The Senate Committee on Finance offered the following substitute to HB 454:

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to revise the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to revise the rates of taxation on income on individuals, estates, and trusts; to revise certain annual determinations; to revise certain exemptions and deductions; to provide for an income tax credit for certain taxpayers; to revise the definition of "force majeure" to include a pandemic, as relative to tax credits for jobs associated with large-scale projects; to limit the applicability of such term; to further extend the maximum time allowed for the job creation requirement under certain conditions; to limit the application of a sales tax exemption for certain healthcare facilities; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising paragraph (14) of Code Section 48-1-2, relating to definitions, as follows:

"(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning on or after January 1, ~~2021~~ 2022, the provisions of the United States Internal Revenue Code of 1986, as amended, provided for in federal law enacted on or before January 1, ~~2022~~ 2023, except that Section 108(i), Section 163(e)(5)(F), Section 168(b)(3)(I), Section 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k), Section 168(m), Section 168(n), Section 179(d)(1)(B)(ii), Section 179(f), Section 199, Section 381(c)(20), Section 382(d)(3), Section 810(b)(4), Section 1400L, Section 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section 1400N(k), and Section 1400N(o) of the Internal Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and except that Section 168(e)(7), Section 172(b)(1)(F), and Section 172(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the 2008 enactment of federal Public Law 110-343, and except that Section 163(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as it was in effect before the 2009 enactment of federal Public Law 111-5, and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as if it was not in effect, and except that Section 118, Section 163(j), ~~and~~ Section 382(k)(1), and Section 174 of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the 2017 enactment of federal Public Law 115-97; provided, however, that all provisions in federal Public Law 117-58 (Infrastructure Investment and Jobs Act) that change or affect in any manner Section 118 shall be treated as if they were in effect, and except that all provisions in federal Public Law 116-136 (CARES Act) that change or affect in any manner Section 172 and Section 461(l) shall be treated as if they were not in effect, and except that all provisions in federal Public Law 117-2 (American Rescue Plan Act of 2021) that change or affect in any manner Section 461(l) shall be treated as if they were not in effect, and except that the limitations provided in Section 179(b)(1) shall be $250,000.00 for tax years beginning in 2010, shall be $250,000.00 for tax years beginning in 2011, shall be $250,000.00 for tax years beginning in 2012, shall be

$250,000.00 for tax years beginning in 2013, and shall be $500,000.00 for tax years beginning in 2014, and except that the limitations provided in Section 179(b)(2) shall be $800,000.00 for tax years beginning in 2010, shall be $800,000.00 for tax years beginning in 2011, shall be $800,000.00 for tax years beginning in 2012, shall be $800,000.00 for tax years beginning in 2013, and shall be $2 million for tax years beginning in 2014, and provided that Section 1106 of federal Public Law 112-95 as amended by federal Public Law 113-243 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35 (or, if later, November 15, 2015)' shall be substituted for the phrase 'section 6511(a) of such Code (or, if later, April 15, 2015),' and notwithstanding any other provision in this title, no interest shall be refunded with respect to any claim for refund filed pursuant to Section 1106 of federal Public Law 112-95, and provided that subsection (b) of Section 3 of federal Public Law 114-292 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35' shall be substituted for the phrase 'section 6511(a) of the Internal Revenue Code of 1986' and the phrase 'such section' shall be substituted for the phrase 'such subsection.' In the event a reference is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific date prior to January 1, ~~2022~~ 2023, the term means the provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided in this title, any term used in this title shall have the same meaning as when used in a comparable provision or context in the Internal Revenue Code of 1986, as amended. For taxable years beginning on or after January 1, ~~2021~~ 2022, provisions of the Internal Revenue Code of 1986, as amended, which were as of January 1, ~~2022~~ 2023, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes.″

SECTION 2.

Said title is further amended by revising Code Section 48-7-20, relating to individual income tax rates, credit for withholding and other payments, and applicability to estates and trusts, as in effect on January 1, 2024, as follows:

"48-7-20.

(a) A tax is imposed upon every resident of this state with respect to the Georgia taxable net income of the taxpayer as defined in Code Section 48-7-27. A tax is imposed upon every nonresident with respect to such nonresident's Georgia taxable net income not otherwise exempted which is received by the taxpayer from services performed, property owned, proceeds of any lottery prize awarded by the Georgia Lottery Corporation, or from business carried on in this state. Except as otherwise provided in this chapter, the tax imposed by this subsection shall be levied, collected, and paid annually.

(a.1)(1) On and after January 1, 2024, the tax imposed pursuant to subsection (a) of this Code section shall be ~~at the rates provided in subsection (a.2) of this Code section for each respective tax year~~ 5.49 percent for taxable years beginning on or after January 1, 2024; provided, however, that ~~the actual rates for a given year tax year~~ such rate shall be reduced by 0.10 percent annually beginning on January 1, 2025, until the rate reaches 4.99 percent, provided such annual reductions in the tax rate shall be subject to delays as provided in paragraph (2) of this subsection.

