

Adding Up the Fiscal Notes: Crossover Day 2021

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Each year, the Georgia Budget and Policy Institute analyzes tax legislation considered by the General Assembly and tallies estimated costs and revenues in our two-part [Adding Up the Fiscal Notes series](#). This analysis is a snapshot of the legislative state of affairs as of March 9, 2021. Watch for the second part of the series after the governor's deadline to sign or veto bills passed by the 2021 Legislature.

The Georgia General Assembly advanced 24 tax bills between January and "Crossover Day," the deadline for legislation to clear at least one chamber to be eligible for final passage this legislative session. Now, the Senate will consider 19 changes to Georgia's tax code. On the other side of the Capitol, members of the House will examine four Senate bills that propose changes to the state's tax code, including two bills to increase transparency and improve the ability of leaders to evaluate the effectiveness of current and future tax measures. Members of the General Assembly can continue debating these bills and other legislation until the session is adjourned for the year, and this year is the first year of a two-year legislative cycle.

The majority of tax bills passed this session are not accompanied by a fiscal note to assess the potential costs to the state. This is either because the fiscal impact was determined to be too low to require an analysis, because there was significant uncertainty around how legislation would be implemented or because lawmakers simply did not request a fiscal note. Of the 24 tax measures that passed at least one chamber, only nine bills were accompanied by fiscal notes.

New Federal Law Means Legislation that Reduces State Revenue Collections Could Cost State Twice as Much

As passed by the U.S. Congress, the \$1.9 trillion American Rescue Plan (ARPA) sends \$8.2 billion in aid to Georgia, including \$4.7 billion directly to the state, and includes a clause intended to prevent states from using short-term federal resources to enact costly tax cuts. The provision holds that if any state changes its laws in a way that reduces net tax revenue any time after March 3, 2021, and before the state has spent its entire federal allocation (or by 2024), the U.S. Department of Treasury is authorized to deduct an equivalent amount from the aid received by the state.¹

This provision could mean that, if a slew of costly tax measures passed by the House of Representatives are able to secure final passage, Georgia could also lose hundreds of millions of dollars in federal aid. While further guidance is still needed from the U.S. Department of Treasury on how the federal law will impact Georgia, any tax measure that would reduce state revenue collections carries significant risk to the state.

The measure most affected by this provision is HB 593, legislation to modestly increase Georgia's standard deduction—which an estimated 86 percent of taxpayers benefit from—by a maximum of \$46 for individuals or \$63 for married couples.² At an estimated annual cost of \$58 million in Fiscal Year (FY) 2022 and \$141 million when fully implemented in FY 2023, this measure could lead the state to lose an equivalent amount in aid delivered through the state from the American Rescue Plan.

Rather than risking this loss of nearly \$200 million in vitally necessary funds—which remain needed to fill the \$1.2 billion in cuts that remain in the FY 2022 budget—lawmakers can take advantage of the fact that one of the allowable uses of Georgia's federal funds is direct economic payments to deliver economic relief to those who need it most.³ Currently more than 3.5 million Georgians, including 1.5 million children, are eligible for the federal Earned Income Tax Credit. Under the structure of a direct economic payment, Georgia could join 30 other states that offer matching EITCs, and provide a payment valued at 10 percent of the federal EITC to all eligible taxpayers.⁴ This would be a fiscally responsible way to extend economic relief to more Georgia families, without risking the loss of hundreds of millions of dollars in federal funding.

State-House-Approved Tax Legislation Is Estimated to Reduce State Revenues by \$177 Million Next Year, \$954 million by 2026

