea, HB 941, remained in the House Code Revision Committee. Section 2 of the Bill, which stripped out Article 11 of Chapter 2 of Title 26, took effect upon signature of the Governor; the remaining portions of the Bill took effect July 1, 2010.

Commercial Code

HB 451, by Rep. Mike Jacobs (R-Atlanta), was signed by Governor Perdue as **Act No. 470** on May 27, 2010. This was the update to Georgia's Uniform Commercial Code in Article 7 of

Title 11. The changes made in this Bill took effect on that date. Some of the amendments include:

- A definition for the term "good faith" in O.C.G.A. § 11-7-102(a)(6).
- Changes to O.C.G.A. § 11-7-103 "Relation of article to treaty or statute" so that Article 7 modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, *et seq.*, but does not modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. Section 7003(b).
- Adds "Reissuance in alternative medium" in O.C.G.A. § 11-7-105.
- Makes numerous changes in "Warehouse Receipts: Special Provisions" beginning at O.C.G.A. § 11-7-201.

Natural Resources

SB 78, by Sen. Ross Tolleson (R-Perry), was signed by Governor Perdue as **Act No. 488** on May 27, 2010, and took effect that same date. It establishes the "Voluntary Remediation Program Escrow Account" in O.C.G.A. § 12-8-104.1 and other changes in Chapter 8 of Title 12. The initiative expands the director's duties of the Georgia Voluntary Remediation Program, for hazardous waste, in O.C.G.A. § 12-8-104(a)(5) to permit not only the collection of application fees but also the assessment, receipt, administration and disbursement of fees. It also updates the "Georgia Lead Poisoning Prevention Act of 1994" in O.C.G.A. § 31-41-1 *et seq.* (addressing minor repairs and renovations). Amendments are also made in O.C.G.A. § 31-41-4 to Georgia's Lead-Based Paint Hazard Reduction Program.

SB 370, by Sen. Ross Tolleson (R-Perry), passed. The legislation amends several provisions in Chapter 5 of Title 12 to help Georgia conserve its water resources. Some of the changes include:

- A new Code Section at O.C.G.A. § 12-5-4 so that prior to August 1, 2010 the agencies will be required to examine their various practices, programs, policies and rules to identify opportunities which will provide enhanced programming and incentives for voluntary water conservation (such as technical assistance to local governments and public water systems for water loss abatement activities; public outreach initiatives for Conserve Georgia and WaterFirst; encouragement of residential and commercial retrofitting projects for water efficient landscaping/irrigation; promotion of rain water and gray water when appropriate, in lieu of potable water; provision of incentives for water conservation pricing by public water systems; and etc.). Further, in this Code Section it requires that reports (interim and final) be made to the Governor, Lt. Governor, and Speaker of the House concerning programmatic changes being implemented to encourage water conservation and measures taken to enhance the State's water supply; the final report must include any rules, regulations, and policies changed.

- Another new Code Section is created at O.C.G.A. § 12-5-4.1. In it, the Department of Natural Resources' Board must adopt rules for minimum standards and best practices for monitoring/improving the efficiency and effectiveness of water use by public water systems to improve water conservation (such as establishment of infrastructure leakage index; creation of categories of public water systems based on geographical size and service; phased-in approach requiring public water systems to implement water loss detection programs; etc.).
- The law governing permits is amended in O.C.G.A. § 12-2-105 by adding a new subsection (d), establishing three categories of farm use ground-water withdrawal permits (active, inactive, and unused).
- It makes changes to O.C.G.A. § 8-2-3 to require standard codes be adopted for the installation of high-efficiency plumbing fixtures in all new construction permitted on or after July 1, 2012.

SB 370 became **Act No. 542** on June 1, 2010 and took effect on that date.

SB 402, by Sen. Ross Tolleson (R-Perry), passed. It amends definitions in O.C.G.A. § 12-6A-2 relating to land conservation programs and projects and includes a new definition for the term "nongovernmental entity" which is a "nonprofit organization with the primary purpose of which is the permanent protection and conservation of land and natural resources, as evidenced by the organizational documents." This Bill became **Act No. 668** on June 4, 2010, and it took effect on July 1, 2010.

SB 462, by Sen. Jim Butterworth (R-Cornelia), remained in the Senate Natural Resources and Environment Committee. It proposed creation in O.C.G.A. § 12-5-600 *et seq.* the "River Basin Protection Act." Among its provisions included allowing interbasin transfers with a permit from the Environmental Protection Division, if those transfers were for 100,000 gallons of water or more daily.

SB 523, by Sen. Bill Cowsert (R-Athens), was signed by Governor Perdue as **Act No. 431** on May 24, 2010; its provisions took effect upon signature. The legislation amends Chapter 3 of Title 12, addressing the governance of the Georgia Sports Hall of Fame Authority and the Georgia Music Hall of Fame Authority. These two entities are to work jointly in an effort to realize efficiencies and create economies of scale without receiving State funding.

HB 1059, by Rep. Randy Nix (R-LaGrange), passed. It amends O.C.G.A. § 12-8-24(e)(1) to change certain provisions relating to permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facilities and inspection of solid waste generators. It further outlines that "all modifications of permits for existing municipal solid waste disposal facilities for the addition at such facility of a recovered materials processing facility shall be classified as minor permit modifications, provided the location of such facility complies with the same buffer requirements applicable to the disposal facility." The changes also incorporate notice and reporting requirements. HB 1059 was signed by Governor Perdue as **Act no. 407** on May 20, 2010, and took effect on July 1, 2010.

HB 1092, by Rep. Jim Cole (R-Forsyth), remained in the House Rules Committee. Some of the amendments proposed in Chapter 3 of Title 12 would have reconstituted the governance of the Georgia Sports Hall of Fame Authority and created a new governing body for the Authority. Other changes included requiring that the Georgia Sports Hall of Fame Authority and the Georgia Music Hall of Fame Authority, to the maximum extent possible, work jointly to realize efficiencies and economies in the operation of their adjacent facilities. It would have renamed the Georgia Music Hall of Fame Authority Overview Committee and provided it with legislative oversight. These changes were incorporated into SB 523, by Sen. Bill Cowsert (R-Athens). Governor Perdue signed SB 523 into law on May 24, 2010 as **Act No. 431**; its changes took effect on that date.

HB 1199, by Rep. Lynn Smith (R-Newnan), has been signed by Governor Perdue. It permits, in O.C.G.A. § 12-2-6, the Department of Natural Resources the ability to incorporate one nonprofit corporation that can qualify as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the Department in carrying out any of its powers, including acceptance of federal aid and volunteer services. HB 1199 became **Act No. 369** on May 20, 2010 and took effect on July 1, 2010.

HB 1359, by Rep. Mickey Channell (R-Greensboro), was signed as **Act No. 481** on May 27, 2010. The Bill impacts Lakes Oconee and Sinclair and specifically amends O.C.G.A. § 12-7-6(b)(15)(A)(v)(IV), providing an exception for a required buffer along State waters applying such to the construction of bulkheads and sea walls only for the purpose of protecting against erosion of the shorelines of the lakes. The changes took effect on July 1, 2010.

Contracts

SB 447, by Sen. John Bulloch (R-Ochlocknee), was signed into law on May 20, 2010 as **Act No. 421**. It establishes a new Code Section at O.C.G.A. § 13-10-3, and at (b) of that Code Section, it requires that when the State "contracts for the doing of a public work, materialmen, contractors, builders, architects, engineers, and laborers resident in the State of Georgia are to be granted the same preference over materialmen, contractors, builders, architects, engineers, and laborers resident in another state in the same manner, on the same basis, and to the same extent that preference is granted in awarding bids for the same goods or services by such other state to materialmen, contractors, builders, architects, engineers, and laborers resident in such other state over materialmen, contractors, builders, architects, engineers, and laborers resident in the State of Georgia." This change will not apply to transportation projects which use federal funds. In O.C.G.A. § 20-2-500(c), it establishes that Georgia vendors "are to be granted the same preference over vendors resident in another state in the same manner, on the same basis, and to the same extent that preference is granted in awarding bids for the same goods or services by such other state to vendors resident therein over vendors resident in the State of Georgia." The initiative defines "resident" in O.C.G.A. § 13-10-1 so that a Georgia resident business includes "any business that regularly maintains a place from which business is physically conducted in Georgia for at least one year prior to any bid or proposal submitted pursuant to this Code section or a new business that is domiciled in Georgia which regularly maintains a place from which business is physically conducted in Georgia; provided, however,

that a place of business shall not include a post office box, site trailer, or temporary structure." These changes took effect on July 1, 2010 and will apply to contracts which are first advertised or given notice on or after that date.

Courts

SB 292, by Sen. Bill Hamrick (R-Carrollton) proposing significant changes in Titles 15 and 9 known as the *Juvenile Code Re-write*, was held this year. It is likely that the Barton Child Law and Policy Clinic and JustGeorgia, the Bill's primary backers, will have Sen. Hamrick to reintroduce the proposal next Session. The Bill remained in the Senate Judiciary Committee.

SB 396, by Sen. John Wiles (R-Marietta), proposed in O.C.G.A. § 15-11-8 to provide for the payment of certain medical expenses incurred by a child, by the county, while in the custody of the Department of Juvenile Justice. This idea remained in the Senate Special Judiciary Committee.

HB 567, by Rep. Don Parsons (R-Marietta), was signed into law on May 20, 2010 as **Act No. 403**. Numerous changes were made in Titles 15, 17, 24, and 42 which took effect July 1, 2010:

- O.C.G.A. § 15-11-64.2, addressing victim impact statements in juvenile delinquency proceedings. It deletes current law in subsection (c) defining what is to be included in a "victim impact statement" such as the identity of the victim of the offense and the perpetrator. It further adds subsection (d) to permit that, prior to the imposition of a dispositional order for an allegedly delinquent child, that the victim will be permitted to address the juvenile court and present any information or opinions concerning the victim or the victim's family, which may include the impact of the delinquent act on the victim, the harm caused by the allegedly delinquent child and the alleged act, the need for restitution, or the terms of the disposition order. Further, this statement will be required to be given in the presence of the allegedly delinquent child and will be subject to cross-examination.
- O.C.G.A. § 15-11-78(e), concerning the exclusion of the public from juvenile court proceedings. Under current law, the victim of any delinquent act is precluded from attending these hearings and this change now permits the victim to attend.
- O.C.G.A. § 15-11-155(b), regarding dispositional hearings for mental competency plans. It requires that a victim in a delinquency matter be provided the opportunity to be heard and the ability to present a "victim impact form" to the court.
- O.C.G.A. § 17-10-1.2, regarding oral victim impact statements. It makes changes concerning the admissibility of testimony and evidence in support of such testimony so that such will be the sole discretion of the judge (current law only references "evidence"). It also adds language clarifying that it is the duty of the court to inquire of the prosecuting attorney whether or not the victim has been notified of any pre-sentence hearing if he or she is not present. It does not, though, create any cause of action or any right of appeal on behalf of the victim, the State, or the accused if the court fails to make this inquiry.

- O.C.G.A. § 17-14-3(a), regarding restitution by an offender. A judge will be required, in sentencing the offender (including juvenile matters in Chapter 11 of Title 15), make a finding as to the amount of restitution due any victim and order an offender to make full restitution to the victim.
- O.C.G.A. § 17-17-1 which adds the declaration policy for the "Crime Victims' Bill of Rights."
- O.C.G.A. § 17-17-3, regarding definitions and includes a new definition for the term "criminal justice agency."
- O.C.G.A. § 17-17-5, concerning notification to the victim of the accused's arrest, release from custody and judicial proceedings. It adds that the victim, when practicable, is required to be notified of a judicial proceeding and if the accused is released from custody (including if the accused is to participate in electronic release/monitoring).
- O.C.G.A. § 17-17-5.1 was added regarding those accused and committed to the Department of Behavioral Health and Developmental Disabilities. It imposes a requirement that this Department, upon written request of the victim, mail to the victim at least ten days prior to the release/discharge of the accused a notice of that individual's release/discharge or escape and any subsequent readmission.
- O.C.G.A. § 17-17-8, concerning notification by the prosecuting attorney of legal procedures and the victim's rights. A duty is placed on the prosecuting attorney to provide the victim with information on who is investigating the matter so that the victim may make an application for the return of any of his or her property which was taken in the course of the investigation. It also adds additional language concerning what must be done if the victim seeks restitution.
- O.C.G.A. § 17-17-8.1 was added. It allows the victim the right to refuse to submit to an interview by the accused, the accused's attorney, or an agent of the accused. However, if the victim agrees to the interview, it establishes conditions for the interview.
- O.C.G.A. § 17-17-9, relating to victims' waiting areas. It clarifies the rights of the victim to be present at all criminal proceedings in which the accused has the right to be present; it further adds that if a victim of a criminal offense who has been or may be subpoenaed to testify at a hearing or trial will be required to be exempt from O.C.G.A. § 24-9-61 (requiring sequestration); provided, however, that the court will be required to schedule the victim to testify as early as practical in the proceedings.
- O.C.G.A. § 17-17-9.1 was added to address communications between a victim, other than a peace officer, and victim assistance personnel who have been appointed by a prosecuting attorney and what is considered as "attorney work product" and not subject to disclosure.
- O.C.G.A. § 17-17-12(b), concerning notification to the victim of the accused's motion for new trial or appeal, release on bail or recognizance, appellate proceedings and outcome of appeal. It clarifies duties of the Attorney General involving a capital offense where the accused has received the death penalty.
- O.C.G.A. § 17-17-12.1 was added. It gives the victim the right to request not to receive mail (it includes text messages, cards, letters, packages, email, etc.) from an inmate who was convicted of committing a criminal offense against the victim or was

adjudicated by the juvenile court of having committed a delinquent act or designated felony against the victim. It further requires the Department of Corrections and Department of Juvenile Justice to develop and provide procedures to block such contact by the accused.

- O.C.G.A. § 24-9-61.1, addressing the examination of witnesses and presence in the courtroom of victims in a criminal matter. The changes conform this provision to those in O.C.G.A. § 17-17-9.
- O.C.G.A. § 42-5-50, regarding transmittal of information on convicted persons and places of detention. It strikes subsection (c) pertaining to the request by the convicted person setting forth that the presence of the convicted individual is required within the county of the conviction or incarceration in order to prepare and prosecute properly the appeal of the conviction.

HB 885, by Rep. Kevin Levitas (D-Atlanta), failed. It proposed in O.C.G.A. § 15-10-42 to provide for applicability of the "Georgia Civil Practice Act" in magistrate court proceedings – essentially stating that such Act would not apply unless "application of such Act will achieve substantial justice between the parties according to the rules of substantive law and will serve the interests of justice."

HB 1085, by Rep. Katie Dempsey (R-Rome) and dealing with reunification efforts of the child with his or her family, was signed by the Governor on May 27, 2010 as **Act No. 469**, and took effect that same date. It specifically amends O.C.G.A. § 15-11-58 adding more requirements for case plans and permanency plans to be submitted and approved by the juvenile court for children who are in the custody of the Division of Family and Children Services of the Department of Human Services. Some of these new requirements include: A statement that reasonable efforts have been made and a requirement that reasonable efforts shall be made for as long as the child remains in the custody of the Department. Siblings who are removed from their home must remain together unless the Division of Family and Children Services documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and siblings who are removed from their home and who are not jointly placed must be permitted frequent visitation or other ongoing interaction between the siblings, unless the Division of Family and Children Services documents that such interaction would be contrary to the safety or well-being of any of the siblings. It also takes into account the provisions ensuring the educational stability of the child while in foster care, including: "(A) An assurance that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; (B) An assurance that the state agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement; or (C) If remaining in such school is not in the best interests of the child, an assurance by the Division of Family and Children Services that such division and the local educational agencies have cooperated to assure the immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to such new school." Further, it must show that representatives of the child, who are providing the child with assistance and support in developing a transition plan that is personalized at the direction of the child include specific options on housing, health

insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services; and is as detailed as the child may elect in the 90 day period immediately prior to the date on which the child will attain 18 years of age."

HB 1104, by Rep. Jimmy Pruett (R-Eastman), passed through the adoption of a Conference Committee Report. It amends several provisions in Titles 15, 16 and 17 to provide for graduated sanctions and secure detention for children who violate the terms of their probation; provide for an administrative procedure for hearing alleged violations of probation; add smash and grab burglary to the list of acts constituting a designated felony; change provisions relating to dispositions for delinquent children; clarify provisions relating to juveniles receiving credit for time served; extend a sunset date for secure confinement; and etc. Governor Perdue signed this Bill on June 4, 2010 as **Act No. 674**, and its provisions took effect on July 1, 2010.

HB 1144, by Rep. Mary Margaret Oliver (D-Decatur), failed. While the Senate Government Oversight Committee reported out this Bill in the form of a Substitute, it did not make it to the Senate Floor. It proposed to clarify provisions relating to juveniles receiving credit for time served; to extend the sunset date for secure confinement in O.C.G.A. § 15-11-63, O.C.G.A. § 15-11-66, and O.C.G.A. § 17-10-11. A similar Bill, SB 400, also failed, stalling in the House Rules Committee. Rep. Donna Sheldon's (R-Dacula) Bill, HB 729, also on this same subject was not brought up this Session. Rather, similar provisions were inserted in Rep. Jimmy Pruett's (R-Eastman) HB 1104 to: provide for graduated sanctions and secure detention for children who violate the terms of their probation; to define terms; provide for an administrative procedure for hearing alleged violations of probation; add smash and grab burglary to the list of acts constituting a designated felony; change provisions relating to dispositions for delinquent children; clarify provisions relating to juveniles receiving credit for time served; extend a sunset date for secure confinement; and etc. HB 1104 passed. (See above.)

HB 1310, by Rep. Rusty Kidd (I-Milledgeville), passed and permits that the Brain and Spinal Injury Trust Fund can solicit contributions in O.C.G.A. § 15-21-147. This Bill became **Act No. 464** on May 25, 2010; it took effect on July 1, 2010.

Crimes and Offenses

SB 291, by Sen. David Shafer (R-Duluth), passed, proposing that citizens who are "licensed or permitted to carry a firearm by this part shall also be permitted to carry such firearm, subject to the limitations of this part, in an airport in any area in which the possession of firearms is not regulated by the federal government." It contained additional revisions in Chapter 11 of Title 16 concerning the carrying of concealed weapons. However, Governor Perdue vetoed this Bill as **Veto No. 17** on June 8, 2010. In his veto message, Governor Perdue noted that he had previously signed SB 308 which addresses public gatherings and preserves the rights of private property owners and adequately clarifies Georgia's firearms license holders' laws. See SB 308.

SB 299, by Sen. Emanuel Jones (D-Stone Mountain), passed. Governor Perdue approved this Bill as **Act No. 465** on May 25, 2010; it took effect on that date. The initiative amended

Georgia's law on "zero tolerance" of guns in schools and what is considered a "felony act" in O.C.G.A. § 15-11-63(a). Further, it amended O.C.G.A. § 16-11-127.1(b) regarding carrying weapons within school safety zones, at school functions, or on school property, so as to change that such a violation by a child to these provisions may be subject to O.C.G.A. § 15-11-63(a).

SB 308, by Sen. Mitch Seabaugh (R-Sharpsburg), passed, and it contains a number of revisions to Title 16 concerning the ability to carry weapons. Among its provisions include:

- Added Code section at O.C.G.A. § 16-11-125.1 with several new definitions
- Rewrites O.C.G.A. § 16-11-126 concerning concealed weapons
 - Permits any person, who is not prohibited from possessing a handgun or long gun, the ability to have or carry on his or person a weapon or long gun on his or her property or inside his or her home, motor vehicle, or place of business without a valid weapons carry license
 - Permits a person, who is not prohibited by law from possessing a handgun or long gun, to have or carry a handgun as long as it is enclosed in a case and is unloaded
 - Allows a person with a valid weapons carry license to carry a weapon in all parks, historic sites, or recreational areas (including publicly owned building in those parks, historic sites, and recreational areas), in wildlife management areas, and on public transportation; however, a person cannot carry a handgun into a place where such is prohibited by federal law
 - It outlines the punishment upon conviction of the offense of carrying a weapon without a valid weapons carry license
- Amends O.C.G.A. § 16-11-127 so that a person may not carry a weapon or long gun into an unauthorized location – these include government buildings; courthouses; jails/prisons; places of worship; state mental health facilities; bars (unless the owner of the bar permits such by licensed holders of those weapons); nuclear power facilities; and within 150 feet of polling places.
- Amends O.C.G.A. §16-11-127.1 concerning the carrying of weapons in school safety zones, at school functions and on school property

It was signed into law on June 4, 2010 as **Act No. 643** and took effect upon signature. Its enactment will not "affect any prosecutions for acts occurring before the effective date of this Act and shall not act as an abatement of any such prosecutions."