(2) Each prospective ~~change in the tax rates~~ annual reduction in the tax rate that would otherwise occur as provided in ~~paragraphs (2) through (6) of subsection (a.2) of this Code section~~ paragraph (1) of this subsection shall be delayed by one year for each year that any of the following are true as of December 1:

(A) The Governor's revenue estimate for the succeeding fiscal year is not at least 3 percent above the Governor's revenue estimate for the present fiscal year;

(B) The prior fiscal year's net revenue collection was not higher than each of the preceding ~~five~~ three fiscal years' net tax revenue collection; or

(C) The Revenue Shortfall Reserve provided for in Code Section 45-12-93 does not contain a sum that exceeds the amount of the decrease in state revenue projected to occur as a result of the prospective reduction in the tax rates set to occur the following year.

(3) The Office of Planning and Budget shall make the determinations necessary to implement the provisions of paragraph (2) of this subsection and shall report its determinations by December 1 of each year to the department, the Speaker of the House of Representatives, the President of the Senate, and the chairpersons of the House Appropriations Committee, the House Ways and Means Committee, the Senate Appropriations Committee, and the Senate Finance Committee. This paragraph shall not be applicable after the final reduction ~~in the rates occurs as provided in paragraph (6) of subsection (a.2) of this Code section~~ to the rate of 4.99 percent occurs.

~~(a.2) Subject to the provisions of subsection (a.1) of this Code section:~~

~~(1) For tax years beginning on or after January 1, 2024, the tax imposed pursuant to subsection (a) of this Code section shall be levied at the rate of 5.49 percent;~~

~~(2) For tax years beginning on or after January 1, 2025, the tax imposed pursuant to subsection (a) of this Code section shall be levied at the rate of 5.39 percent;~~

~~(3) For tax years beginning on or after January 1, 2026, the tax imposed pursuant to subsection (a) of this Code section shall be levied at the rate of 5.29 percent;~~

~~(4) For tax years beginning on or after January 1, 2027, the tax imposed pursuant to subsection (a) of this Code section shall be levied at the rate of 5.19 percent;~~

~~(5) For tax years beginning on or after January 1, 2028, the tax imposed pursuant to subsection (a) of this Code section shall be levied at the rate of 5.09 percent; and~~

~~(6) For tax years beginning on or after January 1, 2029, the tax imposed pursuant to subsection (a) of this Code section shall be levied at the rate of 4.99 percent.~~

(b)~~(1)~~ Reserved.

~~(2) To facilitate the computation of the tax by those taxpayers whose federal adjusted gross income together with the adjustments set out in Code Section 48-7-27 for use in arriving at Georgia taxable net income is less than $10,000.00, the commissioner may construct tax tables which may be used by the taxpayers at their option. The tax shown to be due by the tables shall be computed on the bases of the standard deduction and the tax rates specified in paragraph (1) of this subsection. Insofar as practicable, the tables shall produce a tax approximately equivalent to the tax imposed by paragraph (1) of this subsection.~~

(c) The amount deducted and withheld by an employer from the wages of an employee pursuant to Article 5 of this chapter, relating to current income tax payments, shall be allowed the employee as a credit against the tax imposed by this Code section. Amounts paid by an individual as estimated tax under Article 5 of this chapter shall constitute payments on account of the tax imposed by this Code section. The amount withheld or paid during any calendar year shall be allowed as a credit or payment for the taxable year beginning in the calendar year in which the amount is withheld or paid.

(d) The tax imposed by this Code section applies to the Georgia taxable net income of estates and trusts, which shall be computed in the same manner as in the case of a single individual. The tax shall be computed on the Georgia taxable net income and shall be paid by the fiduciary.″

SECTION 3.

Said title is further amended by revising subsection (b) of Code Section 48-7-26, relating to personal exemptions from income tax, as in effect on January 1, 2024, as follows:

″(b) Each taxpayer shall be allowed as a deduction in computing his or her Georgia taxable income a personal exemption in the amount of $3,000.00 for each dependent of such taxpayer ~~an amount as follows:~~

~~(1) For each married couple filing a joint return:~~

~~(A) For taxable years beginning on or after January 1, 2024, $18,500.00;~~

~~(B) For taxable years beginning on or after January 1, 2026, $20,000.00;~~

~~(C) For taxable years beginning on or after January 1, 2028, $22,000.00; or~~

~~(D) For taxable years beginning on or after January 1, 2030, $24,000.00;~~

~~(2) For each married taxpayer filing a separate return, one-half of the amount of the personal exemption allowed under paragraph (1) of this subsection for the given year;~~

~~(3) For each single taxpayer or head of household, $12,000.00; and~~

~~(4) For each dependent of a taxpayer, $3,000.00~~."