Bill	LC Number (fiscal note)	Estimated State Revenue Effect, fiscal years, in millions					
		2022	2023	2024	2025	2026	Five-Year Total (2022-2026)
HB 593	LC 43 1928	(\$58)	(\$141)	(\$142)	(\$144)	(\$146)	(\$631)
HB 587*	LC 43 1940	(\$7.4)	(\$5.4)	(\$4.4)	(\$5.7)	(\$11.6)	(\$184.50)
HB 586	LC 43 1941	(\$11.6)	(\$13.3)	(\$1.3)	(\$1.4)	(\$2.3)	(\$29.9)
HB 32	LC 49 0286	(\$0.0)	(\$1.5)	(\$2.8)	(\$3.0)	(\$3.0)	(\$10.3)
HB 63	LC 43 1746	(\$3.4)	(\$3.5)	(\$3.7)	(\$3.8)	(\$3.9)	(\$18.3)
HB 114	LC 33 8512- EC	(\$0.4)	(\$0.7)	(\$1.0)	(\$1.2)	(\$1.5)	(\$4.8)
HB 149	LC 43 1869	(\$0.3)	(\$0.2)	(\$0.2)	(\$0.2)	(\$0.2)	(\$1.1)
HB 317	LC 43 1783	\$17.1	\$20.3	\$21.3	\$22.4	\$23.5	\$104.6
HB 469	LC 44 1687 S	(\$14.0)	(\$31.9)	(\$42.8)	(\$44.8)	(\$44.8)	(\$178.3)
Combined Net Tax Effects		\$78	\$177	\$177	\$182	\$190	\$954

Source: Department of Audits and Accounts, fiscal notes.

*In the case of HB 587, GBPI's estimates are used (March 2021) to determine the legislation's cost when fully implemented. Individual business decisions will impact the timing of when costs will be accrued to the state, however, GBPI anticipates that \$150 million in credits and tax incentives will be released during the time period evaluated from FY 2022-26; Institute on Taxation and Economic Policy, February 2020. Parentheses denote a loss of revenue.

Costly Corporate Tax Break Package Would Give Millions to Wealthy Corporations

[If HB 587 is enacted](#), according to state estimates prepared for the version passed by the full House (LC 43 1970S), \$150 million in new tax credits could be hastily granted to just six corporations. The bill is based on a deeply flawed economic development strategy that seeks to grant special treatment to individual corporations—far beyond what is allowed under current law—while simultaneously lowering requirements for job creation and economic investment.

Referred to nationally as CAPCO but dubbed the Georgia Agribusiness and Rural Jobs Act (GARJA) credit, House Bill 587 would authorize a second round of \$100 million in funding to finance an expensive, nationally discredited tax credit program that operates through state-sponsored quasi-venture capital funds. HB 587 would add to the \$100 million in tax credits that were fully disbursed in 2019 to just five firms and were authorized through 2017 legislation.

HB 587 also includes a special carveout to allow qualifying U.S. defense contractors to claim both the new facilities investment credit and qualifying state jobs tax credits, which is not currently allowed under state law. This provision specifically targets Lockheed Martin. The legislation also includes a specially targeted provision that doubles the maximum value of the state's new facilities investment tax credit from \$50 million to \$100 million for qualifying defense projects. Further, HB 587 would weaken current eligibility requirements to allow credits to be claimed under lower investment and job thresholds, far below what is allowed under current law. Qualifying defense contractors would be able to claim the credit at a lower minimum investment of \$500 million, down from the current minimum of \$800 million, and for 1,000 employees, down from the 1,800 required under current law.

The American Rescue Plan provision that penalizes states for implementing measures to cut revenues could also apply to the tax credits and incentives included in HB 587.⁵ That means, if HB 587 is enacted and costs the state \$150 million over the next two years, Georgia could also lose \$150 million of this federal aid, resulting in a net cost of \$300 million. While Department of Treasury guidance is still needed on how the federal law will impact Georgia, HB 587 carries significant risk to the state that far outweighs the value of creating more than \$150 million in corporate tax subsidies.

Transparency Measures Await Consideration from House Lawmakers

The state Senate advanced two bills that could improve the state's return on investment for future tax expenditures while equipping lawmakers to begin a full review of the state's current tax laws with expert input. Senate Bill 6 and Senate Bill 148 seek to improve the decision-making process for investments made through the state's tax code.⁶ If advanced by the House and signed into law by Gov. Kemp, SB 6 would increase the legislature's authority to review existing and proposed tax breaks to more deliberately consider the impact of tax code changes.⁷ SB 148 would create a process to improve transparency in Georgia's tax code by establishing the 2021 Special Council on Tax Reform and Fairness for Georgians and the Special Joint Committee on Georgia Revenue Structure, which could begin meeting in 2021 to launch a full evaluation of Georgia's tax laws.⁸

