



DOAA
Georgia Department
of Audits & Accounts

Greg S. Griffin
State Auditor

March 3, 2022

Honorable Shaw Blackmon
Chairman, House Ways and Means
133 State Capitol
Atlanta, GA 30334

SUBJECT: Fiscal Note
House Bill (LC 43 2088)

Dear Chairman Blackmon:

The bill would comprehensively revise the taxation of communications services in Georgia. It would eliminate all state and local sales and use taxes and local franchise taxes, including right of way fees, on communications services. It would replace these taxes with uniform state and local taxes with state and local rates of 2 percent on communication services and digital subscription services. The bill also proposes to apply sales and use taxes on the retail sale of digital products and digital codes. Finally, the bill extends the state and local sales tax exemption for computer purchases by high-technology companies when those computer purchases exceed \$15 million in a year (set to expire on June 30, 2023). The effective date for this legislation is July 1, 2022.

Impact on State and Local Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would increase state revenue by \$411.7 million in FY 2024, the first year of the fiscal impact from all provisions. The local revenue increase would be \$292.4 million. The revenue gains would increase in subsequent years (Table 1 on the following page). The appendix provides details of the analysis.

It should be noted that Georgia Department of Transportation (GDOT) officials suggested that the bill's language may be interpreted to exempt telecommunication providers from paying state right of use permit fees. Title 36 of the bill concerns only local governments. The tax provisions found in Section 2-6 state that counties, municipalities, and political subdivisions cannot charge for purposes including "compensation for the use of public rights of way." GDOT officials were unclear whether providers would consider the agency a political subdivision. The right of use permit fees generate approximately \$12.3 million annually. The funds are used to provide utility companies with an electronic permitting system, as well as cover costs associated with the utility location on state routes and utility coordination for transportation projects.

Table 1. Summary of Revenue Effects of LC 43 2088

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Current Law Sales and Franchise Taxes Repealed					
State	(\$95.7)	(\$97.8)	(\$100.0)	(\$102.2)	(\$104.4)
Local	(\$186.7)	(\$191.1)	(\$195.6)	(\$200.1)	(\$204.6)
Telecom CST					
State	\$190.7	\$193.6	\$196.1	\$198.5	\$200.6
Local	\$191.2	\$194.1	\$196.6	\$199.0	\$201.1
Digital Subscription CST					
State	\$139.1	\$147.1	\$156.0	\$166.3	\$178.4
Local	\$139.3	\$147.3	\$156.3	\$166.6	\$178.8
Total CST Revenue					
State	\$329.8	\$340.7	\$352.1	\$364.8	\$379.0
Local	\$330.5	\$341.4	\$352.9	\$365.6	\$379.9
Sales Tax Exemption for Computer Equipment Purchases					
State		(\$82.2)	(\$84.5)	(\$86.8)	(\$89.0)
Local		(\$69.2)	(\$71.1)	(\$73.0)	(\$74.9)
Sales tax on Digital Products					
State	\$237.3	\$251.0	\$266.3	\$281.6	\$297.5
Local	\$199.8	\$211.3	\$224.2	\$237.1	\$250.4
Net Revenue Effects of LC 43 2088					
State	\$471.5	\$411.7	\$433.9	\$457.5	\$483.1
Local	\$343.5	\$292.4	\$310.4	\$329.6	\$350.8

Impact on State Expenditures

The Department of Revenue (DOR) would be able to implement the bill’s provisions with existing funds, though it anticipated up to nine months of IT personnel time to make the required system changes.

Respectfully,



Greg S. Griffin
State Auditor



Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

Summary of Bill Provisions

First, LC 43 2088 modifies the current taxation of communications services and establishes new taxes on digital subscription services and digital products. The bill replaces the current state and local sales tax on local wireline and wireless telephone service and the current local franchise and public, education and government access (PEG) fees with a uniform statewide 2 percent tax on all communications services (CST). Digital subscription services, which are not currently taxed, are subject to the CST. The proposed local rates on communication services and digital subscription services are also 2 percent.