SB 334, by Sen. Judson Hill (R-Marietta), remained in the House Judiciary (Non-Civil) Committee. It proposed in O.C.G.A. § 16-9-170 *et seq.* to create the crime of "medical identity fraud." The proposal outlined the punishment for such crime, which would have been considered a felony offense and also would have allowed a victim the ability to seek actual and punitive damages.

SB 353, by Sen. Buddy Carter (R-Pooler), was signed by Governor Perdue on June 3, 2010 as **Act No. 619**, and took effect that same date. This Bill was Georgia's annual update to its

Dangerous Drug List as found in Chapter 13 of Title 16 relating to Schedule I, II, IV, and V controlled substances.

SB 418, by Sen. Buddy Carter (R-Savannah), failed. The House never took the amendment proposed by the Senate in the waning moments of the Session. The Bill proposed to implement a prescription monitoring program for Schedules II and III drugs which will be overseen by the Georgia Board of Pharmacy and a database created to help with abuse of such drugs. It further outlined a number of definitions in O.C.G.A. § 16-13-21, including a new definition for the terms "addiction," "dispenser," and "prescriber." In O.C.G.A. § 16-13-57 *et seq.*, it proposed how this program would work, including what information must be provided for on prescriptions for these Schedule II and III controlled substances and the reporting requirements for each dispenser (dispensers would be required to "submit the prescription information in accordance with transmission methods and frequency requirements established by the board on a weekly basis and shall report, at a minimum, prescriptions dispensed up to 72 hours prior to data submission. If a dispenser is temporarily unable to comply with this subsection due to an equipment failure or other circumstances, such dispenser shall notify the board."). There were two versions of this idea: HB 273, remained in the House Health and Human Services Committee; and HB 614, failed in 2009 to pass the Senate.

HB 273, by Rep. Ron Stephens (R-Savannah), would have created the "Georgia Prescription Monitoring Program Act" for the purposes of monitoring of prescribing and dispensing Schedule II, III, IV, or V controlled substances and would have been overseen by the Georgia State Board of Pharmacy. This Bill would have added a new Article 6 in Chapter 13 of Title 16. However, the initiative remained in the House Health and Human Services Committee. See also HB 614 by Rep. Sharon Cooper (R-Marietta) which proposed such a program; HB 614 failed on the Senate Floor. Another similar proposal, SB 418, by Sen. Buddy Carter (R-Savannah), also died as the House never took final action after the Senate amended the Bill on the Floor on *Sine Die*. Lawmakers disagreed which agency should oversee this program - the Board of Pharmacy or the Georgia Drugs and Narcotics Agency.

HB 292, by Rep. Harry Geisinger (R-Roswell), remained in the House Ways and Means Committee. It proposed in Chapter 12 of Title 16 that 501(c)(3) nonprofit organizations may give away certain non-cash prizes to advance the purposes of such nonprofit organization. Thus, such activity would not be considered as a "lottery."

HB 571, by Speaker David Ralston (R-Blue Ridge), amends Georgia's laws relating to sex offenders. HB 571 passed and was signed into law on May 20, 2010 as **Act No. 389**, and took effect the same date. Some of the provisions of this law include:

- New paragraphs to O.C.G.A. § 5-6-35 adding that these two types of case decisions require an application for an appeal: 1) appeals of superior court decisions reviewing decisions of the Sexual Offender Registration Review Board; and 2) appeals from superior court decisions which grant or deny petitions for release.
- It amends O.C.G.A. § 16-6-5.1 outlining who has supervisory or disciplinary authority over another individual, when that individual commits sexual assault against that

individual (e.g. "a teacher, principal, assistant principal, or other administrator of any school and engages in sexual contact with such other individual who the actor knew or should have known is enrolled at the same school; provided, however, that such contact shall not be prohibited when the actor is married to such other individual.") It further expands the definition to address the authority issue to include a probation or parole officer who engages in sexual activity with a probationer or parolee; a member of law enforcement engaging in sexual activity with an individual in legal custody; an employee or agent of a hospital who engages in sexual activity with a patient; etc.

- The Bill also clarifies Georgia's "Romeo and Juliet" provisions in paragraph (f) of O.C.G.A. § 16-6-5.1.
- The definition of "incest" is amended in O.C.G.A. 16-6-22(a) to include sexual intercourse or sodomy against a stepchild by a parent or stepparent.
- Various requirements relating to the Sex Offender Registry are also added.
- O.C.G.A. § 42-1-15 and O.C.G.A. § 42-1-16 are amended and particularly the language concerning where a sex offender may live. Language is added in each clarifying that the provisions relate to offenders who committed a crime and was required to register on the Registry on and after July 1, 2008. Those persons would not be permitted to reside within 1,000 feet of any child care facility, church, school, or area where minors congregate.

HB 674, by Rep. Calvin Smyre (D-Columbus), remained in the Senate Rules Committee after some struggles with its original Committee assignment. It proposed revisions in Titles 16 and 38 including new definitions for the terms "pull tab game" and "bingo." In O.C.G.A. § 16-12-63(a)(2), it proposed to define the term "veterans organization" as "any organization or association chartered by the Congress of the United States which is exempt from federal income taxes but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia with at least 75 percent of the members of which are past or present members of the armed forces of the United States, and where no part of the net earnings of which inures to the benefit of any private shareholder or individual." Veterans' organizations were proposed to be able to sell "pull tab games" which would not be considered as gambling and could operate a bingo game as long as they first obtained permission from the Department of Revenue to do so (with a required annual fee of \$100.00). There were other bills dealing with "bingo" and its regulation including HB 166. However, it was not brought up this Session.

HB 1016, by Rep. Rich Golick (R-Smyrna), was signed by Governor Perdue on May 27, 2010 as **Act No. 501**. It amends O.C.G.A. § 16-9-121 revising the term "individual" to "person" to include businesses as potential identity theft victims. The changes took effect on July 1, 2010.

HB 1030, by Rep. Jim Cole (R-Forsyth), failed. The House voted 59 to 108 on this Bill when it came to the Floor. There were a number of amendments in the Bill to Titles 16, 42 and 49. Specifically, it proposed creation of a State supervision division within the Department of Corrections which would be responsible for supervising probationers, parolees, and persons conditionally released. It also proposed to enlarge the Board of Corrections to include the chairman of the State Board of Pardons and Paroles.

HB 1256, by Rep. Judy Manning (R-Marietta), remained in the House Judiciary Non-Civil Committee. It proposed amendments to current law in Titles 16, 19 and 49 and would have mandated a minimum age for the prosecution of the offenses of prostitution and masturbation for hire. Sen. Renee Unterman (R-Buford) offered a similar Bill, SB 304 which remained in the Senate Judiciary Committee.

Criminal Procedure

SB 42, by Sen. Bill Hamrick (R-Carrollton), failed. It included a number of changes to Chapter 12 of Title 17, "Georgia Indigent Defense Act of 2003." The Bill made it to the House Floor in 2009 but action was postponed and the Bill was recommitted; no further action was taken this year. It proposed making the Georgia Public Defender Standards Council an "advisory" entity to the Georgia Public Defender Agency and the Office of Alternative Defense Counsel.

HB 323, by Speaker David Ralston (R-Blue Ridge), was signed into law on May 24, 2010 as **Act No. 452** and took effect on July 1, 2010. The initiative revises Chapter 10 of Title 17 and extends the period of review from 20 to 45 days for the Supreme Court's consideration of applications for pretrial proceedings in cases in which the death penalty is sought and clarifies provisions relating to the assistant to the Supreme Court and that person's duties will include assisting the Court with the review of all death penalty cases.

HB 889, by Rep. Len Walker (R-Loganville), passed in the waning moments of the Session. Attached to it was language added by Rep. Wendell Willard (R-Sandy Springs). Rep. Willard's amendment changed O.C.G.A. § 17-12-22, addressing transfer of conflict cases involving indigent defendants. This new language will permit Georgia's Public Defender Standards Council the ability to create rules for staffing conflict cases by using public defenders from other circuits. The underlying legislation amends O.C.G.A. § 17-6-1 limiting the use of recognizance bonds for persons charged with certain crimes and entering pretrial release, pretrial intervention, or pretrial diversion programs, except under certain circumstances. This initiative became **Act No. 404** on May 20, 2010 and took effect on July 1, 2010.

HB 901, by Rep. Kevin Levitas (D-Atlanta), was signed as **Act No. 498** by Governor Perdue on May 27, 2010, and took effect July 1, 2010. It specifically amends O.C.G.A. § 17-10-7(c) to change a provision relating to punishment of persons convicted of a fourth felony offense requiring those individuals to serve the maximum amount of time based on that conviction.

Domestic Relations

SB 238, by Sen. Seth Harp (R-Midland), passed. The initiative now permits in Chapter 3 of Title 19 any Governor, or former Governor, of Georgia to perform marriage ceremonies in the State (until the passage of this Bill, any judge, city recorder, magistrate, minister, or other

person authorized to perform a marriage ceremony could marry individuals). It was signed as **Act No. 439** on May 24, 2010. These changes took effect on July 1, 2010.

SB 471, by Sen. Seth Harp (R-Midland), proposed revisions in Chapter 8 of Title 19 concerning the adoption of a child. Specifically, some of those changes would have included the requirement of a home study by an evaluator prior to the placement of a child into the home of adoptive parents by a third party who is neither a stepparent nor a relative and for such study to recommend placement; amendments relating to the surrender or termination of parental or guardian's rights where a child is to be adopted by a third party; and changes to the filing and contents of a petition for adoption. This Bill remained in the Senate Judiciary Committee.

Education

SB 84, by Sen. Bill Heath (R-Bremen), has been signed into law on May 25, 2010 by Governor Perdue as **Act No. 463**, and took effect the same date. It provides for ethics on local boards of education in Chapter 2 of Title 20. Specifically, it contains some of the following provisions:

- Amends O.C.G.A. § 20-2-51(b) so that when a member of a local board of education moves from his or her domicile from the district that he or she represents, then that individual must cease to be a member of that local board of education; further, that person must notify the secretary of the local board of education and the election superintendent within ten days of such move.
- Prohibits in O.C.G.A. § 20-2-51(c) an individual from serving on a local board of education if he or she is an employee of a private elementary or secondary school.
- Clarifies "immediate family member" who can serve on a local board of education.
- Requires candidates for local boards of education to read and understand the code of ethics and conflict of interest provisions applicable to them and agree to abide by them.
- Limits a local board of education to no more than seven members unless provided by local constitutional amendment or federal court order or pursuant to a local law in effect prior to July 1, 2010.

SB 239, by Sen. Ron Ramsey (D-Decatur), offered several changes to Georgia's "Quality Basic Education Act" in Title 20. While passed, Governor Perdue vetoed this proposal on June 8, 2010 as **Veto No. 16**. The proposal attempted to impose timing requirements on registering a child for school (both public and private) when the child moved from one school district to a new district and further proposed authority regarding oversight of these changes. Home-schooled children were caught in this Bill, and it was for that reason that Governor Perdue vetoed the initiative.

SB 250, by Sen. Bill Hamrick (R-Carrollton), passed. This measure expands the definition of "bullying" in O.C.G.A. § 20-2-751.4. Georgia's original definition of "bullying" meant: (1) any willful attempt or threat to inflict injury on another person, when accompanied by an

apparent present ability to do so; or (2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm." Under the new definition, it means:

"An act which occurs on school property, on school vehicles, at designated school bus stops, or at school related functions or activities, or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system, that is: (1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so; (2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or (3) Any intentional written, verbal, or physical act, which a reasonable person would perceive as being intended to threaten, harass, or intimidate, that: (A) Causes another person substantial physical harm within the meaning of Code Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section 16-5-23.1; (B) Has the effect of substantially interfering with a student's education; (C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or (D) Has the effect of substantially disrupting the orderly operation of the school.

Local boards of education are to adopt policies prohibiting bullying by August 1, 2011 and the Department of Education is to adopt a model policy on the issue by no later than January 1, 2011. Finally, the Bill adds in O.C.G.A. § 20-2-1181 that it will be unlawful for any person to "knowingly, intentionally, or recklessly disrupt or interfere with the operation of any public school, public school bus, or public school bus stop as designated by local school boards of education." A violation of this will be considered a misdemeanor of a high and aggravated nature. Governor Perdue signed this Bill as **Act No. 471** on May 27, 2010; it took effect on that date.

SB 319, by Sen. Cecil Staton (R-Macon), successfully amended the definition of "textbook" as found in O.C.G.A. § 20-2-1010 so that it also means any digital medium including any computer hardware, software, and technical equipment necessary to support such material. This Bill passed and was signed by Governor Perdue on May 27, 2010 as **Act No. 490**; it took effect on July 1, 2010.

SB 340, by Sen. Seth Harp (R-Midland), was signed into law on May 24, 2010 as **Act No. 441** (which takes effect on July 1, 2010). It requires in O.C.G.A. § 20-2-157(c) that school systems and private schools, beginning with the school year beginning after May 1, 2011, to adopt a reporting system for freshman, sophomore, and junior high school students for the purpose of determining potential HOPE eligibility.

SB 341, by Sen. Seth Harp (R-Midland), was signed by Governor Perdue into law on May 24, 2010 as **Act No. 442**. Its provisions took effect on that date. It requires in O.C.G.A. § 20-3-519.6 that one must be a legal resident of Georgia in order to be eligible for a HOPE GED voucher.

SB 361, by Sen. Chip Rogers (R-Woodstock), stalled in the Senate Rules Committee, and thus, did not pass. This Bill proposed to rename the current "Georgia Special Needs Scholarship Act" the "Georgia Early HOPE Scholarship Act." The changes would have been imposed in O.C.G.A. § 20-2-2110 *et seq.*

SB 386, by Sen. Don Balfour (R-Snellville), remained in the Senate Education and Youth Committee. Sen. Balfour carried this Bill with changes to Chapter 2 of Title 20 for Governor Perdue which would have established an alternative performance-based salary schedule using defined evaluation instruments to determine the effectiveness of teachers and administrators. It proposed to "grandfather" teachers who currently teach in schools so that they would not have to be evaluated under the proposed system. A similar "study" was offered, SR 1290, on this issue; it also remained in the Senate Education and Youth Committee.

SB 387, by Sen. Dan Weber (R-Dunwoody) was signed by Governor Perdue on May 24, 2010 as **Act No. 446**. It adds in O.C.G.A. § 20-3-242 that, beginning in school year 2010-2011, the Georgia Student Finance Commission will be required to provide students in grades 6 through 12 with web-based counseling advisement, career awareness inventories, and information to assist them in evaluating their academic skills and career interests; and provide for students in grades 8 through 12 with a web-based resource to develop a graduation plan to detail the courses necessary for a student to graduate from high school and to successfully transition to postsecondary education and the work force. This legislation takes effect on July 1, 2010.

SB 392, by Sen. Jack Murphy (R-Cumming), passed and on May 24, 2010 became **Act No. 447**, and took effect on July 1, 2010. It adds a new Code Section in O.C.G.A. § 20-1-10 to require that: "No educational institution receiving state funds shall enter into an agreement with a motor carrier or contract carrier for the purpose of transporting students without first verifying that such carrier is certified by the Public Service Commission as required by Article 1 of Chapter 7 of Title 46, the Federal Motor Carrier Safety Administration, or any other similarly required certifying agency." It further adds in O.C.G.A. § 46-7-3(b) that before a "motor common or contract carrier may enter into any contract for the transportation of passengers, the carrier shall provide to all parties to the agreement a copy of the carrier's proof of legally required minimum insurance coverage and a valid certification number demonstrating that the carrier is currently certified by the commission, the Federal Motor Carrier Safety Administration, or any other similarly required certifying agency."

SB 427, by Sen. Dan Weber (R-Dunwoody), passed creating the Georgia Foundation for Public Education in O.C.G.A. § 20-2-14.1. This charitable entity may solicit and accept contributions (financial and in-kind) to help support educational excellence in Georgia. For administrative purposes, this Foundation will be attached to the Department of Education and it will be governed by a board composed of between five and 15 individuals selected by the State's School Superintendent with two of those board members supporting the interests of students who are either blind or deaf. It also permits the State's School Superintendent the ability to solicit contributions for this Foundation. This Bill became **Act No. 448** on May 24, 2010; it took effect on July 1, 2010.

SB 451, by Sen. Freddie Sims (D-Dawson), proposed changes to O.C.G.A. § 20-1A-13 concerning the emergency placement of monitors in early care and education programs, so as to enact the "Jace Hester Act". It specifically offered procedures subsequent to the death of a minor occurring in a family day-care home or group day-care home – including closure of the facility. This measure died in the House Health and Human Services Committee.

SB 457, by Sen. Dan Weber (R-Dunwoody), was signed by Governor Perdue on May 27, 2010 as **Act No. 492** with its provisions taking effect on July 1, 2010. It provides, in O.C.G.A. § 20-2-2064, that a local board of education may act on a petition for a conversion charter school for a high school cluster if approved by 60 percent of faculty and parents.

SB 518, by Sen. Jeff Mullis (R-Chickamauga), became **Act No. 449** on May 24, 2010. It now requires in O.C.G.A. § 20-2-142(a)(1)(B) that Georgia students are to be taught in their core curriculum "a study of the Pledge of Allegiance to the flag of the United States and the Georgia flag in addition to other institutions and ideals." This change took effect on July 1, 2010.

SB 521, by Sen. Dan Weber (R-Dunwoody), became a vehicle for the Governor's performance-based salary language in O.C.G.A. § 20-2-210. The House postponed action on this Bill on the Floor; it was not brought up again. Thus, the Bill died.

HB 400, by Rep. Fran Millar (R-Dunwoody), was signed by Governor Perdue on May 20, 2010 as **Act No. 390**. This Bill enacts, in O.C.G.A. § 20-2-325 *et seq.*, the "Building Resourceful Individuals to Develop Georgia's Economy Act" and requires students to have an individual graduation plan by the end of the second semester of the eighth grade, in preparation for high school. Additionally, the legislation adds in O.C.G.A. § 20-2-281(q) that the State Board of Education will be required to consider the passage by a student of an industry certification examination or a State licensure examination (approved by the State Board of Education) when considering whether to grant such student a variance for one or more portions of the high school graduation test currently required in order to obtain a Georgia high school diploma. This legislation took effect immediately upon signature.

HB 736, by Rep. Ron Stephens (R-Savannah), stalled in the House Health and Human Services Committee. It would have created a new Code Section at O.C.G.A. § 20-2-776 requiring that "on or after October 1, 2010, each public school shall annually provide to each parent or guardian of a female student who is entering sixth grade in such school information" concerning the "link between cervical cancer and the human papillomavirus infection and that an immunization against the human papillomavirus infection is available."

HB 906, by Rep. Jay Neal (R-LaFayette), permits local school boards in O.C.G.A. § 20-2-211(b) the ability to temporarily extend certain deadlines to offer contracts to teachers for school years 2010-2011, 2011-2012, and 2012-2013. HB 906 was signed by the Governor on March 16, 2010 as **Act No. 349**; it took effect on the date of signing.

HB 907, by Rep. David Casas (R-Lilburn), passed these "Quality Basic Education Act" amendments but the legislation was vetoed by Governor Perdue as **Veto No. 6** on June 4, 2010. The Bill proposed amendments to Chapter 2 of Title 20 and the scholarship program for special needs students. The thinking behind the proposal was to permit more flexibility to middle schools. The Senate added Floor Amendments concerning the Special Needs Vouchers and when payments must be made on a quarterly basis. The Governor was opposed to placing requirements for public school administrators to require them to fund these vouchers while otherwise seeking flexibility.

HB 908, by Rep. Brooks Coleman (R-Duluth), passed. Governor Perdue signed the Bill into law on May 20, 2010 as **Act No. 384**. This Bill amends O.C.G.A. § 20-2-167 permitting in subsection (f) that for school years 2009-2010, 2010-2011, 2011-2012, and 2012-2013 only, the expenditure controls contained in subsection (a) pertaining to direct instructional costs, media center costs, and staff and professional development costs are to be waived and will neither apply to nor be enforceable against a local school system. Further, it requires local school systems to report to the Department of Education their respective budgets and expenditures of the funds received under this Code section as a part of its report in October for the FTE count and on March 15. This language will be repealed on July 1, 2013. It also permits schools, for school years 2010-2011, 2011-2012, and 2012-2013 only, to increase their maximum class size for each instructional program covered under this Code Section. The changes took effect upon signature.