Conclusion

There are historic challenges facing the state during the COVID-19 pandemic, including a revenue shortfall that has led House lawmakers to pass an FY 2022 budget with \$1.2 billion in cuts from FY 2020 funding levels. Circumstances are dire, and the Georgia General Assembly should not prioritize approving new special-interest tax breaks over funding the state's public education system and ailing health care infrastructure. At the same time, through the provision of the American Rescue Plan that allows Georgia leaders to leverage an influx of \$4.7 billion in estimated federal aid to issue direct payments to state residents, Georgia can help lead the way to recovery by boosting the value of the Earned Income Tax Credit for nearly 3.5 million Georgians.

Also, as lawmakers debate the fate of 23 tax bills that could cost the state nearly \$1 billion when fully implemented (by FY 2026), Georgia's leaders should reject costly special-interest tax breaks. Legislators should return their focus to restoring the considerable ground lost to the pandemic in the areas of public education, health care, economic mobility and improving the state government's capacity to meet the needs of Georgians.

Overview of Tax Bills Passed Through Crossover Day

Unless otherwise noted, the bills below are eligible to be considered by the Senate:

House Bill 32: Creates a refundable income tax credit of \$3,000 per year (for a maximum of five years) intended to recruit teachers to and retain teachers in qualifying schools. The DOE would determine 100 qualifying schools and approve a maximum of 1,000 recipients per year. (cost of \$2.8 million per year when fully implemented in FY 2024).⁹

House Bill 63: Modifies Georgia's current Title Ad Valorem Tax (TAVT) on motor vehicles by reducing the taxation base for leased vehicles by the amount spent in itemized interest and financing charges.¹⁰

House Bill 114: Increases the value of the state's tax credit for parents who adopt a foster child from \$2,000 to \$6,000 for the first five years after adoption. The credit remains non-refundable, meaning families cannot receive the balance of any remaining tax credits worth more than they pay in state income taxes.¹¹

House Bill 149: Modifies tax rules for S-corporations and partnership businesses. Gives these businesses the ability to pay the tax due on income at the state income tax rate of 5.75 percent, allowing shareholders to avoid recognizing this income when filing their individual tax returns.¹²

House Bill 160: Authorizes independent and comprehensive audits of the water and sewer projects cost tax (acronym: MOST) utilized by municipal governments.¹³

House Bill 265 (signed by Gov. Kemp): Annual internal revenue code update that brings elements of Georgia's tax code into conformity with the federal government. Includes a provision allowing forgiven Paycheck Protection Program loans to be deducted from Georgia income tax. Importantly, this legislation was signed into law before the covered period of the American Recovery Plan.¹⁴

House Bill 282: Modifies the guidelines for ad valorem taxes on qualified timberland property in Georgia and makes changes to the criteria used to determine the fair market value of eligible properties.¹⁵

House Bill 292: Modifies training requirements for members of county boards of equalization.¹⁶

House Bill 302: Requires that local government regulatory fees be used to pay for regulatory activity and not general operations and revises the list of professions that may be subject to regulatory fees to remove taxicab and limousine operators, shooting galleries and firearm ranges, firearm dealers and boxing promoters.¹⁷

House Bill 317: Revises the state definition of "innkeeper" (used to calculate lodging excise taxes) to include Airbnb and other marketplace-based innkeepers.¹⁸

House Bill 374: Exempts local public water and sewer authorities from taxation.¹⁹

House Bill 428: Modifies the state sales tax exemption for computer equipment to "high-technology" companies to expand the industry codes allowed under this exemption and requires reporting to the state from companies that are issued a certificate of exemption.²⁰

House Bill 451: Makes minor modifications to allow Georgia taxpayers claiming the state freeport property tax exemption in 2021, allowing taxpayers to choose between using the fair market value as determined in January 2020 or January 2021.²¹

House Bill 469: Increases the state cap on historic rehabilitation tax credits from \$25 million to \$50 million per year; allows unused credits to be carried over and applied to increase the cap on historic rehabilitation credits in future tax years; increases the maximum credit per-project from \$5 million to \$10 million, with some projects allowed to qualify for up to \$15 million; weakens reporting requirements for credit recipients; adds a 10-year (July 2031) sunset.²²