The tax base for the CST is the sale price paid for the retail purchase of communications services sourced in the state (sourcing rules are delineated in the proposed new Code Section 48-8-79 in this bill). Communications services, under the proposed law, include ancillary services, information services, telecommunications services, prepaid calling services, prepaid wireless calling services, but specifically excludes internet access services.

The retail purchase of digital subscription services is also part of the CST tax base. A digital subscription service is defined as a service that offers an end user the right to access or use prewritten computer software, video programming, audio-visual works, audio works, books, or other digital products, provided that the service is delivered electronically and the right to access or use these services expires after a period of not more than a year if not renewed by the end user.

LC 43 2088 also proposes to change the definition of tangible personal property subject to sales taxes to include digital codes, prewritten computer software, specified digital products, and other digital products. Digital codes are defined as activation or enabling codes that provides a purchaser with the right to obtain a digital product. Specified and other digital products include digital:

Audio-visual works,	Photographs,	Video greeting cards,
Audio works,	Periodicals,	Audio greeting cards, and
Books,	Newspapers,	Video games.
Artwork,	Magazines,	

Voice over internet protocol (VOIP), cable TV, and satellite TV services are included in the communications services tax base under the bill. Under current law, these services are not taxed in a consistent manner, with cable companies currently paying a franchise fee to local governments and satellite TV subject only to sales tax on equipment sales.

Internet access services, including communication services purchased as an input to the provision of internet access services, are specifically exempted from sales and use tax under the proposed paragraph (105) of Code Section 48-8-3. Note that internet access services are not currently taxable in Georgia, so this new exemption provision does not reduce state or local revenues relative to current law. Additionally, under the Internet Tax Freedom Act, the relevant provisions of which were made permanent by the Trade Facilitation and Trade Enforcement Act of 2015 (Pub.L. 114-125), state and local taxation of internet access services are preempted by federal law.

Finally, LC 43 2088 implicitly allows for vendor compensation to be retained from the state CST (lines 709-11 incorporate by reference all of Article 1 of Chapter 8 of Title 48, which provides for vendor compensation in Section 50) and also allows the state to retain 1 percent of local CST collections to cover administrative costs, subject to a \$500 thousand annual limit. Given projected amounts of local CST revenues, the cap on the amount retained by the state would be reached in all periods, so \$500 thousand is deducted from the local and added to the state revenue estimates. Vendor compensation, at a rate of 0.5 percent, is subtracted from the state CST estimates.

Current Law Revenue Analysis

Under current law, sales tax collections on wired and wireless telecom were \$94.3 million for the state and \$79 million for local governments in CY 2021, up from \$93.3 and \$78.2 million the prior year. Under the proposed law, these services will no longer be subject to sales tax beginning July 1, 2022.

The amounts of forgone state sales tax revenues for FY 2023-27, assuming enactment of the proposed law, are projected from the CY 2021 base using IBISWorld forecasted industry revenue growth for CY 2021-27, assuming growth in 2027 continues at the rate for 2026 and converted to state fiscal years by averaging. Local revenue forecasts assume an average local tax rate of 3.35 percent, the population-weighted average as of Jan 1, 2022, according to the Tax Foundation.

Table 1A. Projected Sales Tax Revenues Subject to Repeal

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Wired & Wireless Telecom:					
State	\$95.7	\$97.8	\$100.0	\$102.2	\$104.4
Local	\$80.1	\$81.9	\$83.8	\$85.6	\$87.4
Total	\$175.8	\$179.7	\$183.8	\$187.9	\$191.8

Local franchise fee collections, including right-of-way fees, from cable and telephone businesses in the state totaled \$85.4 million in FY 2020 according to data compiled by the University of Georgia Tax and Expenditure Data Center. Total franchise fees for local governments in 2020 declined by more than 30 percent over 2019. Between CY 2016 and CY 2019 total franchise fees were growing annually at 2.4 percent. For 2020 cable and phone telecom franchise fees represented 94 percent of county total franchise fees, 18 percent of city franchise fees, and 28 percent of city and county consolidated government franchise fees. Baseline projections for FY 2021-27 assume a strong rebound of 19 percent in FY 2021, returning to the previous trend, and 2.4 percent annual growth through for FY 2021-27.