HB 910, by Rep. Howard Maxwell (R-Dallas), was signed by the Governor on May 20, 2010 as **Act No. 383**. The legislation took effect upon signature of the Governor and requires the Department of Education in O.C.G.A. § 20-2-315(j) to publish an annual report of local school systems to include information regarding expenditures and participation rates for each gender and such other information as the State board and Department deem relevant.

HB 923, by Rep. Jay Neal (R-LaFayette), clarifies last year's law in O.C.G.A. § 20-2-212(a). In 2009, the General Assembly agreed to eliminate the additional funding for those teachers with "leadership degrees." The intention was to continue providing salary boosts for those who were in the process of obtaining those degrees or had those degrees but were not in leadership positions. This clean-up legislation states that when an educator has earned a leadership degree but is not in a leadership position, then that individual may still be placed on the State salary schedule based on the leadership degree. Governor Perdue signed this Bill into law on May 24, 2010 as **Act No. 456**. It took effect on July 1, 2010.

HB 977, by Rep. Ed Rynders (R-Albany), passed prohibiting a local board of education from using State funds for providing a salary increase for the local school superintendent or administrators during a school year in which a local board of education furloughs teachers, paraprofessionals, cafeteria workers, bus drivers, custodians, support staff, or other non-administrative positions; if local or private money is to be used for these types of increases, a public hearing must be held. This change was added in O.C.G.A. § 20-2-212.6. Governor Perdue signed this Bill on May 20, 2010 as **Act No. 367**; it took effect on July 1, 2010.

HB 1079, by Rep. Tom Dickson (R-Cohutta), passed. It made amendments to Chapter 2 of Title 20. It included expanded ways in which teachers may pay their teacher certification fees, adding credit card, debit card, or other method approved by the Professional Standards Commission. Georgia previously permitted payment only by cashier's check or money order in O.C.G.A. 20-2-200(e)(2). It also repeals O.C.G.A. § 20-2-211(e) on January 1, 2011 relating to annual contracting of educators and requisite fingerprinting and criminal background checks and adds a new Code Section at O.C.G.A. § 20-2-211.1 providing for clearance certificates issued by the Professional Standards Commission relating to fingerprint and criminal background checks and criminal background checks for non-educators. These clearance certificates are defined as certificates issued by the Professional Standards Commission "that verifies that an educator has completed fingerprint and criminal background check requirements as specified in this Code section and that the individual does not have a certificate that is currently revoked or suspended in Georgia or any other state; provided, however, that additional fingerprinting shall not be required for renewal of a clearance certificate or for educators who possess a professional educator certificate as of January 1, 2011. A clearance certificate shall be a renewable certificate valid for five years. Clearance certificates shall be subject to fees in accordance with subsection (e) of Code Section 20-2-200." This Bill became **Act No. 408** on May 20, 2010; it took effect on July 1, 2010.

HB 1103, by Rep. Howard Maxwell (R-Dallas), failed. The Senate amendments were agreed to by the House; however, the House tacked on more language. That language was never approved by the Senate. Thus, this initiative requiring clearance certificates issued by the Professional Standards Commission concerning fingerprinting and criminal background checks did not pass. The initiative proposed defining these "clearance certificates" in O.C.G.A. § 20-2-211.1 to verify that an educator had completed requisite fingerprinting and criminal background check requirements and nothing had been found that would revoke or suspend that certificate. Rather, the language from HB 1103 was included in HB 1079 which was passed and signed as **Act No. 408** on May 20, 2010; those provisions took effect on July 1, 2010. See HB 1079.

HB 1136, by Rep. DuBose Porter (D-Dublin), remained in the House Education Committee. It would have amended O.C.G.A. § 20-2-212.2 restoring the salary increases for persons receiving certification from the National Board for Professional Teaching Standards; eliminating the requirement that the teacher be in a high-needs school; and eliminating the phase-out of the salary increases for such certification.

HB 1418, by Rep. Randal Mangham (D-Atlanta), remained in the House Education and Youth Committee. It proposed to add at O.C.G.A. § 20-2-149.1 that in addition to any other requirements for graduation from high school, each student would be required to complete 40 hours of service learning (volunteer experiences that have been approved by the local board of education based on standards established by the State Board of Education).

Elections

SB 17, by Sen. Seth Harp (R-Midland), passed and was signed by Governor Perdue on June 4, 2010 as **Act No. 680**. This ethics reform initiative contains substantial revisions to Chapter 5 of Title 21 to be known as "Georgia Government Transparency and Campaign Finance Act of 2010." Among the changes include:

- Definitions for the terms:
 - "Election year," which "shall be construed and applied separately for each elective office and means for each elective office the calendar year during which a regular or special election to fill such office is held."
 - "Investment" which "means the investment of money or capital to gain interest or income." It now requires disclosure of investments made with funds held by a campaign committee, independent committee, or political action committee and held outside such committee's official depository account during each reporting period for which an investment exists or a transaction applying to an identifiable investment is made. See O.C.G.A. § 21-5-34.
 - "Nonelection year" which "shall be construed and applied separately for each elective office and means for each elective office any calendar year during which there is no regular or special election to fill such office."
 - "'Nonprofit organization" which "means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding an interest in such entity."
 - "Qualifying officer" which " means a person who qualifies a candidate for an election."
 - "Reporting period" which "means the period of time beginning the day after the last report due date, excluding any grace period, through the due date of the next report."
- Creates the Georgia Government Transparency and Campaign Finance Commission as the successor entity to the State Ethics Commission, having the same functions and duties as the State Ethics Commission in O.C.G.A. § 21-5-4. It permits this Commission the ability, when imposing a penalty or late filing fee under Chapter 5, to waive or suspend such penalty or fee if the imposition of such penalty or fee would impose an undue hardship on the person required to pay such penalty or fee in O.C.G.A. § 21-5-6(b)(14)(C)(i). It further adds two new powers so that the Commission has the power to award attorneys' fees "to the party complained against if the Commission deems the complaint to be frivolous, legally or factually, or if the complaining party fails, without good cause, to appear at the preliminary hearing on the complaint; and the Commission may also be permitted to issue a "warning letter to persons who have not filed any statement or report required" by Chapter 5.
- Adds a new Code Section at O.C.G.A. § 21-5-14 requiring any individual who must be required to make reports/disclosures to this Commission to submit a current e-mail address and tell the Commission, within ten days, if that email address changes; that information must be done prior to January 31 of every year.

SB 17 becomes effective on January 10, 2011, and shall apply to all reports filed on or after such date.

HB 1073, by Rep. John Meadows (R-Calhoun), passed. Governor Perdue approved this Bill on May 27, 2010 as **Act No. 502**. It contains several changes to Chapter 2 of Title 21 to allow the provision of absentee ballots to uniformed and overseas voters and the use of special write-in ballots; to provide that absentee ballots may be requested by electronic transmission; and to require the State Election Board establish by rule or regulation procedures for the transmission of blank absentee ballots to uniformed and overseas voters. The revisions took effect on July 1, 2010.

HB 1166, by Rep. Austin Scott (R-Tifton), cleared the House Governmental Affairs Committee, but stalled in the House Rules Committee. It sought to amend O.C.G.A. § 21-5-30(h) to provide that "no person acting on behalf of a corporation, partnership, or business regulated by the Commissioner of Insurance nor any officer or director of such entity shall make any contribution to a political campaign for such office or to any campaign conducted by an incumbent commissioner." Persons knowingly violating this would be guilty of a felony and subject to imprisonment of not less than one and not more than five years and a fine not to exceed \$5,000.00. It also proposed additional disclosure requirements for the Commissioner of Insurance.

HB 1473, by Rep. David Ralston (R-Blue Ridge), proposed the "Georgia Government Transparency and Campaign Finance Act of 2010" in chapter 5 of Title 21. Many of its revisions were incorporated in SB 17, including campaign disclosures and reporting, the ethics bill by Sen. Seth Harp (R-Midland) which passed and was signed by Governor Perdue as **Act No. 680** on June 4, 2010 (it will require for-profit and nonprofit lobbyists to pay the registration fees). Rep. Rich Golick's (R-Smyrna) ethics bill, HB 370, remained in the House Ethics Committee.

Evidence

HB 24, by Rep. Wendell Willard (R-Atlanta) proposing the Evidence Code Re-write in Title 24 (potentially affecting malpractice actions), failed to move through the Senate. The proposal tracked most of the Federal Rules of Evidence and would have provided a much-needed update to Georgia's current rules. District Attorneys, however, did not like some of the language and were partly responsible for managing to have the Bill held. It is likely to be brought up again in 2011 as a new Bill.

Food and Drugs

SB 49, by former Sen. Lee Hawkins (R-Gainesville), passed both the House and Senate in 2009 without the Senate agreeing to changes made by the House. The Bill was never a vehicle in 2010 and died. It proposed, as passed by the House, an amendment to O.C.G.A. § 26-4-81.1 to limit a pharmacist from substituting a drug as part of immunosuppressive therapy. The

original Bill, as cleared by the Senate, dealt with nursing education program requirements in Title 43.

SB 209, by Sen. Lee Hawkins (R-Gainesville), did not reappear in 2010, and thus, failed. The Bill would have amended O.C.G.A. § 26-4-81.1 so that a pharmacist would be prohibited from substituting any drug "prescribed to inhibit or prevent immune system activity as part of immunosuppressive therapy for a patient who has received an organ or tissue transplant that might increase the probability of the rejection of such transplant without the consent of the prescribing physician."

HB 194, by Rep. Fran Millar (R-Dunwoody), passed. It specifically amends O.C.G.A. § 26-4-81(d) and requires that "if a pharmacist substitutes a generic drug product for a brand name prescribed drug product when dispensing a prescribed medication, the brand name and the generic name of the drug product, with an explanation of 'generic for (insert name of brand name prescribed drug product)' or similar language to indicate substitution has occurred, must appear on the prescription label and be affixed to the container or an auxiliary label, unless the prescribing practitioner indicated that the name of the drug may not appear upon the prescription label; provided, however, that this paragraph shall not apply to medication dispensed for in-patient hospital services or to medications in specialty packaging for dosing purposes as defined by the board." As **Act No. 494**, created on May 27, 2010, the change takes effect on October 1, 2010.

HB 346, by Rep. Debbie Buckner (D-Junction City), remained in the House Health and Human Services Committee. It proposed to include "hospice" in the definition of "health care facility" in O.C.G.A. § 26-4-191 concerning the utilization of unused prescription drugs.

HB 361, by Rep. Ron Stephens (R-Savannah), passed and creates the "Safe Medications Practice Act" in O.C.G.A. § 26-4-10 *et seq.* It codifies practices now permitting collaboration between hospital pharmacists and members of the medical staff on drug management therapy for a patient in an institutional setting. Governor Perdue signed this Bill into law on May 20, 2010 as **Act No. 392**; it took effect on July 1, 2010.

HB 523, by Rep. John Lunsford (R-McDonough), made no movement this year; thus, it died. The Bill offered an amendment to O.C.G.A. § 26-4-91 to prohibit a pharmacist from engaging in drug product selection or substitution for a patient undergoing immunosuppressive therapy, which would prevent transplant rejection, without prior consent of the patient and prescribing physician. The language was also added in 2009 to SB 56 (the "Georgia StopMETH Log Bill"), which also died.

HB 681, by Rep. Charlice Byrd (R-Woodstock), died in the House Health and Human Services Committee. The Bill would have amended Chapter 4 of Title 26 to change certain provisions relating to the substitution of generic drugs and prohibit the substitution of anti-epileptic drugs except under certain conditions. This Bill was another "patent protection" effort by pharmaceutical makers.

HB 820, by Rep. Pedro Marin (D-Duluth), died, remaining in the House Insurance Committee. It proposed a new Code Section at O.C.G.A. § 26-4-91 so that "records relative to prescription information containing patient identifiable and prescriber identifiable data shall not be licensed, transferred, used, or sold by any pharmacy benefits manager; insurance company; electronic transmission intermediary; retail, mail order, or Internet pharmacy; or other similar entity for any commercial purpose, except for the limited purposes of pharmacy reimbursement; formulary compliance; care management; utilization review by a health care provider; the patient's insurance provider, or the agent of either; health care research; or as otherwise provided by law."

HB 883, by Rep. Kevin Levitas (D-Atlanta), passed. This public safety initiative promotes food safety by imposing civil and criminal penalties (making such a felony with up to twenty years imprisonment and a fine of up to \$20,000) to help deter and punish offenders, such as owners of plants who place products into the marketplace when they have knowledge that the products are unsafe. Changes made are added in O.C.G.A. § 26-2-27.1, creating the "Sanitary Activity for Food-processing Enterprises (SAFE) Act." It became **Act No. 466** on May 25, 2010, and took effect on that date.

Handicapped Persons

HB 1314, by Rep. Donna Sheldon (R-Dacula), passed *but* the House never took final action to agree to the Senate Amendments. Thus, the Bill failed. The Bill amended Chapter 8 of Title 30 pertaining to the Georgia Council on Developmental Disabilities. It would have provided for the creation of comprehensive regulation of individual development accounts and procedures, conditions, and limitations with respect to the creation and operation of such accounts to be overseen by the Department of Human Services.

Health

SB 156, by Sen. Cecil Staton (R-Macon), made it successfully to the House in 2009 but did not reappear in 2010; thus, it died. It proposed a new Code Section in O.C.G.A. § 31-11-100 and addressed the definition of "readiness" and funding priorities of the Georgia Trauma Care Network Commission and enumerated the duties of this Commission.

SB 163, by Sen. Don Balfour (R-Snellville), did not reemerge as a vehicle this year. Last year, the House and Senate both passed this initiative to create a diabetes coordinator within the Division of Public Health in O.C.G.A. § 31-2-10. See SB 435 below.

SB 230, by Sen. Curt Thompson (D-Tucker), offered amendments relating to the contracts between county boards of health and authorization for and provisions applicable to county boards of health serving as community service boards in O.C.G.A. § 31-3-12.1. The Bill was not brought up in 2010; thus, it died.

SB 252, by Sen. Don Thomas (R-Dalton), was gutted and then passed. This initiative became **Act No. 489** on May 27, 2010, and took effect on July 1, 2010. Originally, the legislation

dealt with polysomnography, but once it was stripped, it authorizes the Composite Medical Board to conduct a professional health program to provide in O.C.G.A. § 43-34-5.1 monitoring and rehabilitation of impaired health care professionals in this state.

SB 317, by Sen. Judson Hill (R-Marietta), stalled in the House Rules Committee and did not make it to the House Floor. It would have created a new Code Section in O.C.G.A. § 31-1-11 so that "no law or rule or regulation shall compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system" by providing "that no law or rule or regulation shall compel any person, employer, or health care provider to participate in any health care system." The initiative also would have authorized "persons and employers to pay directly for lawful health care services without penalties or fines."

SB 344, by former Sen. Lee Hawkins (R-Gainesville), passed. It amends Georgia's "Health Share Volunteers in Medicine Act" in O.C.G.A. § 31-8-195.1 and permits Georgia licensed physicians' assistants, who work in safety net clinics, to be afforded the same sovereign immunity from liability as other such volunteers (physicians, nurse midwives, and registered nurses and licensed practical nurses). Governor Perdue signed this Bill into law on May 20, 2010 as **Act No. 399**. The Act took effect on July 1, 2010.

SB 355, by Sen. Ed Harbison (D-Columbus), was signed into law on May 20, 2010 as **Act No. 398**. It provides in O.C.G.A. § 31-21-7(b)(1.1) "the priority list of persons authorized to control the disposition of the remains of a deceased person, in the case of deceased military personnel, the person designated on the deceased person's United States Department of Defense Record of Emergency Data, DD Form 93 shall have the second priority, after only a health care agent designated in an advance directive for health care." This change took effect on the Governor's signature.

SB 367, by Sen. Don Balfour (R-Snellville), was signed by Governor Perdue on June 3, 2010 as **Act No. 616** and took effect on that date. Originally, this legislation addressed whether the influenza vaccine could be given in a nasal form, but it became a vehicle for the Georgia Hospital Association to address medical consent to treatment issues for individuals who are otherwise incapacitated to provide such consent. This Bill allows in O.C.G.A. § 31-9-2 any adult grandchild for his or her grandparent; or any adult niece, nephew, aunt, or uncle of the patient who is related to the patient in the first degree; or "adult friend" to provide consent for surgical or medical treatment on behalf of an incapacitated person. Under current law, only an adult child for his or her parents; a parent for his or her adult child; an adult for his or her brother or sister; and grandparent for his or her grandchild may consent to such treatment or procedure when the person is incapacitated. Further, it establishes a procedure in O.C.G.A. § 29-4-18 for the appointment of guardians for adults, so as to provide for expedited judicial intervention for the appointment of a temporary medical consent guardian.

SB 410, by Sen. John Douglas (R-Social Circle), passed and became **Act No. 363** on May 20, 2010. It designates ambulances as emergency vehicles and excludes ambulance providers, as defined in O.C.G.A. § 31-11-2, from permit requirements for "red lights." These changes took effect on July 1, 2010.

SB 412, by Sen. Greg Goggans (R-Douglas), remained in the Senate Health and Human Services Committee. It proposed in O.C.G.A. § 31-1-11 the creation of the "Georgia eHealth Advisory Council" within the Department of Community Health.

SB 435, by Sen. Don Thomas (R-Dalton), passed and enacts the "Diabetes and Health Improvement Act of 2010," which will be overseen by the Division of Public Health within the Department of Community Health in O.C.G.A. § 31-2-17.1. This language establishes two grant programs for the purposes of educating Georgians about the disease in an effort to reduce the numbers of instances of diabetes. In Section 2 of the Bill, it added language from HB 835 by Rep. Karla Drenner (D-Avondale Estates) which proposed that the State regulate tanning bed facilities beginning January 1, 2011. Facilities operating a tanning bed will be required to pay an annual fee of \$25.00 and also be required to pay an annual fee in the amount of \$15.00 for each tanning bed device that the facility owns, leases, or operates. The Bill prohibits any individual, who is under 14 years of age, to use these tanning facilities and further requires individuals, who are under 18 years of age, to have written parental consent to use the beds or devices. There was language also inserted that prohibits certain advertising of these facilities and the devices as being "safe." Governor Perdue signed this legislation as **Act No. 491** on May 27, 2010, and it took effect on July 1, 2010.

SB 493, by Sen. Hardie Davis (D-Augusta), was signed by Governor Perdue on June 2, 2010 as **Act No. 546**. It took effect on July 1, 2010. It requires in O.C.G.A. § 31-10-15 that notwithstanding any provision in Chapter 16 of Title 45, "when the death of a nonresident burn victim occurs in a treatment facility following the transportation of such victim from an incident occurring in another state, only the attending physician shall be required to complete and sign the death certificate."

HB 307, by Rep. Jim Cole (R-Forsyth), passed but was never brought back before the House for its agreement to the Senate's changes. It proposed in O.C.G.A. § 31-8-179 the "Provider Payment Agreement Act" imposing the tax on hospitals' net patient revenue. This language, however, was included in HB 1055, which was signed into law as **Act No. 360** on May 12, 2010. Governor Perdue first proposed this language in 2009. See HB 1055.

HB 363, by Rep. Ron Stephens (R-Savannah), proposed amending O.C.G.A. § 31-11-100 to add a definition for "burn trauma physician practice" and include such practice as one of the funding priorities of the "Georgia Trauma Care Network Commission" in O.C.G.A. 31-11-102(2). This proposal remained in the House Health and Human Services Committee.

HB 377, by Rep. Alan Powell (D-Hartwell), remained in the House Health and Human Services Committee. It proposed adding new Code Sections beginning at O.C.G.A. § 31-5A-9 *et seq.* for the purposes of requiring that "all contracts between the Department of Community Health and health care management organizations, third party administrators of health care plans, or other entities and their subcontractors concerning the provision of health care services for health care programs under the authority of the department," (including Medicaid and State Health Benefit Plan contracts) be subject to Georgia's Open Records Act.

HB 774, by Rep. Pat Gardner (D-Atlanta), was another Bill relating to autism offered in 2009. The Bill, however, remained in the House Health and Human Services Committee and did not move this year. It would have created a new Code Section in O.C.G.A. § 31-2-10 to require that the Department of Human Resources develop guidelines regarding the incidence and treatment options for autism. Thus, this measure died. See SB 161 and HB 426; both of those bills also died. Additionally, HR 650, the Study Committee proposal on autism offered by Rep. Gardner, also died, remaining in the House Insurance Committee.

