



## Adding Up the Fiscal Notes 2011

### *Almost \$100 Million Cost to Tax Bills; No Comprehensive Tax Reform*

By Sarah Beth Gehl, Deputy Director

#### Summary

State revenues will decrease by almost \$100 million in FY 2012 due to five tax bills signed by the governor, according to the official fiscal notes on the bills (Table 1). Although this year's tax bills have a lower cost than the normal package of bills, Georgia still confronts \$500 million in cuts to services in FY 2012 on top of the cumulative \$2.5 billion in cuts from recent years. Policymakers are choosing to limit their responses to the state's fiscal challenges to cuts in services followed by still more cuts, while continuing to renew some tax exemptions and leave many more unexamined. Rather than continue to pass exemptions, policymakers should bring all existing tax breaks into the budget discussion. Some serve a valid policy purpose and will stand up to evaluation and scrutiny. Others, however, will likely be shown to have less benefit than other uses for those dollars. Beyond bringing tax code spending into the budget discussion, there is still a need for comprehensive tax reform based on the Special Council for Tax Reform and Fairness for Georgians' recommendations.

**Table 1 Revenue Bills Signed by the Governor Cost Almost \$100 million**

Tax Bills	FY 2012 (in millions)	FY 2013 (in millions)
<b>HB 168:</b> Annual federal conformity bill; Streamlined Sales Tax Agreement changes	- \$65	- \$35
<b>HB 234:</b> Sales tax exemption renewal for aircraft repair (Gulfstream Aerospace Corporation)*	- \$7.5	- \$7.9
<b>HB 322:</b> Sales tax exemption renewal for jet fuel (Delta Air Lines)	- \$20	- \$10
<b>HB 325:</b> Additional tax credits for student scholarship organizations**	-\$2.4	- \$3.7
<b>HB 346:</b> Additional tax credits for clean energy facilities	- \$2.5	- \$5
<b>TOTAL IMPACT</b>	<b>- \$97 million</b>	<b>- \$62 million</b>

Source: Official fiscal notes for the bills as presented by the Georgia Department of Audits and Accounts and produced by the Georgia State University Fiscal Research Center unless otherwise noted.

\*The fiscal note provides a range of estimates (\$3.8 million to \$7.5 million state revenue loss in FY 2012). HB 234 also includes the new tourism tax break, which has an unknown cost.

\*\*No fiscal note provided. Estimate based on 2.38 percent average rate of inflation over the last decade.

## Description of Revenue Bills Signed by the Governor

Below is a short summary of tax bills passed by the House and Senate and signed by the governor that will affect state revenue. Revenue loss is from the information in the fiscal notes produced by Georgia State University Fiscal Research Center and attached to the bill as of their passage unless otherwise noted. Bills might have been revised and passed without a corresponding revision to the fiscal note.

### **HB 168: Annual federal conformity bill; Sales tax definition changes for Streamlined Sales Tax Agreement**

Summary: Georgia annually conforms to the federal tax code; however, there is discretion over which provisions to conform. The bill does not fully conform to section 179 of the federal code relating to business deductions. Instead of the federal allowances, the bill allows for a maximum deduction of \$250,000 with a phase-out threshold of \$800,000. The bill does not accept the bonus depreciation provisions from the federal code, which would have meant a revenue loss of more than \$200 million. The bill maintains the research and development credit.

The bill also provides a personal income tax break for the wealthiest of Georgians by conforming to a recent federal tax cut allowing top earners to take itemized deductions without limits. In the past, the amount of allowable itemized deductions was phased out as income increased. That limit was removed in 2010 and was supposed to resume in 2011; however, federal tax changes have extended the limitless itemized deductions for another two years. HB 168 continues the repeal of the limit as well. This provision, along with the continuation of the research and development credit, will cost \$46 million and is already included in the FY 2012 revenue estimate.

In addition to federal conformity, the bill contains several sections that change definitions in the sales tax to conform to the Streamlined Sales Tax Agreement (SSTA). Georgia passed SSTA legislation in 2010.

FY 2012 Revenue Loss: \$65 million.

### **HB 234: Sales tax exemption renewal for aircraft parts; New tourism tax break**

Summary: The sales tax exemption on parts used in aircraft maintenance and repair is set to expire on June 30, 2011. The bill extends the sunset date to 2013. The exemption goes to owners of aircraft registered out-of-state that are being repaired by companies such as Gulfstream Aerospace Corporation.

HB 234 also provides a new tax break for tourist attractions, allowing companies constructing tourist attractions worth \$1 million or more to recoup up to 25 percent of the construction costs over 10 years by keeping a portion of the sales tax generated at the site. The tax break would be granted on a project-by-project basis and approved by the governor. A similar provision passed last year, but only applied to large attractions (\$100 million or more in construction costs) and was vetoed by then-Governor Sonny Perdue.

***The governing board of the Streamlined Sales Tax Agreement voted on May 18th to move Georgia from associate member to full member status beginning August 1, 2011. Joining this Agreement allows Georgia to align its sales tax code with other states as part of a national effort to simplify and modernize the sales tax.***

The cost of the tourism tax break will depend on the projects approved by the governor. However, the fiscal note for HB 234 provides a list of proposed projects in Georgia that could potentially qualify for the break to give a sense of the potential foregone revenue.