The projected revenues, based on these data and assumptions, subject to repeal for FY 2023-27 are shown below in Table 2A.

Table 2A. Projected Local Franchise Fee Revenues Subject to Repeal

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Local Revenue Baseline	\$106.6	\$109.2	\$111.8	\$114.5	\$117.2

Communications Services Tax Revenue from Telecommunications Services

For purposes of estimating the CST base from communication services, IBISWorld forecasts of national revenues for the relevant communications services industry sectors are first adjusted to remove service or product revenues that would not be subject to the CST and then the resulting net revenues are shared down to Georgia. The specific industry sectors as identified by IBISWorld, the adjustments made, and the sharing-down methodology are as follows:

- Industry Sectors and Adjustments
 - Wired Telecommunications Carriers (51711c) – Carrier services are netted out assuming constant 26.9 percent share of total revenues.
 - Wireless Telecommunications Carriers (51721) – Internet access services and sales to resellers are netted out assuming constant 45.4 percent and 28.7 percent shares of total revenues, respectively.
 - Cable Providers (51711a) – IBISWorld revenue estimates are for cable TV services only (cable-based telecom would be part of wired telecom or VoIP), so no adjustments are made.

- Satellite TV Providers (51711b) – Also no adjustments.
- Satellite Telecommunications Providers (51741) – Carrier and internet backbones services (at 32.1 percent) as well as internet access services and equipment sales (at 43.1 percent combined) are netted out.
- VoIP Providers (51711e) – No adjustments.
- Telecommunications resellers (51791a) – Internet access, carrier and internet backbone services, and merchandise sales (at 12 percent total) are netted out.

Note that, where revenues are not adjusted for equipment or other tangible product sales, such sales were not among the revenue categories IBISWorld included in their estimates or were not material.

- According to the Bureau of Economic Analysis (BEA) Georgia’s share of national personal consumption expenditure was 3.2 percent in 2020. This figure is used to share-down the national revenue estimates to represent Georgia.

Table 3A shows estimates of Georgia-sourced revenue for each sector that would be subject to the CST during FY 2020-24 before adjusting for the partial call center exemption.

Table 3A: Estimated Georgia Communications Services Revenues Subject to CST

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Wired Telecom	\$1,359.2	\$1,356.9	\$1,352.9	\$1,348.5	\$1,344.0
Wireless Telecom	\$2,603.7	\$2,674.2	\$2,748.9	\$2,823.8	\$2,890.9
Cable TV	\$3,200.9	\$3,265.9	\$3,313.0	\$3,350.8	\$3,380.1
Satellite TV	\$1,211.9	\$1,206.8	\$1,202.6	\$1,199.4	\$1,197.4
Satellite Telecom	\$45.4	\$45.3	\$44.8	\$44.7	\$44.6
VoIP	\$547.2	\$555.9	\$564.6	\$573.4	\$581.0
Telecom Resellers	\$603.1	\$610.1	\$616.6	\$622.8	\$629.4
Total Taxable Revenues	\$9,571.5	\$9,715.1	\$9,843.4	\$9,963.3	\$10,067.4

Sources: IBISWorld, Bureau of Economic Analysis, and FRC calculations

Projected gross tax from the proposed CST on communication services, based on projected industry revenues from Table 3A and applying the applicable state and local rates to each sector, are then adjusted as follows:

- Vendor compensation is deducted at a rate of 0.5 percent of state CST collections.
- Finally, to reflect the holdback for DOR administrative costs from local CST collections on communications services and digital subscription services, \$500 thousand per year is deducted from local collections (\$250 thousand from each, communications and subscriptions CST) and added to state revenues.

Table 4A shows the projected state and local CST collections, net of these adjustments, for FY 2020-24.