HB 850, by Rep. Chuck Martin (R-Alpharetta), died in the House Rules Committee. After substantive revisions in the House Health and Human Services Committee, the proposal sought to offer comprehensive regulation and licensing of assisted living communities (these would have been Medicaid providers with 25 or more beds) through amendments to law in Titles 10, 16, 25, 26, 31, 35, 37, 38, 42, 48, and 51. It would have included the requirements and process for admission of residents and it further proposed creating a new "medication technician" program. Georgia already regulates personal care homes.

HB 866, by Rep. Stephen Allison (R-Blairsville), was signed as **Act No. 429** on May 20, 2010. It took effect on July 1, 2010. An initiative pushed by the Georgia Center for Rural Health, it creates a new Chapter 34 in Title 31 for "Physicians for Rural Areas Assistance Act." It authorizes grants to hospitals and other health care entities, local governments, and civic organizations, as long as those entities provide matching funds, in physician underserved rural areas so as to help with physician recruitment in those areas of Georgia.

HB 871, by Rep. Bobby Franklin (R-Marietta), remained in the House Health and Human Services Committee. The Bill proposed the "Freedom from Compulsory Pandemic Act" in O.C.G.A. § 31-12-3 by eliminating mandatory vaccination, and it further amended Chapter 3 of Title 38 to eliminate the Governor's authority to issue mandatory vaccination orders.

HB 994, by Rep. Penny Houston (R-Nashville), passed and requires that the Department of Community Health to obtain licensure fees from all healthcare and other entities which it currently licenses in O.C.G.A. § 31-2-4. This includes, for instance, ambulatory surgery centers, hospices, personal care homes, nursing homes, and hospitals. Governor Perdue signed these fees into law on June 4, 2010 as **Act No. 650**; the fees took effect on July 1, 2010.

HB 999, by Rep. Edward Lindsey (R-Atlanta), stalled in the House Judiciary Committee. This Bill would have created "portable medical orders" in Chapter 39 of Title 31. The term "portable medical order" was to be defined as "an order given by an attending physician to withhold life-sustaining procedures from a candidate for withholding life-sustaining procedures." To be valid, these orders would have required the signatures of both the attending physician and the patient and would have to have been reviewed by the attending physician on an annual basis.

HB 1061, by Rep. Mark Butler (R-Carrollton), offered a "certificate of need" amendment which remained in the House Health and Human Services Committee. It specifically would have amended O.C.G.A. § 31-6-47(a) to exempt hospitals which have been designated as a Level I or II trauma center by the Department of Community Health from certificate of need requirements, as long as they remained designated trauma centers for ten years. They also could not oppose any other health care facility or establishment or expansion of clinical health services.

HB 1119, by Rep. Ben Harbin (R-Evans), passed. It creates the "Georgia Arthritis Prevention and Control Act" in Chapter 47 of Title 31. It mandates that the Department of Community Health "establish, promote, and maintain an 'Arthritis Prevention and Control Program' in order to raise public awareness, educate consumers, educate and train health professionals, teachers, and human services providers, and for other purposes." It does not have any money attached to it in the State's Budget. Governor Perdue signed this initiative on June 4, 2010 as **Act No. 673**; it took effect on July 1, 2010.

HB 1178, by Rep. Martin Scott (R-Rossville), proposed an advanced directive for healthcare in Chapter 9 of Title 31. It contained a proposed form for this "directive" and also included language in O.C.G.A. § 31-32-7 with a presumption that the health care agent should make the health care decision that the declarant would choose the preservation of declarant's life. This Bill remained in the House Health and Human Services Committee.

HB 1179, by Rep. Katie Dempsey (R-Rome), passed with the House agreeing to the Senate Substitute. It requires in O.C.G.A. § 31-7-8 that a hospital annually offer to its employees who have direct patient contact, at no cost, influenza vaccinations in accordance with Centers for Disease Control and Prevention recommendations. Governor Perdue made this Bill **Act No. 486** on May 27, 2010; it took effect on July 1, 2010.

HB 1272, by Rep. Toney Collins (D-Conyers), passed. However Governor Perdue vetoed this Bill on June 4, 2010 as **Veto No. 13**. It proposed creating a voluntary check-off from State income tax returns for a contribution to fund lupus, kidney disease or multiple sclerosis programs in O.C.G.A. § 31-12-15. The Senate added language so that taxpayers could voluntarily pay to the general fund *more tax* if they so chose to fund the general welfare of the State in O.C.G.A. § 48-7-64. Governor Perdue remarked in his veto message that Georgia's "check offs" already permit eight options for deserving causes and "adding more will confuse taxpayers." A separate bill, also by Rep. Collins, HB 1273, proposed a new specialty license plate to fund treatment and research on lupus with disbursements through the Lupus Foundation of America, remained in the House Motor Vehicles Committee.

HB 1420, by Rep. Karla Drenner (D-Avondale Estates), remained in the House Special Rules Committee. It offered a new Chapter 12A to Title 31, amending and repealing the "Georgia Smokefree Air Act of 2005." Some of its provisions proposed prohibition of smoking in state and local government buildings and vehicles and in bars and restaurants. It also contained language so that local governments could adopt more restrictive ordinances and policies and provide for punishment of violations of such ordinances.

HB 1436, by Rep. David Knight (R-Griffin), proposed in Chapter 7 of Title 31 to require compensated officers, directors, trustees, and board members of nonprofit hospitals to annually disclose specific financial information; require certain hospitals to provide an annual community benefit; and require those hospitals to periodically publish community benefit plans. This Bill remained in the House Health and Human Services Committee.

HB 1438, by Rep. Elly Dobbs (D-Atlanta), remained in the House Health and Human Services Committee after its introduction. It proposed the addition of a new Code Section at O.C.G.A. § 31-1-11 to require that informational videos on health topics (e.g. food and nutrition) be distributed to medical facilities (hospitals, birthing centers, or other healthcare facility where a birth occurs on a regular and ongoing basis) in an effort to educate mothers of newborns. The Department was proposed to be responsible for the production and the duplication of the videos which could be funded from outside donations.

HB 1449, by Rep. Penny Houston (R-Nashville), stalled in the House Judiciary Non-Civil Committee. It proposed in O.C.G.A. § 31-7-3.3 to require nursing homes to determine if a new resident is a registered sexual offender within 24 hours of admission to the nursing home and to further require a notice be sent to families or guardians of residents if an individual who is a registered sexual offender is admitted as a resident to a nursing home.

Transportation

SB 22, by Sen. Doug Stoner (D-Smyrna), failed after the House postponed Floor Action. This initiative was a part of the transportation bills. It proposed in Title 32 to establish the "Georgia Coordinating Committee for Rural and Human Services Transportation" to encourage efficient transportation service delivery in the rural areas of the state and to coordinate human service transportation services in both the rural and urban areas of Georgia.

SB 39, by Sen. Jeff Mullis (R-Chickamauga), failed. This Bill was a part of the transportation package. The Senate insisted on its position and the House never receded from its position. The House had amended the Bill amending the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, to change the allocation regarding the use of sales tax proceeds. The Senate had adopted a Floor amendment by Sen. Tommie Williams (R-Lyons) to create the "Transforming Transportation Investment Act" in Title 32. The Senate version abolished the State Road and Tollway Authority. It also proposed abolishment of the Georgia Regional Transportation Authority; provided that revenue bonds are not debts of the State of Georgia; and provided a tax exemption for the revenue bonds.

SB 305, by Sen. Jeff Mullis (R-Chickamauga), cleared the House and Senate and became **Act No. 440** on May 24, 2010; the changes took effect on July 1, 2010. It creates in O.C.G.A. § 32-2-41(b)(5) an "Intermodal Division" within the Department of Transportation with the Director of that Division to be appointed by the Commissioner of the Department of Transportation. It also modifies subsection (f) of O.C.G.A. § 32-2-81 which now reads:

In contracting for design-build projects, the department shall be limited to contracting for no more than 30 percent of the total amount of construction projects awarded in the previous fiscal year. After July 1, 2014, in contracting for design-build projects, the department shall be limited to contracting for no more than 15 percent of the total amount of construction projects awarded in the previous fiscal year.

SB 354, by Sen. David Shafer (R-Duluth), cleared the House and Senate and on May 24, 2010 became **Act No. 443**. It modifies road "abandonment" governance in O.C.G.A. § 32-7-2 to give counties and municipalities the authority to remove roads and streets from their road and street systems when it is determined that removal is in the public's best interest. This change took effect on signature.

SB 526, by Sen. Hardie Davis (D-Augusta), proposed to permit in Chapter 10 of Title 32 the State Road and Tollway Authority the authority to "participate in the planning, development, acquisition, construction, equipping, financing, operation, management, and leasing of projects with combined public and private sector financing and investment structures." This initiative remained in the House Rules Committee.

HB 277, originally by Rep. Vance Smith (R-Pine Mountain) and later championed by Rep. Donna Sheldon (R-Dacula), passed. This initiative, the "Transportation Investment Act of 2010," establishes in Titles 32 and 48 special tax districts for transportation funding purposes mirroring the State's twelve regional planning boundaries. The idea is to permit the districts to decide their own transportation improvements/changes which will benefit their district. Within each of the districts will be a "Regional Transportation Roundtable" that permits local governments and others to provide input on what the transportation needs are for their areas. A project list will be created with input from the local areas and with assistance from the State's Director of Transportation Planning. A statewide vote will be held so that voters in each of the transportation districts may consider their transportation project list; if the district votes favorably, then an additional sales tax will be collected in order to fund their projects. It also created in O.C.G.A. § 50-32-5 a Transit Governance Study Commission to look at eradicating transportation gridlock around the metro Atlanta area. Within this transportation reform Bill were changes to MARTA. Beginning January 1, 2011, MARTA will have a smaller board of governance and it will have more flexibility concerning expenditures of tax revenues for the next three years so that it may address the operating funding needs. Governor Perdue signed this Bill as **Act No. 554** on June 2, 2010. The Act generally took effect upon signature of the Governor.

HB 1174, by Rep. Jon Burns (R-Newington), passed, amending Chapter 6 of Title 32. It provides for the regulation and oversight of oversized and overweight loads on Georgia streets or highways. It also extends the permitted length of saddlemount and saddlemount with fullmount combinations (tractor-semitrailer and tractor-semitrailer-trailer) from 75 feet to 97 feet. It alters O.C.G.A. § 32-6-28(a)(1)(B) to permit the transporting of two modular housing units when the modular unit transporter meets the minimum specifications of the Federal Motor Carrier Safety Administration and all state safety requirements, rules, and regulations.

Governor Perdue signed this Bill into law as **Act No. 460** on May 24, 2010; the provisions took effect on July 1, 2010.

HB 1443, by Rep. Austin Scott (R-Tifton), remained in the House Transportation Committee. This Bill would have abolished in Chapter 10 of Title 32 the State Road and Tollway Authority with its duties, responsibilities, obligations, and functions transferred to the Department of Transportation.

Insurance

SB 3, by Sen. Jack Murphy (R-Cumming), did not get revived this Session. Thus, it failed. It proposed amendments in Chapter 24 of Title 33 including outlining how prior authorizations of prescription drugs would be made.

SB 50, by Sen. Ralph Hudgens (R-Hull), failed. This Bill proposed regulation of provider network rentals. Pushed by the Medical Association of Georgia, it proposed creation of a new Chapter 20C in Title 33, but the initiative remained in the House Rules Committee. It specifically defined "rental preferred provider network" as "a preferred provider network that contracts with an insurer or other payor or with another preferred provider network to grant access to the terms and conditions of its contract with medical physicians. Such contracts are often referred to as 'renting' or 'leasing' the network. The term 'rental preferred provider network' does not refer to a proprietary network of a licensed insurer or to arrangements providing for access to the proprietary network of a licensed insurer by affiliates of the licensed insurer or by entities receiving administrative services from the licensed insurer or its affiliates." The legislation proposed the licensing of rental networks by the Commissioner of Insurance and outlined the grounds that the Commissioner could revoke the rental network's registration with the Department of Insurance.

SB 62, by Sen. Ralph Hudgens (R-Hull), remained in the House Appropriations Committee. It sought to add changes in Title 33 to bring third-party administrators into compliance with Georgia's prompt pay insurance laws. See also HB 321 which was vetoed that contained the provisions of SB 62 relating to prompt pay of health insurance claims.

SB 95, by Sen. Renee Unterman (R-Buford), died. This Bill made it to the House in 2009 and remained in the House Insurance Committee. It proposed in O.C.G.A. § 33-6-4 to establish an unfair trade practice when an insurer fails to consider the suitability of insurance for a person 65 years of age or older and proposed requirements for the solicitation, negotiation, and procurement of annuity contracts. Further, it proposed a new Code Section for O.C.G.A. § 33-28-8 to govern annuity and pure endowment contracts.

SB 105, by Sen. Judson Hill (R-Marietta), died. This Bill made no movement in 2010. It proposed in O.C.G.A. § 33-51-7 to permit the Commissioner of Insurance the ability to authorize certain health reimbursement arrangement only plans, which encourage employer financial support of health insurance or health-related expenses, to be approved for sale in connection with or packaged with otherwise approved individual health insurance policies.

SB 106, by Sen. Judson Hill (R-Marietta), stalled in the Senate Finance Committee. It sought to add a new Code Section at O.C.G.A. § 48-7-190 with one requirement that Georgians, as of January 1, 2010, over the age of 18 and who have not yet attained the age of 65 and whose annual gross income exceeds 300 percent of the federal poverty level for the immediately preceding calendar year, would be required to offer proof of their ability to pay for medical care for themselves and their dependents.

SB 125, by Sen. Robert Brown (D-Macon), failed after being recommitted this year. It proposed in O.C.G.A. § 33-8-14 that all insurers would have to provide a notice on each premium statement or invoice sent to customers advising that a portion of the premiums being charged is composed of state premium taxes and county or municipal premium taxes.

SB 135, by Sen. Ralph Hudgens (R-Hull), was not brought up this year and remained in the Senate Insurance and Labor Committee. It proposed in O.C.G.A. § 33-1-19 to provide that "a religious nonprofit organization which enters into a health care cost sharing arrangement with its members shall not be considered an insurance company, health maintenance organization, or health benefit plan of any class, kind, or character and shall not be subject to any laws related to such."

SB 161, by Sen. Johnny Grant (R-Milledgeville), failed after it was made into a "task force" to study autism for two years. The Bill first proposed amending O.C.G.A. § 33-24.59.10 to require further health insurance coverage for autism spectrum disorders. The initiative remained in the House Rules Committee. This Bill had several proponents including Easter Seals, Children's Healthcare of Atlanta and others.

SB 182, by Sen. Judson Hill (R-Marietta), stalled in the Senate Rules Committee. It contained changes in Title 33 regarding the time periods and eligibility for continuation coverage under certain group accident and sickness insurance plans; additional continuation plan options; amendments to the age requirement from age 60 to 55 for continuation coverage under certain group accident and sickness insurance plans; extension of coverage of dependents under group and individual accident and sickness policies up to and including 25 years of age if such dependent is a dependent for state income tax purposes for such policyholder or group member; authorization of early conversion rights under certain circumstances; eligibility requirements for participation in the Georgia Health Insurance Assignment System and the Georgia Health Benefits Assignment System and notification requirements for this System; and etc.

SB 189, by Sen. David Shafer (R-Duluth), did not reappear in 2010. Thus, it failed. It proposed in O.C.G.A. § 33-47-4.1 that a "licensed managing general agent, when placing business with an insurer under this title, may charge a policy fee not to exceed \$25.00. The policy fee shall be a component of the insurer's rate filing and shall be fully earned."

SB 215, by former Sen. Ed Tarver (D-Augusta), did not move in 2009 or 2010, and thus, failed. It proposed a new Chapter 20C in Title 33 providing for an independent review of

certain health insurance decisions. Georgia already has laws in Chapter 20A of Title 33 known as the "Patient's Right to Independent Review."

SB 245, by Sen. Don Thomas (R-Dalton), was a holdover from 2009. However, it made no movement this year, and thus, it died. It proposed a new Code Section in O.C.G.A. § 33-24-56.5 to require that a health benefit policy, which covers cancer chemotherapy treatment, be also required to provide coverage for "a prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits."

SB 310, by former Sen. Lee Hawkins (R-Gainesville), addresses pharmacy benefits managers' licensure and regulation by the Commissioner of Insurance in Chapter 64 of Title 33. The House added language to amend O.C.G.A. § 33-50-3 *et seq.* relating to multiple employer self-insured health plans mandating their licensing to be made on forms prepared by the Commissioner of Insurance. It further requires these "MEWAs" to maintain a minimum surplus of \$200,000.00 and have the necessary capital as outlined in Chapter 56 of Title 33. MEWAs will be further required to make a security deposit with the Commissioner of Insurance in the amount of \$100,000.00; they must also have annual audits by certified public accountants and file financial statements with the Department of Insurance. The legislation also mandates maintenance of aggregate excess stop-loss coverage and individual excess stop-loss coverage. The House agreed to the House Substitute as Amended by the Senate. Thus, the Bill passed. It became **Act No. 549** on June 2, 2010 and took effect on July 1, 2010.

SB 316, by Sen. Don Thomas (R-Dalton), passed after the Senate gave agreement on the House Substitute. This Bill creates "Medigap" coverage for individuals who are under age 65 and qualify for Medicare coverage because of an end-stage renal disease or disability. It outlines in O.C.G.A. § 33-43-3(h) enrollment requirements permitting that persons may enroll in a Medicare supplement policy at any time authorized or required by the federal government, or within six months of: "(1) Enrolling in Medicare Part B, or by May 1, 2011, for an individual who is under 65 years of age and is eligible for Medicare because of disability or end-stage renal disease, whichever is later; (2) Receiving notice that such person has been retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration; or (3) Experiencing a qualifying event identified in regulations adopted pursuant to subsection (c) of this Code section." Further, it provides that insurers may charge different premium rates for such coverage but they must not be "excessive, inadequate or unfairly discriminatory" and must be based on sound actuarial principles and be reasonable in relation to the benefits provided. This Bill was signed by Governor Perdue on May 20, 2010 as **Act No. 374**; it becomes effective November 1, 2010.

SB 329, by Sen. Judson Hill (R-Marietta), remained in the Senate Insurance and Labor Committee. It would have amended O.C.G.A. § 33-30-4(4) and O.C.G.A. § 33-30-6(b)(8) to provide that an insured under a group accident and sickness policy may include dependents up to age 25. Coverage of dependents is a part of national healthcare reform law passed by the Obama Administration and it permits dependents up to age 26.

SB 330, by Sen. Preston Smith (R-Rome), died in the Senate Rules Committee. Among its provisions included a proposal in O.C.G.A. § 33-24-24(a)(3) to provide that no accident and sickness policy sold in Georgia contain a provision for annual or lifetime benefit limits. Policies presently have a maximum of *at least* \$100,000 in lifetime limits.

SB 331, by Sen. Preston Smith (R-Rome), failed; the Bill remained in the Senate Insurance and Labor Committee. The Bill proposed in O.C.G.A. § 33-30-16 to authorize small businesses to enter into arrangements for the purpose of providing group health insurance to their employees.

SB 378, by Sen. Buddy Carter (R-Savannah), remained in the Senate Insurance and Labor Committee. It proposed in O.C.G.A. § 33-24-59.13 to require that all health benefit plans in Georgia, which provide coverage for prescription drugs, that if a physician prescribed a drug product that is not on the health benefit plan provider's formulary for the patient's health benefit plan, then the pharmacist may dispense such prescribed drug product and the health benefit plan provider would have been required to cover such non-formulary drug product for up to a ten-day supply. This would have been permitted once per year in order to allow time for the pharmacist or patient to obtain prior approval from the health benefit plan provider or its pharmacy benefits manager for the prescribed drug product. The health benefit plan would not be permitted to impose any penalty against the pharmacist or the patient. Patients would not have been charged an insurance co-pay or coinsurance greater than the preferred drug amount or 25 percent of the wholesale acquisition cost of the drug, whichever would have been lower.

SB 407, by Sen. Judson Hill (R-Marietta), died in the House Rules Committee after a number of starts and stops in the process. As it left the House Insurance Committee, it proposed a new Article 3 in Chapter 29A of Title 33 so that insurers could offer individual accident and sickness insurance policies in Georgia that have been approved for issuance in other states. The original proposal had called for the Insurance Commissioner to initiate a multi-state consortium for the establishment of reciprocity agreements allowing these sales; that language was stricken by the House Insurance Committee.

SB 408, by Sen. Judson Hill (R-Marietta), remained in the Senate Insurance and Labor Committee. It proposed a new Chapter 30C in Title 33 to provide for small employer health group cooperatives (entities who could join would have been required to have 50 or fewer employees and the cooperatives would have been required to have 1,000 individuals or at least ten participating employers).