House Bill 477: Extends the sunset date from 2021 to 2026 for Georgia's state tax credit for qualified donations of property.²³

House Bill 498: Expands eligibility criteria for Georgia's state tax exemption for agricultural equipment and farm products.²⁴

House Bill 575: Changes state regulations to allow for the imposition of a joint county and municipal sales tax by consolidated governments and provide rules for voters to hold referenda to consider these sales taxes.²⁵

House Bill 586: Includes provisions to create or extend state sales tax exemptions. (1) extends the state sunset for Georgia's sales tax exemption for competitive projects of

regional significance (CPRS) from June 2021 to June 2023; (2) creates a temporary exemption for admissions to fine arts performances and museums through December 2022; (3) creates an exemption for equipment used in the concrete industry; (4) removes the June 2025 sunset on yacht and boat repairs valued over \$500,000.²⁶

House Bill 587: Includes five provisions:

(1) authorizes the state of Georgia to issue \$100 million in tax credits for a program known nationally as CAPCO. Simply put, the program would hand over \$100 million in Georgia taxpayer money to state-financed venture capital funds to receive an indirect return from tax revenue generated by supposed new economic activity, which has failed to materialize in multiple states that have created similar programs over the last two decades;

(2) doubles the current state maximum tax credit for large investments for new facilities from \$50 million per project to \$100 million for only the aerospace industry, in an apparent bid to incentivize Lockheed Martin to invest funds from upcoming federal defense contracts in Georgia, and reduce job and investment thresholds required under current law so that the company can receive additional tax credits (total cost of \$30-\$50 million; the timeline depends on company tax decisions);

(3) creates a new stackable job tax credit (JTC) for medical device and pharmaceutical manufacturers (\$5.2 million in FY 2022);

(4) removes caps on the state's port activity tax credit to allow corporations to offset 100 percent of their state income tax liability and utilize any additional credits to offset payroll withholding taxes (\$2.1 million in FY 2022); and

(5) extends Georgia's current railroad track maintenance tax credit for five years through the end of 2028 (up to \$7.7 million in FY 2026).²⁷

House Bill 593: Modestly increases Georgia's standard deduction. Single filers would see their standard deduction increase by \$800, from \$4,600 to \$5,400 equivalent to a maximum of \$46 in annual tax savings; Married filers would experience an increase of \$1,100 from \$6,000 to \$7,100 (if filing jointly), equivalent to a maximum of \$63.25 in tax savings; and blind/disabled filers.²⁸

Unless otherwise noted, the bills below are eligible to be considered by the House:

Senate Bill 6: Increases transparency into Georgia's tax code and legislative process by authorizing the chairs of the Georgia House Ways & Means and Senate Finance committees to each request up to five detailed economic analyses on existing or proposed tax measures. Enacting this legislation will help to strengthen the state's capacity to evaluate the effects of tax changes while creating a defined process for the state to weigh promises of economic investment and job creation against fiscal impact and cost to Georgia residents.²⁹

Senate Bill 87: Allows Georgia taxpayers to make voluntary payments when submitting income tax returns to give aid to qualified organizations that serve disabled veterans.³⁰

Senate Bill 148: Creates a process to improve transparency in Georgia's tax code by establishing the 2021 Special Council on Tax Reform and Fairness for Georgians and the Special Joint Committee on Georgia Revenue Structure. These groups would be charged with evaluating the effectiveness and return on investment of the nearly \$10 billion in tax expenditures offered annually by the state of Georgia and determining if there are ways to improve tax fairness for state residents.³¹

Senate Bill 201: Improves the process and gives new tools to the state Department of Revenue to collect unpaid revenues from delinquent taxpayers.³²

End Notes

¹ H.R. 1319, American Rescue Plan Act of 2021, <https://www.congress.gov/bill/117th-congress/house-bill/1319>

² House Bill 593. <https://www.legis.ga.gov/legislation/59953>; Fiscal note for LC 43 1928. <https://www.legis.ga.gov/api/legislation/document/20212022/199295>; Institute on Taxation and Economic Policy, February 2020.