**Table 2 Possible Projects for the New Tourism Tax Break**

	<b>Estimated Project Cost</b>	<b>Maximum Annual State Revenue Loss (if approved)</b>	<b>Maximum 10 year State Revenue Loss (if approved)</b>
LakePoint Sporting Community & Town Center	\$1 billion	\$25 million	\$250 million
Atlanta Falcons New Stadium	\$700 million	\$17.5 million	\$175 million
Georgia Aquarium Expansion	\$110 million	\$2.75 million	\$27.5 million
Civil Rights Museum	\$85 million	\$2.125 million	\$21.25 million
College Football Hall of Fame	\$50 million	\$1.25 million	\$12.5 million
Legoland Discovery Center in Phipps Mall	\$12 million	\$300,000	\$3 million

Source: Official fiscal note for House Bill 234, April 12, 2011.

FY 2012 Revenue Loss: \$3.8 million to \$7.5 million for aircraft parts exemption. Unknown costs for tourism tax break.

**HB 322: Sales tax exemption renewal for jet fuel**

Summary: The sales tax exemption on jet fuel for Delta Air Lines is set to expire on June 30, 2011. The bill extends the tax exemption for two years and places a cap of \$20 million on the exemption for 2012 and \$10 million for 2013. The sales tax exemption also applies to one of the local sales taxes – the Special Purpose Local Option Sales Tax. The bill also extends the ability of the Revenue Commissioner to distribute unidentifiable sales tax proceeds to local governments.

FY 2012 Revenue Loss: \$20 million.

**HB 325: Expansion of Tax Credits for Student Scholarship Donations**

Summary: HB 325 raises the \$50 million cap on tax credits for private school scholarship donations. The cap shall be adjusted annually until 2018 based on inflation. Inflation has averaged 2.38 percent over the past decade. Based on that average, the cap would be \$59 million by 2018.

FY 2012 Revenue Loss: \$2.4 million (on top of the existing \$50 million credit). Author’s calculations are based on the average annual rate of inflation over last decade.

**HB 346: Expansion of Clean Energy Facility Tax Credits**

Summary: HB 346 extends and expands tax credits for clean energy facilities. The sunset date for the tax credits moves from 2012 to 2014 and the cap on the credits rises from the existing \$2.5 million to \$5 million. In addition, taxpayers receiving tax credits for donation of conservation land now will be able to sell those credits to other taxpayers. The bill also revises provisions related to confidentiality of tax information and deferred compensation for nonresidents.

FY 2012 Revenue Loss: \$2.5 million (on top of the existing \$2.5 million credit).

## Additional Revenue Bills

- **HB 95:** Revises forest land conservation use property provisions.
- **HB 117:** Clarifies withholding tax requirements for nonresidents. Also, the bill seeks to implement a health care provider fee on services delivered through the SOURCE program in order to bring additional federal revenue into the state; however, the federal government will have to approve such a fee.
- **HB 240:** Allows local governments to hold a referendum on how to use special purpose local option sales tax dollars when SPLOST projects are found to be infeasible.
- **HB 382:** Allows the city of Atlanta to levy an additional hotel/motel tax.

## Conclusion and Recommendations

Policymakers are choosing to limit their responses to the state's fiscal challenges to cuts in services followed by still more cuts. Rather than continue to pass exemptions, policymakers should bring all existing tax breaks into the budget discussion. Some serve a valid policy purpose and will stand up to evaluation and scrutiny. Others, however, will likely be shown to have less benefit than other uses for those dollars.

Beyond bringing tax code spending into the budget discussion, there is still need for comprehensive tax reform based on the Special Council for Tax Reform and Fairness for Georgians' recommendations. The Council's recommendations would help align revenues with a 21st century economy and meet the current and future needs of Georgians – very important for our state's ability to offer competitive jobs and be a good place to raise a family.

In calling for the state sales tax to extend to more services, which is reflective of current spending trends, and for a reduction in income tax exemptions, deductions, and credits, the Council recognized the need for a more productive, sustainable tax system. The fastest growing elements of spending and personal income would be incorporated into the tax base.

The Council's recommendations would shift the tax burden down the income ladder. Fortunately, though, the negative aspects of the Council's recommendations can be changed while still keeping the basic principles. Legislators could make the following adjustments to the Council's recommendations to lessen the tax shift:

- Maintain the sales tax exemption on groceries rather than eliminating the exemption as the Council recommends;
- Reduce the top income tax rate from the current 6 percent to a flat 4.5 percent rate rather than the 4 percent recommended by the Council;
- Re-craft the proposed personal income tax credit to give more protection to seniors and working families.

These kinds of adjustments would preserve the Council's achievements in modernization and improve the overall tax system. Options exist to move forward with tax reform. Lawmakers should return to the Council's recommendations and make modest adjustments from there, rather than starting from the revenue-losing proposal that marked the final days of session.

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