SB 411, by Sen. Ralph Hudgens (R-Hull), passed, after achieving agreement on *Sine Die*, and creates the "Healthy Georgians Act of 2010" in O.C.G.A. § 33-24-59.13. It removes the current prohibition so that wellness incentives (such as premium discounts, gift cards, debit cards, etc.) offered by health plans to their enrollees will not be considered as insurance unfair trade practices. Governor Perdue signed this Bill into law on June 2, 2010 as **Act No. 548**; the Act took effect on July 1, 2010.

SB 445, by Sen. Judson Hill (R-Marietta), remained in the Senate Insurance and Labor Committee. It proposed new Code Sections for O.C.G.A. § 33-29-3.5 (individual) and for O.C.G.A. § 33-30-4.6 (group) health insurance policies so that they would be required to include within at least one such plan offered in Georgia "a wellness incentive program under which the insurer shall provide a partial premium reimbursement for those insureds under such policy who meet the requirements of such wellness incentive program." It also clarified that the provision of these types of programs would not be considered to be engaging in unfair trade practices with respect to references to the practices of illegal inducements, unfair discrimination, and rebating. See SB 411 which was signed into law as **Act No. 548** on June 2, 2010 on this same subject and took effect on July 1, 2010.

SB 443, by Sen. Preston Smith (R-Rome), died in the House Rules Committee. This initiative proposed creating in O.C.G.A. § 33-21A-13 the "Medicaid Care Management Organization Legislative Oversight Committee" due to the numerous problems that recipients of Medicaid and providers have encountered since the inception of the "CMOs."

SB 453, by Sen. Judson Hill (R-Marietta), stalled in the Senate Rules Committee. One of its provisions added in O.C.G.A. § 33-8-4(a.1) that: "one-fourth of 1 percent of premium taxes collected pursuant to this Code section shall offset losses of the Georgia High Risk Individual Reinsurance Pool, as provided in Code Section 33-29A-10."

SB 481, by Sen. Ralph Hudgens (R-Hull), cleared the House Insurance Committee but stalled in the House Rules Committee. It would have amended several provisions in Title 33 allowing 90 days to opt for other coverage by revising the provision in accident and sickness policies for termination of coverage of surviving spouse or as a result of a break in marital relationship. It would have made similar revisions for this 90 day permission to provide for availability of accident and sickness policy upon termination of dependent coverage under certain circumstances.

SB 509, by Sen. Tim Golden (D-Valdosta), remained in the Senate Rules Committee. It would have created a new Code Section in O.C.G.A. § 33-1-19 creating a fifteen member "Special Advisory Commission on Mandated Health Insurance Benefits" which would have become effective on February 1, 2011. Its purpose would have been to advise the Governor and the General Assembly on the social and financial impact of current and proposed mandated insurance benefits and how those mandates would have impacted providers.

SB 534, by Sen. David Shafer (R-Duluth), remained in the Senate Insurance and Labor Committee. It would have created the "Health Insurance Competition and Rate Relief Act of 2010" in a new Article 2 in Chapter 29 of Title 33. The Commissioner of Insurance could make a determination on whether the insurance market was operating in a competitive manner; if such a determination was made that it was not functioning competitively, then health insurers would be subject to rate filings.

SB 553, by Sen. Ralph Hudgens (R-Hull), was introduced late in the Session. It proposed a new Chapter 64 in Title 33 to create the "Georgia Wind and Hail Underwriting Association" in an effort to help mitigate catastrophic damages caused by events such as hurricanes and floods. The Bill remained in the Senate Insurance and Labor Committee.

HB 12, by Rep. Kevin Levitas (D-Atlanta), was introduced in 2009. It proposed amending O.C.G.A. § 33-6-4(b)(14.1) to broaden the prohibition of unscrupulous practices regarding the marketing and sale of insurance. No movement was made on the Bill; thus, it died.

HB 305, by Rep. Tom Knox (R-Cumming), died in 2009 after both the House and Senate insisted on their positions; no Conference Committee action was taken and the Bill was not brought up again in 2010. It proposed amendments in Chapter 27 of Title 33 to allow the issuance of a group life insurance policy to certain groups as approved by the Commissioner of Insurance and to remove the 75 percent of eligible employees or members participation requirement before the extension of group life policy coverage to dependents of employees or members. Similar changes on the participation requirements were offered in HB 411 by Rep. Knox which also died in 2009 and was not resurrected in 2010.

HB 321, by Rep. Steve Davis (R-McDonough), passed with the adoption of a Conference Committee Report by both bodies; Governor Perdue vetoed this Bill on June 4, 2010 as **Veto No. 4**. It proposed to create the "Insurance Delivery Enhancement Act" so that associations no longer will be required to have 25 members to participate in group health insurance offerings; rather, associations will be required to have ten members to do so. The Conference Committee Report incorporated SB 62 language by Sen. Ralph Hudgens (R-Hull) amending Georgia's prompt pay laws in Title 33 (SB 62 remained in the House Insurance Committee). It proposed to require insurers to be 95 percent compliant with the requirement to pay insurance claims within 15 days for electronically submitted claims and 30 days for paper claims. Claims either denied or otherwise not paid in those time frames will be required to pay interest of 12 percent per annum (rather than the current rate of 18 percent). Insurers who failed to follow these timing and payment requirements would be subject to penalties. Additionally, the proposal would have brought third-party administrators under Georgia's prompt pay statutes. (Rep. Carl Rogers (R-Gainesville) measure, HB 342, on bringing plan administrators into Georgia's prompt pay law, was not brought up this year.) In his veto message, Governor Perdue noted he would have liked to have signed this Bill. The Medical Association of Georgia "insisted (over the objections of many) on including language that likely violates the Employee Retirement Income Security Act ("ERISA"), a federal law that preempts portions of HB 321 as written." Further, Governor Perdue noted that the Supremacy Clause in the United States Constitution precludes State law from violating a federal law; this Bill would have been in opposition to ERISA.

HB 342, by Rep. Carl Rogers (R-Gainesville), cleared the House Insurance Committee in 2009 but never reappeared in 2010. Thus, it failed. It would have brought third-party plan administrators under Georgia's insurance prompt pay requirements in Title 33. See also SB 62 and HB 321 which also failed.

HB 403, by Rep. Bill Hembree (R-Winston), remained in the House Insurance Committee. It would have created a new Code Section at O.C.G.A. § 33-24-27.3 to require disclosures be made regarding the provision of certain anatomic pathology services (histopathology or surgical pathology) and to prohibit physicians from charging a markup, commission, or profit on the actual amount paid or to be paid for an anatomic pathology service that was performed or supervised by another physician.

HB 411, by Rep. Tom Knox (R-Cumming), stalled in the House Insurance Committee last year and did not resurface in 2010. It proposed amendments in Title 33 to remove a participation requirement before the extension of group life policy coverage to dependents of employees or members and to provide that cash surrender values of annuities would be exempt from claims of creditors.

HB 412, by Rep. Tom Knox (R-Cumming), came to rest in the Senate Rules Committee this Session. Thus, it died. It proposed a new Chapter 20C in Title 33. It specifically proposed in O.C.G.A. § 33-20C-3 that "any person who commences business as a contracting entity shall register with the Commissioner within 90 days of commencing business in this state unless such person is licensed by the Commissioner as an insurer. Effective July 1, 2010, each person not licensed by the Commissioner as a contracting entity shall be required to register with the Commissioner within 90 days following July 1, 2010." There were several exceptions proposed including that such would not apply to provider network contracts involving Georgia's Medicaid, State Health Benefit Plan, and PeachCare for Kids program. The proposal was Rep. Knox's version of the legislation offered by Sen. Ralph Hudgens's SB 50 on "provider network rentals."

HB 417, by Rep. Jay Neal (R-LaFayette), passed. It requires the English language version of a policy control if materials in other languages are provided to insureds and a dispute arises. This language was proposed to be added in O.C.G.A. § 33-1-19. However, this Bill was vetoed as **Veto No. 5** by Governor Perdue on June 4, 2010, noting that while it was an attempt to clarify which version of a contract controlled, he felt that "the consequences of such a change in policy could be quite detrimental."

HB 426, by Rep. Katie Dempsey (R-Rome), failed. It proposed to require insurance companies to cover ABA therapies for children with autism in O.C.G.A. § 33-24-59.1. The Bill remained in the House Insurance Committee. Another version of this legislation, HB 774 by Rep. Pat Gardner (D-Atlanta), also remained in the House Insurance Committee. See SB 161 above.

HB 450, by Rep. Doug McKillip (D-Athens), failed to move in 2010. It would have amended O.C.G.A. § 33-4-6(a) to change provisions relating to an insurer's liability for a bad faith refusal to pay for a loss covered by insurance and permit the trier of fact to award punitive damages.

HB 489, by Rep. Pedro Marin (D-Duluth), remained in the House Insurance Committee. It would have created a new Code Section at O.C.G.A. § 33-24-59.13 to require health benefit policy coverage for the diagnosis and treatment of infertility.

HB 843, by Rep. Mike Jacobs (R-Atlanta), stalled in the House Insurance Committee and was not addressed in 2010. It offered a series of changes in Title 33 revising the requirements for continuing care providers and facilities and for their oversight by the Commissioner of Insurance.

HB 1184, by Rep. Matt Ramsey (R-Peachtree City), died in the Senate Rules Committee. This Bill was Governor Perdue's idea to permit cross-state selling of health insurance policies (policies which had been approved in other states) in O.C.G.A. § 33-29A-30 *et seq.*

HB 1268, by Rep. Tom Knox (R-Cumming), reached agreement by both the House and Senate and amends O.C.G.A. § 33-24-21.1 regarding continuation of COBRA benefits as long as federal subsidies are available to pay. The Senate had added language requiring that on each policy insurers be required to disclose the amount of State premium tax paid; that language was stripped out of the Bill. This Bill became **Act No. 362** on May 20, 2010, taking effect on that date.

HB 1263, by Rep. Dee Dawkins-Haigler (D-Lithonia), made no movement from the House Insurance Committee. Thus, the Bill failed. It intended to add a new Code Section in O.C.G.A. § 33-24-56.5 to require that every health benefit policy which includes coverage or benefits for the treatment of "cancer provide payment or reimbursement for all chemotherapy that is considered medically necessary, including oral chemotherapy, at the same copayment percentage or relative coinsurance amount as is applied to intravenously administered chemotherapy."

HB 1329, by Rep. Amy Carter (D-Valdosta), sought to add a new Code Section in O.C.G.A. § 33-24-39.1 and to require that an insurer "furnish written notice to any person claiming to have a personal injury loss under an insurance contract issued by the insurer that actions for injuries to the person must be brought within two years after the right of action accrues." The initiative remained in the House Judiciary Committee.

HB 1364, by Rep. Carl Rogers (R-Gainesville), was signed into law by Governor Perdue on June 4, 2010 as **Act No. 666** and it took effect on that date. This initiative, to address the insolvency issues of the "SEUS" insurance company, amends the Title 33 provisions relating to Georgia Insurers Insolvency Pool so that the Pool will be liable to claimants and electing insureds in emergency circumstances. In O.C.G.A. § 33-36-20, an "electing insured" is defined as "any insured under a workers' compensation insurance policy that is impacted by an emergency circumstance. Such term shall include but not be limited to governmental insureds and other insureds under a workers' compensation insurance policy impacted by an emergency circumstance whose net worth exceeds \$25 million as of December 31 of the year preceding the filing of a claim." "Emergency circumstance" is defined as "a circumstance in which an association or industrial insured captive insurance company, including such a captive company

that subsequently was authorized to transact business pursuant to Chapter 3 of this title, that is issuing, or which has issued, workers' compensation insurance contracts and has been declared insolvent." An electing insured, whose net worth is less than \$25 million as of December 31 of the year preceding the filing of a claim, may be shielded from liability by the Pool and have any workers' compensation claims filed against such electing insured covered by the Pool, if the electing insured pays \$10,000.00 per claim to the Pool prior to October 1, 2010. Any electing insured whose net worth exceeds \$25 million as of December 31 of the year preceding the filing of a claim may be shielded from liability by the Pool and have any workers' compensation claims filed against such electing insured covered by the Pool, if the electing insured pays \$50,000.00 per claim to the Pool prior to October 1, 2010. "Claims of all emergency claimants shall be covered by the insolvency pool."

HB 1424, by Rep. Mike Coan (R-Lawrenceville), offered changes to O.C.G.A. § 33-9-42 so that a nonprofit providing "driver improvement programs" could conduct such programs over the Internet and that such would still "qualify as the driving courses that must be completed in order to be eligible for a reduction in premiums for certain private passenger motor vehicle insurance." This Bill remained in the House Insurance Committee.

Labor and Industrial Relations

SB 446, by Sen. Don Balfour (R-Snellville), was read and assigned to the Senate Insurance and Labor Committee where it made no further progress. Thus, it died. The Bill would have amended the laws governing the Subsequent Injury Trust Fund in O.C.G.A. § 34-9-358 and O.C.G.A. § 34-9-359 to ensure that assessments to fund this Fund's total workers' compensation claims would not include claims related to losses arising from events assigned a Catastrophe Code by the National Council on Compensation Insurance which cannot give rise to a Subsequent Injury Trust Fund liability.

HB 864, by Rep. Bob Smith (R-Watkinsville), failed, remaining in the House Industrial Relations Committee. Pushed by the Georgia Academy of Audiology, this initiative sought to amend current law regarding the thresholds considered for hearing losses compensable under workers' compensation benefits in O.C.G.A. § 34-9-264.

Law Enforcement

SB 373, by Sen. Johnny Grant (R-Milledgeville), passed and proposed changes to O.C.G.A. § 35-8-8 and the requirements for appointment or certification of persons as peace officers and pre-employment attendance at a basic training course. However, it ended in failure. One of its provisions would have required a private employer to turn over "employment related information" regarding the applicant to law enforcement agencies or other public agency. This would circumvent any judicial process. Governor Perdue noted that the language would "immunize private businesses for liability only when they provide complete and accurate information." That "complete and accurate" information will "likely be a primary ground of litigation, this is an exception that will swallow the rule." Thus, he vetoed the Bill as **Veto No. 18** on June 8, 2010.

SB 397, by Sen. Jeff Mullis (R-Chickamauga), was signed on May 27, 2010 as **Act No. 473**. The changes included took effect on July 1, 2010. It creates a new Code Section at O.C.G.A. § 35-3-191 to create a "statewide" alert system which will be known as the "Blue Alert" which will be overseen by the Georgia Bureau of Investigation and activated "when a suspect for a crime involving the death or serious injury of a peace officer has not been apprehended and law enforcement personnel have determined that the suspect may be a serious threat to the public and also when a peace officer becomes missing while in the line of duty under circumstances."

Local Governments

SB 432, by former Sen. Lee Hawkins (R-Gainesville), was signed by Governor Perdue as **Act No. 430** on May 24, 2010 and it took effect on that date. It created the "Advanced Broadband Collocation Act" in Chapter 66B of Title 36 to provide procedures for reviewing applications for the modification or collocation of wireless communication facilities.

HB 30, by Rep. Mike Jacobs (R-Atlanta), remained in the House Judiciary Committee. Last year, this Bill proposed creation of the "Georgia Townships Act" in O.C.G.A. § 36-94-1 *et seq.*

HB 122, by Rep. Edward Lindsey (R-Atlanta), passed. It provides in O.C.G.A. § 36-80-21 that local governments with budgets in excess of \$1 million must provide their budget documents in a "PDF" format to the Carl Vinson Institute of Government of the University of Georgia so that the public may access the information. This was signed into law on May 27, 2010 as **Act No. 472** and took effect on July 1, 2010.

HB 560, by Rep. Margaret Kaiser (D-Atlanta), made no movement in 2010. It would have amended O.C.G.A. § 36-91-20 adding a new subsection (g) requiring that "entities submitting a bid for certain contracts shall disclose whether they will maintain health insurance for their employees during the project for which the bid was submitted." The Bill died. Rep. Penny Houston's Bill on this issue, HB 223, remained in House Governmental Affairs Committee.

HB 858, by Rep. Rich Golick (R-Smyrna), passed and Governor Perdue signed this initiative as **Act No. 495** on May 27, 2010. Section I of the Bill amends O.C.G.A. § 36-15-7 relating to county law libraries and their operation to authorize the use of law library funds to provide libraries and purchases for certain judges and courts. Section II of the Bill amends O.C.G.A. § 36-15-11 revises "the population classification of such provision so as to permit that provision to hereafter remain applicable to those political subdivisions to which that law was applicable immediately prior to the time the most recent census figures became applicable." Section I took effect upon signature; Section II of the Bill takes effect on July 1, 2012.

HB 1109, by Rep. Ron Stephens (R-Savannah), stalled in the House Rules Committee. It proposed in O.C.G.A. § 36-9-3 to authorize counties and municipal corporations the ability to grant conservation easements. This language was included in SB 390, by Sen. Buddy Carter

(R-Savannah), which was passed and became **Act No. 663** on June 4, 2010. These provisions took effect upon signature.

HB 1236, by Rep. Wendell Willard (R-Atlanta), passed. It proposed to require in O.C.G.A. § 36-32-1.1 that all Georgia municipal court judges be licensed to practice law in the State of Georgia and be a member in good standing of the State Bar of Georgia. It did "grandfather" existing municipal judges that were serving as of June 30, 2010, permitting them to continue to serve for as long as the judge continuously holds that judgeship. Governor Perdue vetoed the Bill because he believes "cities should be able to decide what qualifications their municipal judges should have." Thus, this Bill was **Veto No. 11** on June 4, 2010.

Mental Health

SB 244, by Sen. Renee Unterman (R-Buford), passed when it was ruled as a vehicle for this year's legislation. Agreement, through the adoption of a Conference Committee Report, passed both bodies. Governor Perdue signed this Bill as **Act No. 418** on May 20, 2010; it took effect on July 1, 2010. The Bill originally proposed amendments to "Georgia Registered Professional Nurse Practice Act" in O.C.G.A. § 43-26-3 incorporating Governor Perdue's language so that designated caregivers of individuals who provided "health maintenance activities" were not in violation of the current law. A similar House version of this Bill, HB 1040 and carried by Rep. Jimmy Pruet (R-Eastman), also passed both the House and Senate (on April 21, 2010) with the House agreeing to the Senate's language. In the Conference Committee Report, the nurse amendment language was stripped and language was added into Title 37 for the clean-up provisions that the Governor had requested after reorganizing in 2009 the Department of Human Resources into three departments: Behavioral Health and Developmental Disabilities, Community Health, and Human Services. (A House version of this "clean-up" was offered by Rep. Mark Butler (R-Carrollton) in HB 1324, but it stalled in the Senate Rules Committee.) Things changed include: more members are added to the Behavioral Health Coordinating Council; amendments to addressing instances of the disposition of a deprived child; and placement of a child by the Department following a court's permanency plan for the child.

SB 375, by Sen. Renee Unterman (R-Buford), proposed various clean-up revisions in Title 37 to the newly created Department of Behavioral Health and Developmental Disabilities. This Bill remained in the House Health and Human Services Committee. Its language was included in SB 244 as noted above which did pass.

SB 425, by Sen. Don Balfour (R-Snellville), failed. It remained in the Senate Rules Committee. The Bill redefined the term "health services" in O.C.G.A. § 37-2-2 and proposed permitting the community service boards to provide "health services" in O.C.G.A. § 37-2-6.6.

HB 339, by Rep. Pat Gardner (D-Atlanta), made no movement in 2010 after clearing the House Judiciary Committee in 2009. It proposed the "Psychiatric Advance Directive Act" by creating a new Chapter 11 in Title 37. This Bill offered a competent adult the ability "to control either directly through instructions written in advance or indirectly through appointing

an agent to make mental health care decisions on behalf of such person according to a written psychiatric advance directive." Thus, the Bill died.

HB 742, by Rep. Mary Margaret Oliver (D-Decatur), failed, remaining in the House Rules Committee. This initiative contained amendments to Titles 29 and 31 in an effort to allow for the expedited judicial intervention for the appointment of a temporary medical consent guardian in Title 29 and for the permission to allow additional persons and entities that could be authorized to consent to surgical or medical treatment on behalf of an incapacitated person in Title 31. In the waning moments of the Session, these issues were tacked onto SB 367. See SB 367 which was passed and signed into law.

HB 1324, by Rep. Mark Butler (R-Carrollton), remained in the Senate Rules Committee. This Bill offered clean-up revisions to Title 37 concerning the creation of the Department of Behavioral Health and Developmental Disabilities. In the end, these revisions were included in SB 244 which was passed.