Table 4A: Net CST Revenues from Communication Services

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
State	\$190.7	\$193.6	\$196.1	\$198.5	\$200.6
Local	\$191.2	\$194.1	\$196.6	\$199.0	\$201.1

Communications Services Tax Revenue from Digital Subscription Services

For purpose of estimating the CST base from digital subscription services, IBISWorld forecasts of national revenues for the relevant digital subscription industries are first adjusted to remove all non-subscription service revenue. The resulting national subscription revenues are shared down to Georgia using the same method as above, using Georgia’s 3.2 percent share of U.S. personal consumption expenditures. The specific industry sectors as identified by IBISWorld, the adjustments made, and the

sharing-down methodology are as follows:

- Video Streaming Services (OD6197) assuming 47 percent of industry revenues are from subscriptions.
- Music Streaming (OD6193) assuming 77 percent of industry revenues are from subscription.
- Internet Radio Broadcasting (OD 5987) assuming 17 percent of industry revenues are from subscription.
- Software Publishing Services (51121) design, development, consulting and the sale of hardware and software (60.8 percent) are netted out.
- Digital newspaper subscriptions (51111) advertising and circulating subscription revenues (86.8 percent) are netted out.
- Magazine and periodical subscriptions (51112) advertising and circulating subscription revenues (86.8 percent) are netted out.
- Audiobook publishing (OD4396) advertising and digital purchase sales (70.2 percent) are netted out.

Table 5A: Estimated Georgia Digital Subscription Revenues Subject to CST

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Video Streaming	\$1,046.1	\$1,292.0	\$1,595.1	\$1,968.8	\$2,430.3
Music Streaming	\$360.2	\$387.5	\$416.0	\$446.1	\$478.1
Internet Radio	\$19.9	\$20.1	\$20.3	\$20.4	\$20.6
Software	\$5,414.8	\$5,546.0	\$5,664.1	\$5,780.6	\$5,899.6
E-subscriptions: Newspaper	\$86.7	\$84.3	\$81.3	\$78.5	\$75.4
E-subscriptions: Periodicals	\$37.2	\$36.6	\$36.1	\$35.7	\$35.3
Audiobooks	\$11.6	\$12.0	\$12.4	\$12.7	\$13.1
Total Taxable Revenues	\$6,976.5	\$7,378.5	\$7,825.3	\$8,342.9	\$8,952.4

Sources: IBISWorld, Bureau of Economic Analysis, and FRC calculations

Projected gross tax from the proposed CST on digital subscription services, based on projected industry revenues from Table 5A and applying the applicable state and local rates to each sector, are then adjusted as follows:

- Vendor compensation is deducted at a rate of .5 percent of state CST collections.
- Finally, to reflect the holdback for DOR administrative costs from local CST collections, on communications services and digital subscription services \$500 thousand per year is deducted from local collections (\$250 thousand from each, communications and subscriptions CST) and added to state revenues.

Table 6A shows the projected state and local CST collections, net of these adjustments, for FY 2023-27.

Table 6A: Net CST Revenues from Digital Subscription Services

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
State	\$139.1	\$147.1	\$156.0	\$166.3	\$178.4
Local	\$139.3	\$147.3	\$156.3	\$166.6	\$178.8

Sales Tax on Digital Products

LC 43 2008 applies state and local sales taxes to digital codes, prewritten computer software, specified digital products, and other digital products. The taxable base is the same as was proposed under previous legislation that was the subject of fiscal notes, including LC 43 0460 in the 2017 session and LC 34 5447 in the 2019 session.

Among the specified digital products (see summary of bill provisions for list), no data are available for sales of electronically delivered artwork, photographs, or greeting cards. For the other categories of digital products, data from IBISWorld, the U.S. Census Bureau, the (BEA), and other sources were relied upon in making revenue estimates. Data on digital products purchases in Georgia were not separately available, so national estimates were shared down to Georgia as above, based on the state’s 3.2 percent share of personal consumption expenditures. Local revenue forecasts assume an average local tax rate of 3.35 percent, the population-weighted average as of Jan 1, 2022, according to the Tax Foundation.

