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

March 29, 2021

Honorable Chuck Hufstetler
Chairman, Senate Finance
121 State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 586 (LC 43 2009S)

Dear Chairman Hufstetler:

The bill would create or extend five sales tax exemptions as follows:

- Section 2 of the bill creates a new sales tax exemption under O.C.G.A. §48-8-3(33.1) for boats sold to out-of-state buyers for use and storage exclusively out-of-state.
- Section 3 of the bill extends the sunset date for the sales tax exemption under O.C.G.A. §48-8-3(93)(A) for Competitive Projects of Regional Significance (CPRS) from June 30, 2021, to June 30, 2023.
- Section 4 of the bill creates a temporary exemption for admissions to qualified fine arts performances and museums, expiring December 31, 2022.
- Section 5 of the bill creates an exemption under O.C.G.A. §48-8-3.2 for maintenance and replacement parts for equipment used to mix, agitate, and transport freshly mixed concrete. The exemption it set to expire on June 30, 2026 and replaces and clarifies a similar one that expired July 1, 2020.
- Section 6 of the bill would extend the expiration date on the partial exemption of boat repairs under O.C.G.A. §48-8-3.4 from June 30, 2025 to June 30, 2026.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) provided the estimates of revenue loss shown in Table 1. However, it should be noted that the estimate for Competitive Projects of Regional Significance is more speculative than most revenue estimates. The exemption involves a limited number of impacted projects; therefore, a variation of a single project would significantly impact an estimate. The attached appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of the Georgia Recovery Act of 2021

($ *millions*)	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Section 2: Out-of-state Boat Buyers			*not estimated*		
Section 3: Competitive Projects of Regional Significance					
High	($7.8)	($15.5)			
Low	($1.3)	($2.5)			
Section 4: Arts Admissions	($5.7)	($2.9)			
Section 5: Concrete Truck Maintenance					
High	($1.4)	($1.4)	($1.4)	($1.5)	($1.5)
Low	($1.2)	($1.2)	($1.2)	($1.3)	($1.3)
Section 6: Boat Repair					
High					($1.1)
Low					($0.7)
Total State Effect:					
High	($14.9)	($19.9)	($1.4)	($1.5)	($2.6)
Low	($8.2)	($6.7)	($1.2)	($1.3)	($2.0)

Table 2. Estimated Local Revenue Effects of the Georgia Recovery Act of 2021

($ *millions*)	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Section 2: Out-of-state Boat Buyers			*not estimated*		
Section 3: Competitive Projects of Regional Significance					
High	($6.4)	($12.9)			
Low	($1.1)	($2.1)			
Section 4: Arts Admissions	($6.5)	($3.3)			
Section 5: Concrete Truck Maintenance					
High	($1.2)	($1.2)	($1.2)	($1.2)	($1.2)
Low	($1.0)	($1.0)	($1.0)	($1.0)	($1.1)
Section 6: Boat Repair					
High					($0.8)
Low					($0.6)
Total Local Effect:					
High	($14.1)	($17.4)	($1.2)	($1.2)	($2.1)
Low	($8.6)	($6.4)	($1.0)	($1.0)	($1.6)

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

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

Section 2 – Out-of-State Boat Buyers
Under current law, watercraft sold to out-of-state buyers for use exclusively out of state are subject to state and local sales taxes, with two general exceptions as follows:

- watercraft sold by a manufacturer or assembler to an out-of-state buyer, or
- watercraft located, at the time of sale, on the navigable waters of the United States, in which case the U.S. Maritime Transportation Security Act (MTSA, 33 U.S.C. §5) preempts state law and prevents taxation of the sale.

HB 586 LC 43 2009S proposes to create a new sales tax exemption for otherwise taxable sales where the boat buyer provides proof of out-of-state residence and certifies that the boat will be used and stored exclusively out of state. Georgia Department of Revenue (DOR) data indicate that taxable sales by boat dealers, identified by NAICS code 441222, generated $10.5 million in state sales tax revenue in FY 2019. $1.1 million of this total was generated by boat dealers in counties bordering another state and another $0.8 million was from boat dealers along the Georgia coast. The share of these sales that were associated with the sale of a watercraft to an out-of-state buyer is unknown. Thus, while it is certain that some amount of currently taxable sales in the state would become exempt under this bill, it is not possible to provide a reliable estimate of the amount at this time.