Emergency Management

SB 315, by Sen. Preston Smith (R-Rome), died in the House Rules Committee. This legislation proposed in O.C.G.A. § 38-3-160 *et seq.* the "Uniform Emergency Volunteer Health Practitioners Act." It proposed a registry system for health and veterinary professionals who could sign with the registry in order to provide services in times of a declared emergency or disaster. It would have also permitted health professionals, licensed in other states, to provide services.

Motor Vehicles

SB 360, by Sen. Jack Murphy (R-Cumming), passed and was signed by Governor Perdue as **Act No. 677** on June 4, 2010. Its provisions took effect on July 1, 2010 and prohibits individuals who are 18 years of age or older from texting while driving in Georgia in O.C.G.A. § 40-6-241.1.

SB 458, by Sen. Don Thomas (R-Dalton), passed. Sen. Thomas has long championed the requirement that all individuals should be required to wear seat belts in all motor vehicles. This Bill requires safety belts to be used in all passenger vehicles, including pick-up trucks and sport utility vehicles, in O.C.G.A. § 40-8-76.1(a). There is an agricultural exception for vehicles which are used in farming operations. Governor Perdue signed this legislation as **Act No. 609** on June 3, 2010; it took effect upon signature.

HB 23, by Rep. Matt Ramsey (R-Peachtree City), was signed into law by Governor Perdue on June 4, 2010 as **Act No. 676**. It took effect on July 1, 2010. It adds in O.C.G.A. § 40-6-241.1 that with the exception of driver emergency situations, "no person who has an instruction permit or a Class D license and is under 18 years of age shall operate a motor vehicle on any public road or highway of this state while engaging in a wireless communication

using a wireless telecommunications device." It also contains the prohibition on "texting" in motor vehicles while driving as contained in SB 360.

HB 317, by Rep. Billy Horne (R-Newnan), offered this initiative which remained in the House Motor Vehicles Committee. It proposed in O.C.G.A. § 40-6-315(a) to exempt motorcyclists and their passengers from wearing protective headgear (helmets) if the driver and any passenger of the motorcycle had \$10,000 or more insurance coverage for any injuries that the motorcyclist might obtain in an accident while operating a motorcycle. Other requirements would have included that the motorcycle driver would have to be 21 years of age or older and have been required to complete a motorcycle education course or held a license for two years; and any passenger would also have been required to be at least 21 years of age to go without his or her helmet.

HB 396, by former Rep. Tom Graves (R-Ranger), passed. It was signed into law on June 3, 2010 as **Act No. 633**. It includes a series of Title 40 changes which were implemented on July 1, 2010. Some of those include:

- Addition of a new subsection (d) to O.C.G.A. § 40-5-52, relating to the suspension of a driver's license or operating privilege for conduct occurring in another state, which states that the Department will "review the suspension at least once every five years and shall reinstate the license if the department determines that the suspension is no longer warranted and the person would otherwise be eligible for a license."
- Modifies the department's use of the SAVE program in O.C.G.A. § 40-5-21.2.
- Fees paid to counties for reporting information contained on the uniform citation form shall be subject to appropriations in O.C.G.A. § 40-5-53(b).

HB 454, by Rep. Kevin Levitas (D-Atlanta), was not revived this Session as a vehicle, remaining in the House Judiciary Non-Civil Committee. It offered changes in O.C.G.A. § 40-5-83 increasing the assessment fees for approved DUI Alcohol or Drug Use Reduction Programs. Its language was incorporated into SB 196, which became **Act No. 22** on April 21, 2009.

HB 898, by Rep. Doug Collins (R-Gainesville), was signed as **Act No. 454** on May 24, 2010. It amends O.C.G.A. § 40-6-391(j)(1) deleting some of the contents of the publication of the notice of conviction for persons convicted for the second or subsequent time of driving under the influence of alcohol, drugs or other intoxicating substances. It will no longer require the address of the individual to be disclosed; rather, it will include the person's city, county and zip code of their residence. This change took effect on July 1, 2010.

HB 990, by Rep. Alan Powell (D-Hartwell), proposed changes in Title 40 concerning how "fleet" vehicles must be registered and licensed in the State. However, the Bill did not begin with that language as it initiated to bring Georgia's law into compliance to ensure that the financial responsibility of motor carriers in the State is compatible with federal motor carrier safety regulations. With the language added by the House Committee on Motor Vehicles, it would have made the Department of Revenue incur approximately one million dollars to

implement and no funds had been appropriated for that purpose in the Budget. Thus, Governor Perdue **vetoed** this Bill on June 4, 2010 as **Veto No. 7**.

HB 1338, by Rep. Joe Wilkinson (R-Atlanta), became **Act No. 482** on May 27, 2010. It amends O.C.G.A. § 40-6-228 removing the requirement that a person appointed to enforce parking laws relating to persons with disabilities have a disability. It further provides immunity for a person appointed to enforce such laws. The changes took effect on July 1, 2010.

Penal Institutions

HB 350, by Rep. Chuck Martin (R-Alpharetta), passed the House and then stalled in the Senate Appropriations Committee. It sought to amend O.C.G.A. § 42-5-2 so that a Georgia licensed hospital or other health care facility providing "emergent health care services" to a State inmate, and which is not a party to a contract with the Department, could "(1) charge an amount not to exceed the applicable Georgia Medicaid rate for such services; (2) treat the emergent condition wholly and completely such that any reasonably apparent injuries associated with the condition are also treated; and (3) not discharge a State inmate."

HB 1265, by Rep. Jimmy Pruet (R-Eastman), stalled in the House Rules Committee, and thus, died. The Bill would have made changes to Chapter 4 of Title 42 clarifying the types of individual insurance coverage which may reimburse jails for medical expenses where a jail detainee has insurance coverage and authorizing local governing authorities to establish rules and regulations providing that non-indigent detainees in jails would be required to pay a portion of the costs of their incarceration. The definition of "medical care" was also proposed to be expanded in O.C.G.A. 42-4-50(4).

Professions

SB 45, by Sen. Seth Harp (R-Midland), made no progress in 2010. It offered amendments to Chapter 26 of Title 43 revising requirements for nursing education programs required for licensure as an advanced practice registered nurse, registered professional nurse, or licensed practical nurse. The Bill remained in the House Health and Human Services Committee.

SB 148, by Sen. David Shafer (R-Duluth), passed. Governor Perdue **vetoed** this initiative as **Veto No. 21** on June 8, 2010. It proposed amending Chapter 1A of Title 43, "Georgia Occupational Regulation Review Law" authorizing the periodic review of existing regulatory entities to ensure that the authority of those regulatory entities is applicable and necessary with relation to the current professional and business conditions of Georgia. It also added language from HB 236, by Rep. Charlice Byrd (R-Woodstock), for the "Georgia Government Accountability Act" in Chapter 4 of Title 50, which proposed to review the efficiency and productivity of each agency in the State to be overseen by the Legislative Sunset Committee composed of House and Senate Appropriations Committee members. In the veto message, Governor Perdue originally supported the effort; however, it too became apparent that it was a conflict between powers of the General Assembly and the executive branch of government.

The General Assembly already has the power to eliminate a State agency and the ability to reduce an agency's budget to "zero." He said that the Bill was "unnecessary and unworkable, and fraught with potential for unintended consequences." Governor Perdue did commit to work with the Bill's supporters to "formalize Executive Branch policies that are consistent with the goals of this legislation."

SB 149, by Sen. David Shafer (R-Duluth), passed. It amends current law relating to Chapter 1A of Title 43, the "Georgia Occupational Regulation Review Law" for the authorization of periodic reviews of existing regulatory entities to "ensure that the authority of such regulatory entities is applicable and necessary with relation to the current professional and business conditions of this state." It also adds that the Council created to make this review's recommendations will be nonbinding. The legislation further amends Chapter 4A of Title 43, the "Uniform Athlete Agents Act" and eliminates the "Georgia Athlete Agent Regulatory Commission" in O.C.G.A. § 43-4A-3 and places the regulation of the Uniform Athlete Agents under the purview of the Secretary of State. Governor Perdue signed this Bill into law as **Act No. 437** on May 24, 2010. These changes took effect on July 1, 2010.

SB 162, by Sen. Johnny Grant (R-Milledgeville), passed. It strips out of the Code O.C.G.A. § 43-16-4 the surety bonds requirements to be made by firearms dealers. In O.C.G.A., it now requires that "armed employees" must now register within 180 days of completing their board-mandated pre-licensure training by making an application to be licensed to the Georgia Board of Private Detective and Security Agencies. Guards, watchguards, or patrolmen who are "unarmed" will not be required to be licensed (those individuals will still be governed by O.C.G.A. 43-38-7.1). Previously, these persons were required to be "registered" within 30 days of their hiring. Further, this Bill now states that no licensure is required for any guard, watchman, or patrolman who will be unarmed and who will be employed in the private security business. Governor Perdue approved this legislation as **Act No. 438** on May 24, 2010. The provisions took effect upon signature.

SB 195, by Sen. Ronnie Chance (R-Tyrone), passed after both bodies adopted a Conference Committee Report. Governor Perdue signed this Bill into law on May 20, 2010 as **Act No. 417**; its provisions took effect on that date. Pushed by the Secretary of State, the underlying Bill is an "update" to the regulation of the various professions in Title 43. It also amends Title 26 provisions relating to the definition of "electronic data prescription drug order" which includes any digitalized prescription drug order transmitted to a pharmacy that is converted into a visual image of a prescription drug order during the transmission process, is received by the pharmacy through a facsimile, and includes the practitioner's electronic signature. It further amends O.C.G.A. § 26-4-81(g) regarding substitution of generics for brand drugs clarifying instances where the prescription is an electronic prescription drug order. In those cases, the words 'brand necessary' "are not required to be in the practitioner's own handwriting and may be included on the prescription in any manner or by any method." If the practitioner designates 'brand necessary' on an electronic prescription drug order, then a generic drug is not permitted to be substituted without the practitioner's express consent, which is required to be documented by the pharmacist on the prescription and by the practitioner in the patient's medical record.

SB 364, by Sen. Cecil Staton (R-Macon), passed. It became **Act No. 444** on May 24, 2010. The Bill modifies Chapter 24A of Title 43 concerning the governance of "massage therapy." It expands the violations of the laws concerning massage therapy (including that not only a person but also an "entity" providing massage therapy which advertises such services is required to be licensed by the State when making the advertisement). It also amends the Board of Massage Therapy's duties concerning disciplinary actions. It clarifies in O.C.G.A. § 43-24A-22 that any place of business where massage therapy for compensation is performed will also be subject to regulation by local governing authorities. Penalties regarding violations are also strengthened in O.C.G.A. § 43-24A-24. These changes took effect on July 1, 2010 and will apply to any violations on or after that date.

SB 430, by Sen. Renee Unterman (R-Buford), proposed creation of the multi-state "Nurse Licensure Compact" in Chapter 26 of Title 43. One of its provisions included multi-state licensure for nurses to practice telephonic nursing as a registered nurse with the qualifications, sanctions, practices, and procedures relating thereto outlined. This Bill remained in the Senate Health and Human Services Committee. Sen. Seth Harp's Bill concerning nursing licensure, SB 45, was not brought back this Session, remaining in the House Health and Human Services Committee. SB 45 required nurses to have completed an approved nursing education program to be eligible for licensure.

SB 535, by Sen. Donzella James (D-Atlanta), failed, remaining in the Senate Regulated Industries and Public Utilities Committee. It proposed a new Chapter 52 in Title 43 to regulate "secondhand dealers" of goods (those who buy precious metals such as gold, silver, and platinum or jewelry).

HB 526, by Rep. Bill Hembree (R-Winston), offered this initiative in 2009 which made no movement this Session. Thus, it died. It would have required in Chapter 26 of Title 43 Georgia's Board of Nursing to provide periodic reports to the General Assembly regarding the state of higher education for nursing along with recommendations for the expansion and improvement of nursing education opportunities.

HB 610, by Rep. Sharon Cooper (R-Marietta), proposed changes in Chapter 26 of Title 43 to address educational requirements for nursing education programs. This Bill remained in the House Health and Human Services Committee.

HB 863, by Rep. Katie Dempsey (R-Rome), passed. Governor Perdue signed this Bill into law on May 27, 2010 as **Act No. 497**. It took effect on July 1, 2010. This initiative amends Georgia's laws on "charitable solicitations" found in Chapter 17 of Title 43. Among the changes include:

- Amends O.C.G.A. § 43-17-2 adding a definition for "collection receptacle" which will mean "an unattended container for the purpose of collecting donations of clothing, books, personal or household items, or other goods. Such term shall not include containers used for the purpose of collecting monetary donations."

- Clarifies O.C.G.A. § 43-17-2 as to the definition of what a "paid solicitor" means and what it does not include.
- Amends O.C.G.A. § 43-17-3 concerning registration of paid solicitor and their reporting requirements (relating to non-monetary contributions).
- Amends O.C.G.A. § 43-17-8 relating to the registration of paid solicitors and required disclosures.
- Adds a new Code Section at O.C.G.A. § 43-17-8.1 regarding collections of contributions by a nonprofit 501(c)(3) entity or religious charitable organization through use of a collection receptacle and the duties placed on those organizations to provide information on the collection receptacles regarding the organization making the collections.

HB 1040, by Rep. Jimmy Pruett (R-Eastman) and a Floor Leader for Governor Perdue, offered this Bill which was the Governor's language to address moving persons from State institutions and into their communities. HB 1040 passed. Its original intent was to permit the performance of health maintenance activities by persons who are not licensed professionals; the version passed was a negotiated compromise among various parties. It amends O.C.G.A. § 43-26-12(a) adding the performance of health maintenance activities by a proxy caregiver pursuant to a written plan of care for a disabled individual is permitted under certain conditions. It further adds protection from liability to the attending physician, advanced practice registered nurse, or physician assistant whose orders or written plan of care provide for the provision of health maintenance activities (unless the proxy caregiver is a physician, registered nurse or physician assistant). It became **Act No. 675** on June 4, 2010 and took effect on July 1, 2010.

HB 1154, by Rep. Sean Jerguson (R-Woodstock), was signed into law by Governor Perdue on May 27, 2010 as **Act No. 487**. It amends O.C.G.A. § 43-34-26.1 outlining a new definition for "influenza vaccine" which is both an inactivated virus administered by injection or a live attenuated virus administered by nasal spray but the live virus may not be given to an individual who is younger than 13 years of age or older than 49 years of age. Any live attenuated virus will not be administered unless the patient or his or her parent, if a minor, has signed an informed consent that he or she does not have a contraindication to this vaccine. The informed consent form shall be required to list the contraindications to the vaccine. This Act took effect on July 1, 2010.

HB 1250, by Rep. Kevin Levitas (D-Atlanta), remained in the House Health and Human Services Committee. Among the changes proposed for O.C.G.A. § 43-34-25 included the addition of new subsections which would have authorized an advanced practice registered nurse "to sign, certify, and endorse all documents relating to health care provided to a patient within their scope of authorized practice, including, but not limited to: documents relating to a patient's workers' compensation, including workers' compensation verification documents; physical examination forms; death certificates; and verification and evaluation forms of the Georgia Department of Human Services, the Georgia Board of Education, local boards of education, and the Georgia Department of Community Health." It would have further required health insurance carriers to record the name of any advanced practice registered nurse

providing health care for a patient in the same manner that it would record the name of treating physicians who are providing patient care.

HB 1342, by Rep. Kevin Levitas (D-Atlanta), remained in the House Health and Human Services Committee. It proposed changes in O.C.G.A. § 43-34-25 and O.C.G.A. § 43-34-103 essentially mirroring his earlier bill, HB 1250, which also remained in the House Health and Human Services Committee. Among the changes proposed for O.C.G.A. § 43-34-25 included the addition of new subsections which would have authorized an advanced practice registered nurse "to sign, certify, and endorse all documents relating to health care provided to a patient within their scope of authorized practice, including, but not limited to: documents relating to a patient's workers' compensation, including workers' compensation verification documents; physical examination forms; death certificates; and verification and evaluation forms of the Georgia Department of Human Services, the Georgia Board of Education, local boards of education, and the Georgia Department of Community Health." It would have also required health insurance carriers to record the name of any advanced practice registered nurse providing health care for a patient in the same manner that it would record the name of treating physicians who are providing patient care. Similar permissions were proposed to be added for physician's assistants in O.C.G.A. § 43-34-103.

HB 1371, by Rep. Rusty Kidd (I-Milledgeville), remained in the House Health and Human Services Committee. It sought to provide that podiatry medicine includes the diagnosis and treatment of certain cosmetic conditions regarding the human foot and leg in O.C.G.A. 43-35-3(5)(A).

HB 1475, by Rep. Tom McCall (R-Elberton), remained in the House Health and Human Services Committee after its introduction. It sought to amend O.C.G.A. § 43-33-18 modifying the authority of the board governing the practice of physical therapy and how it could discipline a physical therapist.

Property

SB 495, by Sen. Hardie Davis (D-Augusta), made no headway after being assigned to the Senate Special Judiciary Committee. Thus, it failed. The Bill offered changes to Chapter 13 of Title 44 changing the non-bankruptcy exemptions from levy and sale and allowances relating to the exemption from bankruptcy for residences and burial plots and amounts of certain property exemptions. This initiative mirrored former Sen. Ed Tarver's (D-Augusta) Bill on these issues, SB 249, which remained in the Senate Rules Committee.

HB 508, by Rep. Billy Mitchell (D-Stone Mountain), was not addressed this year. Thus, it failed. It would have created the "Stop Mortgage Foreclosure Rescue Fraud Act of 2009" in O.C.G.A. § 44-14-310 *et seq.*, providing for homeowner relief from various unfair practices related to foreclosure and foreclosure rescue schemes. While it defined the term "foreclosure-rescue consultant," it would not have included "a charitable, nonprofit agency or organization, as determined by the United States Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, which offers counseling or advice to an owner of residential real

property in foreclosure or loan default if the agency or organization does not contract for foreclosure-related rescue services with a for profit lender or person facilitating or engaging in foreclosure-rescue transactions." A similar Bill by Sen. Steve Thompson (D-Marietta), SB 54, did not move in 2010 and failed. SB 54 also proposed to prohibit abusive home loan practices.

Public Officers and Employees

SB 1, by Sen. David Shafer (R-Duluth), passed. Governor Perdue vetoed this initiative on June 8, 2010 as **Veto No. 20**. It proposed to require in O.C.G.A. § 45-12-75.1 that State budget units make use of zero-base budgeting and that the Governor's report include no more than one-third or less than one-fourth of all programs in a zero-base budgeting proposal. The new method requires an overview of objectives for the departments and program objectives. Governor Perdue vetoed this measure because its language was "inconsistent with the separation of powers required by the Georgia Constitution." Another reason the Bill was vetoed was that it would have required "state agencies to administer dual budget processes concurrently, the new and the current budget process, to be implemented immediately for the upcoming budget cycle. It is not technically feasible to reprogram state information technology systems or to provide resources for this endeavor on the timeline stated in the bill." He did laud SB 1 as an admirable goal and noted that zero-based budgeting had been attempted in the Jimmy Carter Administration.

SB 7, by former Sen. Ed Tarver (D-Augusta), cleared both the House and Senate; however, the Senate never took up the Bill to agree with the House's changes. Thus, the proposal died. It would have amended O.C.G.A. § 15-10-105(a) to provide that the General Assembly may at any time specify by local law who shall serve as clerk of magistrate court. Originally, this Bill proposed the "Truth in Testimony Act" in O.C.G.A. § 28-1-18 to require an oath or affirmation for purposes of presenting certain evidence to a committee or subcommittee of the General Assembly as it cleared the Senate; the House, though, gutted the proposal and added the magistrate court language. Rep. Kevin Levitas had two similar bills to SB 7, HB 510 and HB 490 which would have permitted the issuance of subpoenas to give testimony before the General Assembly; HB 510 and HB 490 also made no movements in 2010 and died. Rep. Mike Cheokas (D-Americus) proposed HB 676 that would have amended O.C.G.A. § 28-1-18 but it was limited to the authorization of the use of process to secure the attendance of witnesses and the production of documents solely before the House Committee on Information and Audits; HB 676 also failed. Rep. Alan Powell (D-Hartwell) had another similar idea, which also died, which proposed that "each house of the General Assembly may by rule authorize the standing and special committees and subcommittees of that house to place witnesses under oath who come before such committees and subcommittees and present testimony."

SB 206, by Sen. Greg Goggans (R-Douglas), was signed into law on May 20, 2010 by Governor Perdue as **Act No. 391** and was effective upon signature. It defines the term "tax expenditure" in O.C.G.A. § 45-12-71:

Any statutory provision which exempts, in whole or in part, any specific class or classes of persons, income, goods, services, or property from the impact of established state taxes, including but not limited to tax deductions, tax allowances, tax exclusions, tax credits, preferential tax rates, and tax exemptions. Such term shall also include any expenditure of state tax proceeds to local governments for homeowner tax relief grants or local government assistance grants authorized by or required by any provision of Article VII of the Constitution.