SECTION 4.

Said title is further amended in Code Section 48-7-27, relating to computation of state taxable net income, as in effect on January 1, 2024, by revising paragraph (1) of subsection (a) as follows:

"(1) At the taxpayer's election, either:

(A) The sum of all itemized nonbusiness deductions used in computing such taxpayer's federal taxable income; or

(B) A standard deduction in an amount as follows:

(i) In the case of a married couple filing a joint return, $24,000.00; or

(ii) In the case of a single taxpayer, head of household, or married taxpayer filing a separate return, $12,000.00;"

SECTION 5.

Said title is further amended by adding a new Code section to read as follows:

"48-7-27.1.

(a) As used in this Code section, the term 'eligible itemizer' means any resident taxpayer who files an individual income tax return for a taxable year and makes the election under subparagraph (a)(1)(A) of Code Section 48-7-27 to deduct the itemized nonbusiness deductions used in computing such taxpayer's federal taxable income.

(b) For taxable years beginning on or after January 1, 2024, each eligible itemizer shall be entitled to a credit in the amount of $300.00 per taxpayer against the tax imposed by Code Section 48-7-20.

(c) The tax credit claimed allowed by this Code section shall be deducted from such taxpayer's individual income tax liability, if any, for the tax year in which it is properly claimed; provided, however, that in no event shall:

(1) The total amount of the tax credit under this Code section for a taxable year exceed such taxpayer's income tax liability; or

(2) Such credit amount be allowed to be carried forward to the taxpayer's succeeding years' tax liability or applied against prior years' tax liability.″

SECTION 6.

Said title is further amended by revising paragraphs (3) and (5) of subsection (a) of Code Section 48-7-40.24, relating to tax credits for jobs associated with large-scale projects, as follows:

″(3) 'Force majeure' means any:

(A) Explosions, implosions, fires, conflagrations, accidents, or contamination;

(B) Unusual and unforeseeable weather conditions such as floods, torrential rain, hail, tornadoes, hurricanes, lightning, or other natural calamities or acts of God;

(C) Acts of war (whether or not declared), carnage, blockade, or embargo;

(D) Acts of public enemy, acts or threats of terrorism or threats from terrorists, riot, public disorder, or violent demonstrations;

(E) Strikes or other labor disturbances; ~~or~~

(F) Expropriation, requisition, confiscation, impoundment, seizure, nationalization, or compulsory acquisition of the site or sites of a qualified project or any part thereof; or

(G) Pandemic which is an outbreak of a disease that occurs over a wide geographic area, affects a significant proportion of the population, causes a substantial and unforeseeable threat to the public health, and materially impacts the ability to conduct business, provided that this subparagraph shall only apply with respect to a qualified project first certified pursuant to paragraph (2) of subsection (b) of this Code section on or after July 1, 2023;

but such term shall not include any event or circumstance that could have been prevented, overcome, or remedied in whole or in part by the taxpayer through the exercise of reasonable diligence and due care, nor shall such term include the unavailability of funds.″

″(5) 'Job creation requirement' means the requirement that no later than the close of the sixth taxable year following the withholding start date, the business enterprise will have a minimum of 1,800 eligible full-time employees. If at the close of the sixth taxable year following the withholding start date a minimum of $600 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional two-year period. If at the close of the eighth taxable year following the withholding start date a minimum of $800 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional four-year period after the sixth taxable year following the withholding start date. If at the close of the tenth taxable year following the withholding start date a minimum of $1 billion in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional two-year period after the tenth taxable year following the withholding start date.″

SECTION 7.

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use tax, by revising paragraph (7) as follows:

"(7) Sales of tangible personal property and services to a nonprofit licensed nursing home, nonprofit licensed in-patient hospice, or a nonprofit general or mental hospital used exclusively by such nursing home, in-patient hospice, or hospital in performing a general nursing home, in-patient hospice, hospital, or mental hospital treatment function in this state when such nursing home, in-patient hospice, or hospital is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner; and further provided that no entity, or directly controlled affiliate of an entity, that terminated operation of a hospital containing a level one trauma center and at least 200 inpatient hospital beds after January 1, 2021, shall be eligible for an exemption under this paragraph until January 1, 2025;"

SECTION 8.

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; provided, however, that:

(1) Section 1 of this Act shall be applicable to all taxable years beginning on or after January 1, 2022;

(2) Sections 2 through 5 of this Act shall be effective on January 1, 2024, and shall be applicable to all taxable years beginning on or after January 1, 2024; and

(3) Sections 6 and 7 of this Act shall become effective on July 1, 2023.

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

SECTION 9.

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