The specific digital products, their data sources, and the adjustments made are as follows:

- National app revenues, based on IBISWorld and other industry sources, assuming 83.8 percent for subscriptions or video game, were \$5.2 billion in 2020.
- National music download revenues, based on data from the Recording Industry Association of America (RIAA) were \$862 million in 2019.
- National video game revenues (IBISWorld report NN003), assuming 76.8 percent are from digitally delivered purchases for mobile devices or software for consoles, were \$58.9 billion in 2020.
- National E-book and audiobook revenue, based on data from the American Association of Publishers (AAP), were \$8.6 billion in 2020.
- National movie and video digital download revenues, based on data from the Digital Entertainment Group (DEG), were \$5.3 billion in 2020.
- Software Publishing Services (51121) revenues, net of design, development, consulting, and software sold through a subscription (together 66.5 percent), were approximately \$78.0 billion in 2020.
- IBISWorld forecasts for each industry was used to project revenue for CY 2020-27 and then converted into FY 2020-2027 amounts.

Table 7A presents the estimated sales in Georgia of digital products for which data are available, along with the estimated sales tax revenues derived from this base, for FY 2023-27.

Table 7A. Projected Georgia Digital Product Sales and Sales Tax Revenues

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Apps/programs	\$187.1	\$197.3	\$205.7	\$214.9	\$224.6
Music	\$27.5	\$27.6	\$27.6	\$27.6	\$27.7
Video Games	\$2,421.1	\$2,633.1	\$2,888.2	\$3,150.6	\$3,432.2
E-Books & Audiobooks	\$297.8	\$308.4	\$318.4	\$328.0	\$337.4
Movies & Videos	\$168.6	\$168.8	\$168.9	\$169.1	\$169.3
Software Publishing	\$2,861.0	\$2,971.1	\$3,082.7	\$3,186.3	\$3,283.2
Total	\$5,963.1	\$6,306.2	\$6,691.5	\$7,076.5	\$7,474.3
Sales Tax Revenue					
State	\$237.3	\$251.0	\$266.3	\$281.6	\$297.5
Local	\$199.8	\$211.3	\$224.2	\$237.1	\$250.4

Sales Tax Exemption for Computer Equipment Purchases

Under current law, computer purchases larger than \$15 million in a year by a high-technology company are exempt, though June 30, 2023, from sales and use taxes. Under the bill, the current sunset date is eliminated.

A high-technology company is one with a qualifying 2017 NAICS code as listed in O.C.G.A §48-8-3(68)(A). To secure this exemption, companies must apply for and receive an exemption certificate. Applications must include estimates of planned, qualifying spending over the calendar year to which the application applies. If approved, the exemption is valid for the given calendar year only.

DOR reports that companies applying for the sales tax exemption for computer purchases in FY 2020 reported planned spending of \$1.4 billion while applicants the first 10 months of FY 2021 reported planned spending of \$1.9 billion.

The estimates of foregone state and local sales tax revenues, assuming the elimination of the existing sunset date, are based on the following data and assumptions:

- Given that reported planned spending is for the calendar year, we assume that applications DOR reports receiving in FY 2021 correspond to CY 2021 planned purchases. Likewise, planned spending from FY 2020 applications is assumed to correspond to CY 2020 purchases.
- No data are available for actual exempted purchases, so planned spending is taken as a proxy. Actual spending that qualified for the exemption may be higher or lower.
- IBIS world forecasted growth rates for national revenues in the various qualifying industries are averaged and used to project exempted computer sales from the CY 2021 base year through CY 2027. Projected calendar year sales are converted to fiscal years by simple averaging.

Table 8A presents the estimated amount of qualifying computer purchases along with estimated state and local sales taxes that would be owed absent the exemption, for FY 2023-27. Note that FY 2023 purchases are already exempt under current law, so revenue losses from this bill provision in FY 2023 are zero.

Table 8A. Estimated Eligible Equipment Purchases and Exempted Sales Tax Revenues

(\$ millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Eligible Computer Purchases	\$1,995.9	\$2,065.2	\$2,123.2	\$2,179.7	\$2,235.8
Sales Tax Revenue					
State	\$79.4	\$82.2	\$84.5	\$86.8	\$89.0
Local	\$66.9	\$69.2	\$71.1	\$73.0	\$74.9