³ Welch, A. (2021, March 4). *House appropriations approves changes to Fiscal Year 2022 budget*. Georgia Budget and Policy Institute. <https://gbpi.org/house-appropriations-approves-changes-to-fiscal-year-2022-budget/>

⁴ Institute on Taxation and Economic Policy, March 2021.

⁵ Johnson, N. (2021, March 11). *Rescue plan protects against using federal dollars to cut state taxes*. Center on Budget and Policy Priorities. <https://www.cbpp.org/blog/rescue-plan-protects-against-using-federal-dollars-to-cut-state-taxes>

⁶ Senate Bill 6. <https://www.legis.ga.gov/legislation/58884>; Senate Bill 148. <https://www.legis.ga.gov/legislation/59556>.

⁷ Senate Bill 6. <https://www.legis.ga.gov/legislation/58884>.

⁸ Senate Bill 148. <https://www.legis.ga.gov/legislation/59556>.

⁹ House Bill 32. <https://www.legis.ga.gov/legislation/58821>; Fiscal note for LC 49 0286 <https://opb.georgia.gov/document/fiscal-notes-2021-physical-and-economic-development/lc-49-0286-hb-32/download>.

¹⁰ House Bill 63. <https://www.legis.ga.gov/legislation/58876>; Fiscal note for LC 43 1746. <https://www.legis.ga.gov/api/legislation/document/20212022/198261>.

¹¹ House Bill 114. <https://www.legis.ga.gov/legislation/58961>; Fiscal note for LC 33 8512-EC <https://www.legis.ga.gov/api/legislation/document/20212022/198042>.

¹² House Bill 149. <https://www.legis.ga.gov/legislation/59024>; Fiscal note for LC 43 1869 <https://www.legis.ga.gov/api/legislation/document/20212022/198053>.

¹³ House Bill 160. <https://www.legis.ga.gov/legislation/59073>.

¹⁴ House Bill 265. <https://www.legis.ga.gov/legislation/59265>.

¹⁵ House Bill 282. <https://www.legis.ga.gov/legislation/59292>.

¹⁶ House Bill 292. <https://www.legis.ga.gov/legislation/59329>.

¹⁷ House Bill 302. <https://www.legis.ga.gov/legislation/59342>.

¹⁸ “Marketplace” in digital terms typically means a website where vendors can post and sell their products; House Bill 317. <https://www.legis.ga.gov/legislation/59359>; Fiscal note for LC 43 1783 <https://www.legis.ga.gov/api/legislation/document/20212022/198054>.

¹⁹ House Bill 374. <https://www.legis.ga.gov/legislation/59507>

²⁰ House Bill 428. <https://www.legis.ga.gov/legislation/59609>.

²¹ House Bill 451. <https://www.legis.ga.gov/legislation/59646>.

²² House Bill 469. <https://www.legis.ga.gov/legislation/59705>; Fiscal note for LC 44 1687 S. <https://opb.georgia.gov/document/fiscal-notes-2021-physical-and-economic-development/lc-44-1687s-hb-469/download>.

²³ House Bill 477. <https://www.legis.ga.gov/legislation/59724>.

²⁴ House Bill 498. <https://www.legis.ga.gov/legislation/59778>.

²⁵ House Bill 575. <https://www.legis.ga.gov/legislation/59923>.

²⁶ House Bill 586. <https://www.legis.ga.gov/legislation/59947>; Fiscal note for LC 43 1941. <https://www.legis.ga.gov/api/legislation/document/20212022/199532>.

²⁷ House Bill 587. <https://www.legis.ga.gov/legislation/59948>; Fiscal note for LC 43 1940. <https://www.legis.ga.gov/api/legislation/document/20212022/199598>.

²⁸ House Bill 593. <https://www.legis.ga.gov/legislation/59953>; Fiscal note for LC 43 1928. <https://www.legis.ga.gov/api/legislation/document/20212022/199295>.

²⁹ Senate Bill 6. <https://www.legis.ga.gov/legislation/58884>.

³⁰ Senate Bill 87. <https://www.legis.ga.gov/legislation/59285>.

³¹ Senate Bill 148. <https://www.legis.ga.gov/legislation/59556>.

³² Senate Bill 201. <https://www.legis.ga.gov/legislation/59763>.