It requires in O.C.G.A. § 45-12-75 a tax expenditure review to be prepared by the Department of Audits and Accounts and provided to the Office of Planning and Budget in a timely manner for inclusion as part of the budget report, detailing the "amount of tax revenue foregone for at least a three-year period, including the period covered in the Governor's budget submitted the preceding January, the current budget, and an estimate of one future year; a citation of the statutory or other legal authority for the expenditure; the year in which it was enacted; and the tax year in which it became effective." This Act took effect upon signature, May 20, 2010.

SB 363, by Sen. Greg Goggans (R-Douglas), passed. It adds a new Code Section at O.C.G.A. § 45-18-7.8 so that the Board of the Department of Community Health "is authorized to contract with the Georgia Student Finance Authority for the inclusion in any health insurance plan or plans established under this article of the employees of the Georgia Student Finance Authority and their spouses and dependent children, as defined by the regulations of the board." The Georgia Student Finance Authority ("Authority") will be required to deduct payments from their employees' salaries or other remunerations for the employees' portions of the health coverage and the Authority will be further required to make the employer contributions required for the operation of such plan or plans. Governor Perdue approved this measure on June 3, 2010 as **Act No. 617**; it took effect on July 1, 2010.

SB 421, by Sen. Jack Hill (R-Reidsville), passed. It amends requirements in O.C.G.A. § 45-12-93(h) for Georgia's Revenue Shortfall Reserve, increasing the reserve to no more than 15 percent of the previous fiscal year's net revenue for any given fiscal year. Previously, it was ten percent. Governor Perdue signed this Bill into law as **Act No. 387** on May 20, 2010; it took effect on that date.

SB 480, by Sen. Jack Hill (R-Reidsville), passed but was later **vetoed** by Governor Perdue on June 8, 2010 as **Veto No. 23**. The legislation proposed creation in O.C.G.A. § 45-12-75.1 a "State Council of Economic Advisors" who would consult with the Governor in preparation of a revenue estimate for budgeting purposes. Governor Perdue saw this Bill as a violation of the "separation of powers" provision outlined in Georgia's Constitution noting that the State's Constitution clearly separates the respective functions of the executive and legislative branches of State government with respect to appropriations." See 1979 Atty. Gen. Op. Ga. 40. He further stated while he used economic advisors in preparing for his revenue estimate, he believed that future governors should be able to make the determination on who to seek counsel from in preparing the their revenue estimates.

HB 827, by Rep. Chuck Sims (R-Ambrose), passed but was **vetoed** by Governor Perdue on June 4, 2010 as **Veto No. 2**. The Bill addressed the State Indemnification Fund in O.C.G.A. § 45-9-85(a) providing that in the case of death or organic brain damage injury, suffered in the line of duty by a law enforcement officer, firefighter, emergency medical technician, emergency management specialist, state highway employee, or prison guard, then if such person does not have an unremarried spouse or dependents, the indemnification payment would be required to be made to the parents or siblings of such person. Governor Perdue stated that "the indemnification program is not insurance." Rather, this Fund is "an additional and special benefit for State and local employees in particularly dangerous jobs that provides additional funds to the workers' dependents when those employees are injured or killed." The Bill broadens the definition of "dependent," departing from the "original intent of the program." A similar piece of legislation, to be known as the Jarrett Little Act in O.C.G.A. § 45-9-85(a), was offered in the Senate, SB 414 by Sen. Jeff Mullis (R-Chickamauga), and it also was **vetoed** on June 8, 2010 as **Veto No. 3** for the same reasons.

HB 980, by Rep. Roger Lane (R-Darien), was signed as **Act No. 458** on May 24, 2010 which became effective on July 1, 2010. It modifies O.C.G.A. § 45-11-8 now permitting school board members to engage in the bail bond business.

HB 989, by Rep. Alan Powell (D-Hartwell), stalled in the House Insurance Committee. It would have created a new Code Section in O.C.G.A. § 45-18-5.3 to authorize the Department of Community Health Board the ability to contract with various Georgia municipalities for the inclusion of their employees within any health plans established under their control.

HB 1095, by Rep. Jill Chambers (R-Atlanta), was signed on May 27, 2010 as **Act No. 503**. The provisions of the Bill in Chapter 16 of Title 45 took effect on July 1, 2010. It permits tests and examinations to be conducted in cooperation with a forensic laboratory by the coroner or county medical examiner.

Public Utilities

SB 415, by Sen. Jeff Mullis (R-Chickamauga), became **Veto No. 19** on June 8, 2010. It proposed in Title 46 for "the regulation of private emergency warning point to multipoint systems by the Public Service Commission." It also provided immunity from liability for failure to deliver information over an emergency warning point to multipoint system. Governor Perdue **vetoed** this initiative as it "essentially provides liability protection for one company that does business in the area of emergency communications." While the Governor supports tort reform, he stated that he believes "it is inappropriate to do it one company at a time."

Retirement

HB 172, by Rep. Howard Maxwell (R-Dallas), was signed into law on May 24, 2010 as **Act No. 450**. Among its changes include amendments to O.C.G.A. § 47-2-125 deleting provisions providing for physical examinations done at a place convenient to the beneficiary which was

required in the reexamination of persons receiving disability benefits under the Employees' Retirement System of Georgia. The Act took effect upon the Governor's signature.

HB 249, by Rep. Chuck Martin (R-Alpharetta), was signed on May 24, 2010 as **Act No. 451**. It creates a new Code Section at O.C.G.A. § 47-7-127 within the Georgia Firefighter's Pension Fund law defining "alternative investment" so that this Fund may invest its assets in certain types of alternative investments, private placements, and other private investments but an alternative investment may not exceed 20 percent of aggregate amount of the capital to be invested or the securities to be issued. It also added in this Bill a revision to O.C.G.A. § 50-18-72(a) which will exempt records from public disclosure relating to these alternative investments which this Fund can make. These provisions took effect on July 1, 2010.

HB 650, by Rep. Kathy Ashe (D-Atlanta), remained in the House Retirement Committee after the Chairman refused to permit the Bill to move forward for a fiscal note in 2009. This initiative proposed to amend O.C.G.A. § 47-3-127.1 so that a retired speech-language pathologist, who had worked in public schools, could return to work on a full-time basis and continue receiving his or her full retirement benefit. Teachers are permitted this ability.

HB 969, by Rep. Howard Maxwell (R-Dallas), passed and was signed as **Act No. 457** on May 24, 2010 and it took effect on that date. It modifies a number of Code Sections in Title 47 governing Georgia's law on retirement to bring those statutes into compliance with federal law. It also provides for benefits for members of public retirement systems in qualified military service.

Revenue and Taxation

SB 346, by Sen. Chip Rogers (R-Woodstock), passed. The initiative has a number of revisions relating to ad valorem tax assessments and some include:

- O.C.G.A. § 48-5-306, amending the annual notice provisions for current property tax assessments and how they are given (which are to include valuation increases or decreases or equalizations) and it permits the taxpayer to receive these notices electronically. The property owner is also provided a broader array of options on where to make appeals and permits 45 days, rather than 30 days, for the property owner to make an appeal after the date of the notice.
- O.C.G.A. § 48-5-311, amending the boards of equalization establishment and permitting the governing authorities of two or more counties to establish regional boards of equalization by intergovernmental agreement that will operate in the same manner and be subject to all of the requirements for county boards of equalization.
- O.C.G.A. § 48-5-18, requiring that each tax commissioner and tax receiver be required to open his or her books for the return of real or personal property ad valorem taxes on January 1 and close those books on April 1 annually.

This Bill became **Act No. 670** on June 4, 2010; its provisions relating to arbitration of tax appeals took effect upon signature and the remaining provisions will take effect on January 1, 2011.

SB 444, by former Sen. David Adelman (D-Atlanta), failed to move after Sen. Adelman became the United States Ambassador to Singapore. It proposed in O.C.G.A. § 48-8-68 a sales and use tax credit for certain dealers ('Qualifying dealer' as defined under O.C.G.A. § 48-8-2 that is a nonprofit organization under Section 501(c)(3) of the federal Internal Revenue Code) who construct, lease, or purchase clean energy properties in this State.

SB 454, by Sen. John Douglas (R-Social Circle), passed and became **Act No. 468** on May 26, 2010. This legislation makes a number of changes in Chapter 17 of Title 48 relating to coin operated amusement machines. In O.C.G.A. § 48-7-1, it establishes two classifications for these machines – Class A and Class B. Class A gives no reward (but can provide a "free play" to the successful player) whereas Class B does give the successful player a reward. O.C.G.A. § 48-17-2 establishes tiered "fee" schedule for these machines based on the numbers of machines owned and a location fee. Further, this legislation creates additional fees and penalties for violations of these provisions. Changes imposed in this initiative took effect on July 1, 2010.

HB 39, by Rep. Ron Stephens (R-Savannah), known as "Pass the Buck" remained in the House Ways and Means Committee. It specifically would have amended O.C.G.A. § 48-11-2(a) to increase the excise tax on tobacco products (from \$.37 per pack of twenty cigarettes to \$1.37 and from ten percent of the wholesale cost on loose tobacco to 25 percent of the wholesale cost on those products). A Constitutional Amendment on passing the \$1.00 on a package of twenty cigarettes was also offered by Rep. Stephens, HR 1652, but it also remained in the House Ways and Means Committee.

HB 269, by Rep. Virgil Fludd (D-Fayetteville), was introduced in 2009. This year, it also failed to get out of the House Ways and Means Committee. It proposed revising and changing the tax credit for qualified caregiving (including home health) expenses in O.C.G.A. § 48-7-29.2 by only permitting the credit for those individuals with net incomes of less than \$200,000 in the year that the credit was claimed.

HB 299, by Rep. David Knight (R-Griffin), remained in the House Rules Committee. It proposed *elimination* of the sales and use tax exemption afforded to nonprofit hospitals in O.C.G.A. § 48-8-3(7). This initiative was used as a part of the negotiation for the payment of the hospital provider tax found in HB 1055.

HB 335, by Rep. David Knight (R-Griffin), failed after the House neglected to adopt the Conference Committee Report on the Bill. It proposed to provide a sales and use tax for local community support of economic development and quality of life, establishing special taxing districts. It proposed to help an "artist and support organization" which would be an "organization which is a qualified local cultural organization that has average annual gross revenues of less than \$75,000 for its past three fiscal years." The tax would have implemented

incremental sales taxes of up to one percent to support projects tailored for the local community's needs and priorities. A similar proposal by Rep. Ron Stephens (R-Savannah), HB 1049, also failed, remaining in the House Rules Committee. It offered the creation, in O.C.G.A. § 48-2-240 *et seq.*, of special districts and the creation of a one percent sales tax to be approved by local voter referendum and used locally for projects which support and improve the community cultural and other locally determined qualified projects supporting economic development.

HB 359, by Rep. Chuck Martin (R-Alpharetta), proposed to amend O.C.G.A. § 48-8-3 (57.1), extending the exemption permitted to nonprofit food banks for the purchases of qualified foods and beverages. HB 359 stalled in the House Ways and Means Committee as it was seen as another exemption that would diminish State revenues even though it only would have brought in approximately \$471,000 (in State and local revenues).

HB 462, by Rep. Allen Peake (R-Macon), failed. This was an attempt by Goodwill Industries to amend current law in O.C.G.A. § 48-5-41 relating to the ad valorem tax exemption provided to certain qualified charitable institutions and the buildings that those entities own which generate income. HB 462 was held in the House Ways and Means Committee. The entity proposed a second Bill, SB 513, with similar language to outline conditions under which a charitable institution receiving an exemption from ad valorem taxation may either rent or lease buildings for a fee without invalidating the exemption. SB 513 remained in the Senate Finance Committee.

HB 471, by Rep. Chuck Martin (R-Alpharetta), failed, remaining in the House Ways and Means Committee after receiving a fiscal note which indicated the costs involved with this exemption. It proposed permitting a sales and use tax exemption for purchases of tangible personal property by "qualified government grantees" in O.C.G.A. § 48-8-3(87).

HB 507, by Rep. Ron Stephens (R-Savannah), stalled in the House Ways and Means Committee. It would have created a new paragraph at O.C.G.A. § 48-8-3(87) to change certain provisions regarding sales and use tax exemptions with respect to the purchase of certain health information technologies ("hardware, software, integrated technologies and related licenses, intellectual property, upgrades, and packaged solutions sold as services for use by health care entities for the electronic creation, maintenance, access, and exchange of health information").

HB 903, by Rep. Mark Burkhalter (R-Johns Creek), passed. It revises provisions relating to a levy at the rate of seven (7) percent by certain counties and municipalities and provides that, where such tax was levied for the purpose of funding a multipurpose domed stadium facility and is subject to a stated expiration date, the expiration date may be extended under certain circumstances. It also permits other hotel-motel taxes to be revised that are levied at the six (6) percent rate by certain counties and municipalities so that they may levy a tax at seven (7) percent. The amendments are made in O.C.G.A. § 48-13-51. This Bill became **Act No. 606** on June 3, 2010; it took effect on that date.

HB 951, by Rep. Lynn Smith (R-Newnan), failed, remaining in the House Ways and Means Committee. It proposed amending O.C.G.A. § 48-8-3(75)(A) for a sales and use tax exemption on the sales of certain school supplies, clothing, footwear, computers, and computer related accessories from July 29, 2010 through August 1, 2010. It further offered an amendment to O.C.G.A. § 48-8-3(82)(A) for an exemption from sales and use tax on certain energy efficient products or water efficient products (those which cost \$1,500.00 or less) from October 7, 2010 through October 10, 2010. This Bill was among the casualties of already permitted exemptions that were up for renewal but were not permitted an extension because of the downturn in State revenues. Rep. Smith also authored HB 952 to permit the exemption on sales of back-to-school items; it also remained in the House Ways and Means Committee along with HB 953 which she introduced to deal solely with the proposed exemption on energy efficient products.

HB 963, by Rep. Larry O'Neal (R-Bonaire), passed. Governor Perdue signed this Bill into law as **Act No. 499** on May 27, 2010. It amends provisions in Chapter 5 of Title 48 changing certain provisions regarding returns of taxable real property and amending certain provisions regarding affidavit requirements for the homestead exemption from ad valorem taxes for educational purposes for persons 62 years of age or older whose income does not exceed \$10,000.00. The changes took effect upon signature.

HB 1014, by Rep. Allen Peake (R-Macon), remained in the House Ways and Means Committee. It sought the extension of a codified exemption from State sales and use taxes in O.C.G.A. § 48-8-3(7.3) for sales of tangible personal property and services to nonprofit health clinics.

HB 1028, by Rep. Jay Roberts (R-Ocilla), offered a number of changes to O.C.G.A. § 48-5-7.7 relating to ad valorem taxation of forest land conservation use property for "contiguous tracts" and when those have covenants which expire. Essentially, it permits the landowners the ability when they have placed their property into a conservation covenant to later breach that covenant and subdivide the land, avoiding paying any tax penalties. This Bill flies in the face of the original legislation, Forest Land Protection Act, signed in 2008. Governor Perdue vetoed this initiative as **Veto No. 9** on June 4, 2010.

HB 1049, by Rep. Ron Stephens (R-Savannah), remained in the House Rules Committee. It proposed in O.C.G.A. § 48-8-240 *et seq.* for a sales and use tax for local community support of economic development and quality of life through the establishment of special districts. The purpose of this initiative was to help support local cultural and community specific assets. An attempt was made to add this language to a moving bill on *Sine Die* but the attempt failed.

HB 1082, by Rep. Jay Powell (R-Camilla), passed amendments to Chapter 5 of Title 48 relating to ad valorem taxation and applications for, waiver of, denial of, renewal of, and granting of freeport exemptions. In this Bill, it created a new freeport exemption, adding one for "retailers," for local governments which are already permitted the ability to enact a freeport exemption exempting warehouses, distributors, manufacturers, and others from inventory taxes. Governor Perdue vetoed this Bill on June 4, 2010 as **Veto No. 10** stating that it would

"merely create competition between counties at the expense of the property tax base of each county."

HB 1102, by Rep. Bob Smith (R-Watkinsville), failed by remaining in the House Ways and Means Committee. It proposed changes to O.C.G.A. § 48-8-3(7.5) and O.C.G.A. § 48-8-3(7.3) providing for an exemption from State sales and use tax only for a limited period of time regarding the sale or use of tangible personal property to certain nonprofit health centers and providing for an exemption for a limited period of time regarding sales to certain nonprofit volunteer health clinics.

HB 1105, by Rep. Mickey Channell (R-Greensboro), passed. It extends the ad valorem tax exemption for watercraft held in inventory for resale to December 31, 2013 in O.C.G.A. § 48-5-504.40. Governor Perdue signed this Bill on May 27, 2010 as **Act No. 504**. It takes effect on January 1, 2011.

HB 1120, by Rep. Ron Stephens (R-Savannah), proposed amending O.C.G.A. § 48-8-3 (7.05) and O.C.G.A. § 48-8-3 (7.3), the exemptions allowed for purchases by nonprofit health centers and nonprofit health clinics, respectively, so as to extend those exemptions as they expire on June 30, 2010. The proposal remained in the House Ways and Means Committee for these sales of property to health centers be extended with the exemption until June 30, 2012. HB 1120 by Rep. Bob Smith (R-Watkinsville) and HB 1014, by Rep. Allen Peake (R-Macon) proposed extending the exemptions for sales of property to nonprofit health clinics and centers until June 30, 2013, but they also were held in the House Ways and Means Committee.

HB 1191, by Rep. Larry O'Neal (R-Bonaire), passed and Governor Perdue signed this Bill into law on May 27, 2010 as **Act No. 485**. It amends O.C.G.A. § 48-6-69(a) to permit the pro-rating of taxes when encumbered property is located in more than one county. The changes apply to the recording, payment, and distribution of that intangible tax. The proportion of the property would be based upon recently determined fair market valuations. These changes took effect on July 1, 2010.

HB 1192, by Rep. Larry O'Neal (R-Bonaire), was also signed into law by Governor Perdue on May 27, 2010. This became **Act No. 484** and became effective July 1, 2010. Amendments were made to O.C.G.A. § 48-6-4(e) changing the payment and distribution of the real estate transfer tax when property is located in more than one county so that it "shall be that proportion of the total tax due calculated by applying the ratio of the value of the real property in such county as it bears to the total value of the real properties in all counties described in the deed, instrument, or other writing to the total tax due. Such proportions shall be calculated pursuant to the most recently determined fair market valuations of the property as determined by the county board of tax assessors." All such values shall be disclosed on the face of the deed, instrument, or other writing or, alternatively, may be submitted in the form of an affidavit by the holder presenting the deed, instrument, or other writing for recording. The original or a duplicate original executed copy or counterpart of such deed, instrument, or other writing shall be presented for recording in all counties in which the real property is located, and the clerk or the clerk's deputy of each county may rely upon the sworn original or a

duplicate original certification of values in determining the amount of tax due and payable in that county and collect such portion of the tax imposed by Code Section 48-6-1 and enter the same upon the deed, instrument, or other writing."

HB 1198, by Rep. Judy Manning (R-Marietta), was signed as **Act No. 483** on May 27, 2010. The change goes into effect on January 1, 2011 and impacts tax years beginning on January 1, 2011. The Bill amends O.C.G.A. § 48-7-1(11) to change the definition of "taxable nonresident" by adding a new subparagraph (E):

Every individual who is not otherwise a resident of this state for income tax purposes and who regularly and not casually or intermittently engaged in a prior year within this state, by himself or herself, in activity for financial gain or profit and who receives income from such activity in the form of deferred compensation or income from the exercise of stock options and such income exceeds the lesser of 5 percent of the income received by the person in all places during the taxable year or \$5,000.00; provided, however, that this subparagraph shall not apply in the case of an individual who receives such income when the state is prohibited from taxing such income pursuant to federal law.

HB 1251, by Rep. Cecily Hill (R-Kingsland), passed but was later vetoed. It proposed creation in O.C.G.A. § 48-8-240 *et seq.* of the "Georgia Tourism Development Act," a program of tax refunds for entities creating a new tourist attraction. The initiative was vetoed on June 4, 2010 as **Veto No. 12**. Governor Perdue noted that he had in the past "supported State participation in tourism projects when considered on a case-by-case basis." Further, he noted that he could not support legislation, "that funds up to 25 percent of the cost of a tourism project by allowing the developers to receive funds on State sales taxes that collected."

