DEPARTMENT OF AUDITS AND ACCOUNTS

270 Washington St., S.W., Suite 1-156
Atlanta, Georgia 30334-8400

Greg S. Griffin
STATE AUDITOR
(404) 656-2174

February 27, 2019

Honorable Brett Harrell
Chairman, House Ways and Means
133 State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 347 (LC 43 1239ER)

Dear Chairman Harrell:

The bill would modify the existing income tax credit for the qualified production expenditures of companies engaged in live musical or theatrical performances and the use of recorded musical performances in production of movie, film, television, game, or interactive entertainment production. The bill increases the credit from 15 percent to 30 percent of qualifying expenditures, reduces expenditure thresholds, and eliminates the requirement that productions run for 12 months. Musical or theatrical productions must originate and be based in Georgia and have more than one performance. Production companies may aggregate costs for multiple productions to meet the expenditure threshold. Tax credits may be transferred or sold.

Impact on State Revenue

The Carl Vinson Institute of Government (CVIOG) at the University of Georgia estimated that the bill would have no impact on state revenue. This estimate is based on the assumption that the annual tax credit caps would be reached under current law. Because this bill does not increase the caps, the bill would have no effect on state revenue. Details of CVIOG's analysis are included in the appendix.

Impact on State Expenditures

The Department of Revenue would not require additional funding as a result of the bill.

Sincerely,

Greg S. Griffin
State Auditor

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Carl Vinson Institute of Government

This legislation would amend Article 2 of Chapter 7 of Title 48, specifically Code Section 48-7-40.33, related to tax credits for the qualified production expenditures of companies engaged in live musical or theatrical performances (other than a single performance) and the use of recorded musical performances in production of movie, film, television, game, or interactive entertainment production.

The exemption under current law became effective in taxable year 2018 and can be utilized beginning with taxable year 2018 returns filed in 2019. Thus, the initial impact will be realized in FY2019. The Georgia Department of Revenue reports that it has no data currently available on the amount of the tax credits issued, thus the amount of credits that will be utilized in FY2019 cannot be estimated at this time. The program has a cap and tax credits are issued on a first-come, first-served basis. Under current law, the cap is $5 million for taxable year 2018, $10 million for taxable year 2019, and $15 million for taxable years 2020, 2021, and 2022. Tax credits may be taken for the taxable year when earned or be carried forward to subsequent taxable years. Current law does not allow new tax credits to be earned beginning with taxable year 2023.

The legislation eliminates requirement that a musical or theatrical production must run for 12 months in order to qualify for the tax credit and, instead, stipulates only that the production originate and be based in Georgia, have its first public performance in the state, and not be a single performance. The qualifying amount of expenditures for musical and theatrical performances would be reduced from $500,000 to $100,000 during the taxable year, and the amount for recorded music production would be reduced from $100,000 to $50,000. The legislation also allows production companies to aggregate costs for multiple productions within a single taxable year to meet the spending threshold.

The amount of the tax credit is increased from 15 percent to 30 percent of a production company's qualifying expenditures. The legislation provides that production companies may transfer or sell income tax credits that are earned but not used against its income tax liability.

The utilization history of tax credit programs, generally, suggests that the current caps for new tax credits are likely to be fully earned, if not completely utilized in the taxable years when earned. The proposed legislation reduces the threshold for qualifying expenses, doubles the amount of the tax credit from 15 percent to 30 percent of qualifying expenses, and allows production companies to aggregate expenditures across multiple productions to meet the spending threshold.

Because this program started in the most recent taxable year (2018), data on this tax credit program is not yet available. Data from the North American Industry Classification System, obtained from the U.S. Census Bureau, County Business Patterns and IMPLAN indicate that there are 218 registered music and theatrical production companies (NAICS 7111) in Georgia that employ 1,952 persons. Employment in the sound recording and production industries (NAICS 5122) is 1,184 persons at 118 establishments. These two industries have a total payroll of $92.7 million. Using payroll alone, the cap would be easily attained. The $15 million cap in 2021 represents 16 percent of current payroll. After adding all other qualifying expenses listed in paragraph (A) beginning on line 35 of LC 43 1239ER, total industry expenses would easily exceed the cap as set forth in the proposed legislation.

If the proposed legislation becomes effective for taxable year 2019, the utilization of earned credits under the new provisions would begin in FY2020 and continue through at least FY2023. The impacts are shown in Table 1 below. Since the tax credit program is scheduled to end prior to January 1, 2023, no new credits will be earned in taxable year 2023. We assume going forward that all credits are used when filing income tax returns for the taxable year in which the credits were earned and that existing earned, but unutilized credits are utilized by taxable year 2022. To the extent that unused credits are not utilized until future years, the impacts shown in Table 1 will be spread over fiscal years following FY2023.

In summary, these changes would increase the number of production companies that qualify and double the amount of each tax credit application, making it more likely that the caps on new earned tax credits will be reached. The ability to sell tax credits will increase the likelihood that earned credits are utilized sooner, but insufficient information exists to determine how much might be carried forward by either the company earning a credit or the purchaser of a credit.

Table 1: State Revenue Impact from Changes to the Entertainment Production Tax Credit

	FY2019	FY2020	FY2021	FY2022	FY2023
Estimated Tax Credit Utilization Under Current Law	$5.0	$10.0	$15.0	$15.0	$15.0
Estimated Tax Credit Utilization Under Proposed Legislation	$5.0	$10.0	$15.0	$15.0	$15.0
Impact of Proposed Legislation	$0	$0	$0	$0	$0