DEPARTMENT OF AUDITS AND ACCOUNTS

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Honorable Rick Jasperse
Chairman, House Transportation
218-C State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill (LC 39 2856)

Dear Chairman Jasperse:

The bill provides an extension to the income tax credit to maintenance expenditures related to railroad track owned or leased by Class III railroads. The extension allows the tax credit to be earned until December 30, 2028 instead of the current-law sunset date of December 30, 2023.

The credit allowed is equal to 50 percent of railroad track maintenance expenditures, subject to a maximum credit of $3,500 per track mile owned by the Class III railroad per year. Qualified rail maintenance expenditures covered by this bill include costs to maintain track, roadbed, bridges, and all related track structures owned or leased by a Class III railroad. Per Department of Revenue regulation 560-7-8-.64, credits may not exceed tax liability for the year claimed and may not be carried forward but may be transferred to one or more other taxpayers at any time (but only once) for utilization against such transferees' tax liability for the same tax year.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would decrease state revenue by $1.9 million in FY 2025 and $7.7 million in FY 2026 (Table 1). Earlier years are not impacted because the credit's impact in those years is attributed to current law, not this bill. The attached appendix provides details of the analysis.

Table 1. State Revenue Effects of LC 39 2856

($ *millions*)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Change in Revenue	-	-	-	($1.9)	($7.7)

Impact on State Expenditures
The Department of Revenue (DOR) would implement the provisions of the bill with existing resources.

Sincerely,

Greg S. Griffin
State Auditor

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

This credit is modeled of the federal railroad track maintenance credit under 26 U.S. Code § 45G. This program provides tax credits to Class II and Class III railroads and other qualified persons for 50 percent of track maintenance costs not to exceed $3,500 per mile. The federal credit is scheduled to expire at the close of 2023.

The estimated state revenue impact of this tax credit for fiscal years 2022-2026 relies upon data provided by the Georgia Department of Transportation (GDOT) in its 2015 Georgia State Rail Plan (the latest such plan available) as well as reports from the Department of Revenue (DOR) on approved credits to date for maintenance expenditures in tax year (TY) 2019.

- In 2014, Class III railroads collectively operated (owned and leased) a total of 1,362 track miles in the state. According to estimates reported on GDOT's website, 23 so-called shortline (presumably Class III) railroads currently operate 1,538 miles of track in the state.
- This figure appears to understate the effective miles of track for purposes of applying the $3,500 per mile per year limit on credits because DOR reports that, as of February 9, 2021, approximately $6.23 million of credits for TY 2019 (the only period with reported preapprovals since enactment of the credit) have been preapproved, implying average credits per mile of track of $4,050. However, for purposes of applying the $3,500 per mile per year limit, segments of multiple tracks (e.g. two tracks running parallel) count separately for purposes of the limit, but are apparently not counted in reported track miles in the GDOT reports or other sources.
- Previous fiscal note estimates before enactment of the credit included a low case based on the tabulation of 4-year maintenance project plans in the 2015 GDOT report for Class III railroads, applying the $3,500 per mile per year credit limit where a given railroad would reach the cap. Planned expenditures at the time of the report total approximately $40.8 million over four years, resulting in credits earned averaging approximately $2.5 million per year. The high case estimates assumed the maximum credit per mile for the 1,362 miles reported by GDOT, resulting in credits totaling about $4.8 million per year. Neither methodology is consistent with DOR reported credit preapprovals.
- Given the higher level of actual credits approved to date for TY 2019, the estimates herein assume credits grow from those levels by about 4 percent annually, 2 percent for growth in track miles (the average growth rate from GDOT's 2014 track miles estimate to its current estimate) plus 2 percent inflation in maintenance costs.
- DOR also reports that of the $6.23 million of preapproved credits for TY 2019, only $24,660 have been utilized on 2019 tax returns processed to date. It is assumed that the balance of credits have been, or will be, sold and utilized by other taxpayers, as the law and regulations permit. While it is uncertain when utilization of these credits will impact state tax collections, it is assumed that the low utilization of TY 2019 credits by the time of this note is a result of 2019 being the first year the credit was available. To be conservative, future credits are assumed be utilized to a greater degree – 25 percent – on tax returns filed in the first half of the following calendar year (e.g. the second half of FY 2021 for credits earned in 2020) with the balance utilized in the following fiscal year. Thus,

credits earned for the periods of extended availability of the credit, tax years beginning on or after January 1, 2024, would first impact state revenues in FY 2025.

Resulting projections of state revenue impacts of extending expiration of this credit are provided in Table 1.