HB 1278, by Rep. Doug McKillip (D-Athens), remained in the House Ways and Means Committee. It contained various revisions in Title 48 for comprehensive changes relating to revenue enhancement and tax relief. Some of those included changes to the taxable net income brackets applicable to certain taxpayers; additional income tax rates and tax tables; an income tax credit in an amount equal to five percent of the amount of the federal Earned Income Credit which the taxpayer has claimed and been allowed pursuant to Section 32 of the Internal Revenue Code of 1986, as amended; changes to certain provisions regarding exemptions from sales and use taxes; and amendments regarding the excise tax on cigarettes; and etc.

Social Services

SB 92, by Sen. Judson Hill (R-Marietta), failed after getting reported out of the Senate Insurance and Labor Committee last year. It did not move this year. It proposed a new Chapter 11 in Title 49 with the goal of converting Georgia's Medicaid and the PeachCare for Kids Program funds to premium assistance programs in an effort to allow low-income families to participate in private sector health insurance plans.

SB 289, by Sen. Dan Moody (R-Alpharetta), remained in the Senate Health and Human Services Committee despite attempts to reach consensus on this legislation. It sought revisions in Chapter 4 of Title 49 to clarify provisions relating to services and treatment for categorically needy and medically fragile children and the requirements relating to administrative prior approval for services and appeals for children covered under the State's Medicaid program.

SB 357, by Sen. Emanuel Jones (D-Decatur), died, remaining in the Senate Health and Human Services Committee. The Bill offered a new Code Section in O.C.G.A. § 49-4-146.4 which would have suspended, rather than terminated, a person's Medicaid benefits while that individual was incarcerated.

SB 398, by Sen. Judson Hill (R-Marietta), remained in the Senate Government Oversight Committee. It proposed creation of a new Code Section for O.C.G.A. § 49-4-158 to require that the commissioner of public health "make available through the Internet website of the Department of Community Health nonaggregated information on individuals collected under the federal Medicaid Statistical Information System insofar as such information has been de-identified in accordance with the regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996, as amended."

SB 459, by Sen. Judson Hill (R-Marietta), proposed a single administrator for dental claims in the Medicaid recipients and PeachCare for Kids participants in Article 7 of Chapter 4 of Title 49. This initiative remained in the Senate Health and Human Services Committee. See also HB 1407 which was vetoed.

SB 510, by Sen. Lester Jackson (D-Savannah), proposed creating the "Georgia Youthbuild Program Act" in Chapter 2 of Title 49. This initiative remained in the Senate Education and Youth Committee.

HB 89, by Rep. Alan Powell (D-Hartwell), reported out of the House Health and Human Services Committee last year but made no movement in 2010 as a vehicle for other legislation. Thus, HB 89 died. Originally, the Bill proposed in Title 49 to require physicians who participate in the State Health Benefit Plan or Board of Regents Health Plan to also participate in the Medicaid program and proposed changes in Chapter 34A of Title 43, the "Patient Right to Know Act of 2001. As it cleared the Committee, it lost all of that language and instead proposed a new Code Section in O.C.G.A. § 43-34-4 to define the term "radiologist assistant." That definition was incorporated into HB 509 at O.C.G.A. § 43-34-12, **Act No. 243** signed last year on May 11, 2009.

HB 303, by Rep. Carl Rogers (R-Gainesville), passed and became **Act No. 424** on May 20, 2010. It modifies O.C.G.A. § 49-5-41 to authorize not only district attorneys and assistant district attorneys but also solicitors-general and assistant solicitors-general to have access to child abuse record reports. This modification took effect upon Governor Perdue's signature.

HB 474, by Rep. Pat Gardner (D-Atlanta), remained in the House Appropriations Committee after its introduction in 2009. It proposed changes in O.C.G.A. § 49-5-273 to increase the

income eligibility limit for participation in the PeachCare for Kids program by moving it from 235 percent of the federal poverty level to 300 percent of the federal poverty level.

HB 955, by Rep. Pedro Marin (D-Duluth), was assigned to the House Health and Human Services Committee where it remained. It sought to authorize the Department of Community Health to seek federal funds to provide medical assistance and health care benefits to qualified alien children and pregnant women under Medicaid and the PeachCare for Kids Program and to provide for eligibility for qualified aliens under Medicaid and PeachCare programs in Title 49.

HB 1054, by Rep. Len Walker (R-Loganville), was postponed for Floor action in the House, and thus, failed. It proposed creation of a new Code Section at O.C.G.A. § 49-4-20 so that, subject to approval by the United States Department of Agriculture, a recipient of food stamps could order over the Internet authorized food items from a nonprofit organization (pursuant to Section 501(a) of the Internal Revenue Code).

HB 1170, by Rep. Jim Cole (R-Forsyth), passed and repeals O.C.G.A. § 49-4-156 tax exemption for health maintenance organizations (CMOs) which provide health care services under the Medicaid program. This is their current exemption from paying premium taxes. Governor Perdue signed this Bill on May 20, 2010 as **Act No. 376**; it took effect on July 1, 2010.

HB 1264, by Rep. Jimmy Pruet (R-Eastman), remained in the House Judiciary Non-Civil Committee. It proposed in O.C.G.A. § 49-4A-15 to authorize the Department of Juvenile Justice the ability to collect individual medical insurance reimbursement for a juvenile in the custody of the Department who is covered by medical insurance or other benefits. While this language was also inserted in Rep. Billy Horne's (R-Newnan) Bill, HB 1291 by the House Insurance Committee, HB 1291 also stalled in the process by remaining in the House Rules Committee.

HB 1291, by Rep. Billy Horne (R-Newnan), landed in the House Rules Committee where it remained. It proposed in O.C.G.A. § 49-4A-15 to clarify the types of individual medical insurance coverage which may reimburse jails for medical expenses and authorized the State to collect individual medical insurance funds if an inmate has medical insurance coverage. It also would have authorized the Department of Juvenile Justice to collect individual medical insurance reimbursement for a juvenile in the Department's custody when that juvenile was covered by medical insurance or other benefits.

HB 1317, by Rep. Debbie Buckner (D-Junction City), remained in the House Health and Human Services Committee. It sought amendments to O.C.G.A. § 49-4-142 and O.C.G.A. § 49-5-273 to provide requirements for the Department of Community Health when health maintenance organizations (CMO) terminate contracts with health care providers and to allow recipients of Medicaid and participants in the PeachCare for Kids Program to switch their enrollment to another CMO if such health care providers are terminated. Her language was

also added in the House Health and Human Services Committee to SB 443, but that Bill also failed.

HB 1407, by Rep. Carl Rogers (R-Gainesville), passed; this initiative was pushed by the Georgia Dental Association. While passed, Governor Perdue vetoed this initiative on June 4, 2010 as **Veto No. 15**, noting that he would not sign legislation on this successful Medicaid program (managed Medicaid) which has trimmed annual growth from 12 to 14 percent per year to four to five percent per year. The Care Management Organizations are saving Georgia more than \$1 billion annually. It proposed to create a single administrator under the Medicaid and PeachCare for Kids programs to handle dental benefits and claims rather than current process where the Care Management Organizations ("CMOs") pay and otherwise handle those benefits and subcontract the work out to another organization. See O.C.G.A. § 49-4-158. The Senate's versions of this Bill, SB 146 and SB 459 by Sen. Judson Hill (R-Marietta), remained in the Senate Health and Human Services Committee.

HB 1409, by Rep. James Mills (R-Gainesville), proposed to add in O.C.G.A. § 49-4-142(a.1) that any rule or regulation promulgated by the Department of Community Health "that is used to determine the state portion of reimbursement for Medicaid services provided by a nonprofit hospital shall include in the formula a sliding scale based on the funds the nonprofit hospital has on deposit in banks in this state." The scale would reimburse nonprofit hospitals with greater sums on deposit in state banks with a higher percentage payment than given to nonprofit hospitals with lesser sums on deposit in state banks. This initiative remained in the House Ways and Means Committee.

State Government

SB 296, by Sen. Mitch Seabaugh (R-Sharpsburg), passed. It makes amendments to Chapter 5A in Title 50 renaming the Office of Treasury and Fiscal Services as the "Office of the State Treasurer" and renames the director of the Office of Treasury and Fiscal Services as the "state treasurer." Governor Perdue signed this Bill as **Act No. 621** on June 3, 2010; its amendments took effect on July 1, 2010.

SB 374, by Sen. Chip Pearson (R-Dawsonville), passed but was later vetoed as **Veto No. 22** on June 8, 2010. Governor Perdue noted that the creation of the Legislative Economic Development Council in O.C.G.A. § 50-7-90 *et seq.* and the powers proposed that this Council would have are powers that the Executive branch of government already has. Thus, he saw this as contrary to the separation of powers required by Georgia's Constitution. He also cited an Attorney General's Opinion on this matter noting that a "member of the General Assembly cannot discharge the duties or exercise the functions of an agency within the executive branch of State government." See 1988 Atty. Gen.Op.Ga. 31.

SB 399, by Sen. Judson Hill (R-Marietta), was assigned to the House Governmental Affairs Committee where the proposal remained. The initiative, as it cleared the Senate, offered a new Code Section in O.C.G.A. § 50-1-9 to require that no State department or agency "implement any provision of federal health care reform legislation unless the department or

agency provides a certain report to the General Assembly and the General Assembly authorizes such implementation by statute."

HB 244, by Rep. Jimmy Pruet (R-Eastman), passed. This measure was pushed by Governor Perdue. Among the changes include the change of the name of the Georgia Environmental Facilities Authority to the Georgia Environmental Finance Authority. However, it will permit in O.C.G.A. § 50-23-5 a portion of the Georgia Environmental Facilities Authority loans, which are low interest loans made by the State to local governments to help finance particular projects, to be sold on Wall Street in order to raise additional cash for the State's Budget. This Bill raises fear that such activity may negatively impact Georgia's AAA bond rating. Governor Perdue signed this Bill into law as **Act No. 634** on June 3, 2010. Its changes took effect on July 1, 2010.

HB 684, by Rep. Jill Chambers (R-Atlanta), remained in the House Judiciary Non-Civil Committee. It included extensive revisions relating to public access to public records and provisions relating to open meetings by governmental agencies. An agency, under the proposed definition in O.C.G.A. § 50-14-1 would have included any "nonprofit organization to which there is a direct or indirect allocation of tax funds made by the governing authority of any agency as defined in this paragraph and which allocation constitutes more than 33 1/3 percent of the funds from all sources of such organization."

HB 867, by Rep. Ron Stephens (R-Savannah), passed, and Governor Perdue signed this Bill on May 25, 2010 as **Act No. 467**. It creates in O.C.G.A. § 50-8-50 the "Commission on Regional Planning" which will "coordinate state contract terms, identify appropriate state and federal funding for commissions in the pursuit of shared service delivery goals, coordinate planning of state and federal resource allocation and state service delivery, and identify issues and opportunities requiring state, regional, or local action." The Governor will be the chair of this Commission. This Commission will have no responsibility relating to the Division of Aging within the Department of Human Services. This Act took effect on July 1, 2010.

HB 1019, by Rep. Alisha Thomas Morgan (D-Austell), was signed into law on May 24, 2010 as **Act No. 432**. It adds a new Code Section at O.C.G.A. § 50-1-9 requires each State agency that issues permits, licenses, certificates, and identification cards to Georgia citizens to issue replacement permits, licenses, certificates, or identification cards *without charge* to citizens who apply for such replacements and who demonstrate that their original permits, licenses, certificates, or identification cards were lost or destroyed as the direct result of a natural disaster. This legislation was brought because of those individuals who lost important documents in the floods in Douglas and Cobb Counties last year. This requirement took effect upon signature of the Governor.

HB 1086, by Rep. Rick Austin (R-Demorest), passed and became **Act No. 409** on May 20, 2010. The provisions included in this Act took effect on July 1, 2010. The Bill makes amendments to O.C.G.A. § 50-18-72 providing that certain personal information relating to teachers and employees of public and nonpublic schools shall be exempt from disclosure, including that public disclosure is not to be required "for records that reveal the home address,

the home telephone number, the e-mail address, or the social security number of or insurance or medical information about employees or teachers of a nonpublic school." It also does not require the disclosure of an email address for public school teachers.

HB 1128, by Rep. Earl Ehrhart (R-Powder Springs), was signed on May 27, 2010 as **Act No. 505**. It amends provisions in Titles 50 and 20 to change certain provisions relating to writing off small amounts due to the State; amends non-lapsing revenue of institutions in the University System of Georgia and institutions under the Technical College System of Georgia. These changes took effect upon signature.

HB 1260, by Rep. Ron Stephens (R-Savannah), passed, and on May 24, 2010, it became **Act No. 462**. It specifically amends O.C.G.A. § 50-4-7 by adding subsection (b) so that aging program planning and service areas do not relate to the State's service delivery regions. This provision took effect upon signature of the Governor.

HB 1303, by Rep. Mark Hatfield (R-Waycross), remained in the House Rules Committee. The initiative offered changes to O.C.G.A. § 50-14-1(d) to also require the posting of a notice on an agency's website at least 24 hours in advance of a public meeting and lessening the numbers of times that a notice would have to be printed in a legal organ so that it would only have required a once a week publication but at least 24 hours in advance of the meeting.

HB 1321, by Rep. Ben Harbin (R-Evans), passed but Governor Perdue **vetoed** this Bill as **Veto No. 14** on June 4, 2010. This Bill proposed to permit additional uses of the Emergency Telephone System Fund moneys and to amend O.C.G.A. § 50-18-72, relating to exceptions to the requirement for disclosure of public records, in order to allow for an exemption from disclosure of certain law enforcement and emergency response records which contain audio or video recordings of personal suffering; to provide for release to a victim's next of kin. The veto message claimed that the Bill violated the original purpose of the uses of the Emergency Telephone System Fund, permitting counties a mechanism by which to support their emergency 9-1-1 services.

HB 1431, by Rep. Doug Collins (R-Gainesville), remained in the Senate Appropriations Committee. It proposed a number of government consolidations in Titles 6, 12, 45 and 50 in an effort to achieve more efficiency. It would have created the Georgia Services Administration, as a successor agency to the Department of Administrative Services, and it would have abolished the State Properties Commission and the State Personnel Administration and would have transferred the functions of those agencies to the Georgia Services Administration. For administrative purposes, the Georgia Services Administration would have overseen the Georgia Aviation Authority, the State Accounting Office, the Office of Treasury and Fiscal Services, the Georgia Building Authority, the Office of State Administrative Hearings, and the Georgia Technology Authority.

Torts

SB 101, by Sen. Bill Cowsert (R-Athens), failed to move in 2010, remaining in the Senate Economic Development Committee. It would have added a new Code Section at O.C.G.A. § 51-1-11.2 to limit liability for certain drug and medical device manufacturers and sellers under certain circumstances in tort actions.

Wills, Trusts and Estates

SB 131, by Sen. Bill Hamrick (R-Carrollton), passed. It comprehensively revises provisions relating to trusts, charitable trusts, trustees, and trust investments in Title 53. This Bill contains revisions by the Fiduciary Section of the State Bar of Georgia. Governor Perdue signed this Bill on May 27, 2010 as **Act No. 506**; the changes imposed took effect on July 1, 2010.

SB 461, by Sen. Seth Harp (R-Midland), passed creating a new Code Section in O.C.G.A. § 53-4-75 to provide for the construction of wills and trust instruments referring to federal estate and generation-skipping transfer tax laws for testators and settlors dying on or after December 31, 2009, but prior to January 1, 2011. It further allows a "petition for construction of a will or trust instrument under this Code section may be filed by the personal representative, beneficiary, or trustee and shall be commenced within one year of the death of the testator or settlor." Governor Perdue signed this Bill as **Act No. 493** on May 27, 2010, and it took effect on that date.

Constitutional Amendments

SR 277, by Sen. Greg Goggans (R-Douglas), passed. This Resolution is the Constitutional Amendment at Article III, Section IX, Paragraph VI to impose a \$10.00 trauma charge on certain passenger motor vehicle registrations for the purpose of funding trauma care and to provide for a trauma trust fund. The funds collected would be paid monthly into the Georgia Trauma Trust Fund. The Resolution becomes a ballot initiative for voters to ratify before taking effect. (There were other trauma-related Bills; none of those passed, including HB 148, HB 183, HB 192, HB 363, HB 480, HB 1061, HR 139, HR 162, HR 370, SB 156, and SB 179.)

SR 1225, by Sen. Judson Hill (R-Marietta), remained in the Senate Rules Committee. This Constitutional amendment proposal would have authorized the "General Assembly to provide for the allocation of a percent of premium taxes collected to offset losses of the Georgia High Risk Individual Reinsurance Pool" in Article III, Section IX, Paragraph VI.

HR 178, by Rep. Kevin Levitas (D-Atlanta), passed after a compromise was reached. If ratified, this Resolution creates a Constitutional Amendment at Article III, Section VI, Paragraph V. It proposes that the General Assembly not have the power to authorize any contract or agreement that limit competitive activities between or among employers and employees, distributors and manufacturers, lessors and lessees, partnerships and partners,

franchisors and franchisees, sellers and purchasers of a business or commercial enterprise, or two or more employers. The ballot will read: "Shall the Constitution of Georgia be amended so as to make Georgia more economically competitive by authorizing legislation to uphold reasonable competitive agreements?" The Georgia Chamber of Commerce and other businesses in the State were in favor of this proposal.

HR 1086, by Rep. Calvin Hill (R-Canton), proposed a Constitutional amendment to be added as Section V in Article I to "provide that no law or rule or regulation shall compel any person, employer, or health care provider to participate in any health care system and to authorize persons and employers to pay directly for lawful health care services without penalties or fines." After initially being passed by the House, a motion to reconsider the House's actions was made. However, the House never reconsidered the proposal; thus, it died.

HR 1107, by Rep. James Mills (R-Gainesville), proposed an amendment to the Constitution to "provide that no law or rule or regulation shall compel any person, employer, or health care provider to participate in any health care system and to authorize persons and employers to pay directly for lawful health care services without penalties or fines to be added." This provision would have been added as a new Section V in Article I of the State's Constitution. It remained in the House Health and Human Services Committee.

Study Committees and Other

SR 915, by Sen. Judson Hill (R-Marietta), was adopted by the Senate. It "urged" the United States Congress, United States Department of Health and Human Services, and Centers for Medicare and Medicaid Services to *ignore* the recently released breast cancer screening guidelines which were established by the United States Preventive Services Task Force. One of those guidelines proposed that women delay initial mammograms from age 40 to age 50.

SR 1134, by Sen. Judson Hill (R-Marietta), proposed Creating the *Senate Health Care Transformation Study Committee*. The initiative remained in the Senate Rules Committee.

SR 1162, by Sen. Don Thomas (R-Dalton), proposed creating the *Senate Including Traumatic Brain Injury Facilities in the State Health Plan Study Committee*. This idea remained in the Senate Rules Committee.

SR 1222, by Sen. Don Thomas (R-Dalton), was adopted by the Senate. It mirrors the House version of this Resolution by Rep. Cooper and urges the Georgia Composite Medical Board to "promulgate regulations which establish medically accepted standards of patient care in office based surgery and anesthesia for health care providers licensed by the Georgia Composite Medical Board."

HR 316, by Rep. Mickey Channell (R-Greensboro), was introduced in 2009 and made no movement this Session. It sought to urge the "Department of Community Health to work in conjunction with state-wide medical organizations representing pediatric physicians to obtain or prepare and disseminate written materials, at appropriate literacy levels, containing information

about the possible complications, proper care, and support for pre-term infants." Thus, it failed.

HR 532, by Rep. Sharon Cooper (R-Marietta), proposed this Resolution in 2009 which did not reappear in 2010. Thus, it failed. It sought to create a *Joint Study Committee on Nursing Education in Georgia*.

HR 883, by Rep. Mickey Channell (R-Greensboro), proposed creating the *House Study Committee on Care Management Organization Performance*. Due to funding, no study committee ideas passed; this particular idea remained in the House Health and Human Services Committee.

HR 1449, by Rep. Sharon Cooper (R-Marietta), was adopted by the House. It urges Georgia Composite Medical Board to promulgate regulations "which establish medically accepted standards of patient care in office based surgery and anesthesia for health care providers licensed by the Georgia Composite Medical Board."

HR 2038, by Rep. Rusty Kidd (I-Milledgeville), remained in the House Health and Human Services Committee. This Resolution sought to create the *House Adult Mental Health and Disability Facilities Study Committee*.

We hope you have enjoyed our *Reports* this year. Should you have any questions, please do not hesitate to contact us at Nelson Mullins Riley & Scarborough, LLP.