Section 3 – Competitive Projects of Regional Significance
For a project to qualify for this exemption, the commissioner of the Georgia Department of Economic Development (GDEcD) must have determined that a location or expansion of a business enterprise's operations would have a significant regional impact. Once a project has been granted this exemption, any otherwise taxable purchases made during the time of construction are exempt, including those occurring after any applicable sunset date.

The extension of the sunset date from June 30, 2021, to June 30, 2023 will reduce state sales tax collections from construction expenses for qualified projects during FYs 2022-23. Construction expenditures for materials are taxable expenditures (taxed upon purchase by contractors or by the project owner, if purchased directly). The revenue effects of CPRS projects approved during the extended sunset period under the proposed bill are based on the reported facts and assumptions below and resulting otherwise-taxable investment projections are provided in Table 4.

- The estimates rely upon GDEcD-reported aggregate planned investment since the previous renewal of the exemption in 2016, a total of $2.645 billion announced investment over three projects announced during 2016-18, for an average of about $882 million per year over the three years. Since that time, no new projects have been granted the exemption.
- For the high estimate, average annual investment in FY 2022-23 is assumed to be 10 percent higher than the 2016-18 average. For the low, average annual investment is assumed to equal the 2016-20 average of $529 million per year.
- Based on data obtained from corporate financial statements, the Bureau of Economic Analysis, and the U.S. Census, it is estimated that between 12 percent and 40 percent of the project investments will be on otherwise-taxable expenditures. The low share of 12

- percent, which is used in the low case estimates, is for manufacturing projects where an estimated 30 percent or less of total plant investment is for buildings and improvements, and 40 percent of that amount is assumed to be for otherwise taxable purchases. For the high case, the 32 percent otherwise-taxable share for non-manufacturing projects is used.
- A study published in the journal *Economic Letters* indicates that large commercial projects take, on average, about one and a half years to complete, accounting for construction time only. Of course, large construction projects also require significant planning and site preparation lead times. The estimate assumes that half of a project's exempt expenditures will occur in the same year that they qualify for the exemption with the other half occurring in the following year.
- Local effects assume a tax rate of 3.32 percent, the Tax Foundation's reported January 2021 weighted average local rate for Georgia.

It is important to note that, because of the large size of some projects and the small numbers of projects approved for this exemption in the past, the general lack of useful data about the projects or the otherwise-taxable spending involved, and the flexibility in the law as to what projects might qualify in the future, these estimates are highly speculative. Though we believe the range estimates bound what is most likely to be experienced, the possibility that state and local revenue costs could fall significantly above or below these estimates cannot be ruled out.

Table 3. Project Expenses and Revenue Effects of Section 2

($ *millions*)	**FY 2022**	**FY 2023**
Projects Authorized		
High	$970	$970
Low	$529	$529
Project Expenditures		
High	$485	$970
Low	$265	$529
Otherwise Taxable Amt		
High	$194	$388
Low	$32	$63

Section 4 – Fine Arts Performance and Museum Admissions
Section 3 of HB 586 LC 43 2009S would reestablish a state sales and use tax exemption on the sale of tickets, fees, or charges for admission to fine arts performances or exhibitions for those organizations that are tax exempt under Section 501(c)(3) of the Internal Revenue Code as well as museums deemed to be of cultural significance (without regard to tax-exempt status), provided that such organization's or museum's mission is to advance the arts in this state and to provide arts, educational, and culturally significant programming and exhibits for the benefit of citizens of the state. This exemption would expire December 31, 2022.

Estimating Pre-Pandemic Admissions Tax Base
Data on tax-exempt 501(c)(3) organizations located in Georgia, from the IRS's Exempt Organizations Business Master File, are used to estimate revenues qualifying for the proposed exemption. These data include National Taxonomy of Exempt Entities (NTEE) codes, which identify the organization's primary exempt activity, as well as entity revenues and other data from

tax exempt organizations' most recent year 990 filings, primarily from tax years ending in 2019. NTEE codes were selected that match the statutory language[1] and were further divided into two subcategories: museums and all other qualifying performing arts entities.

The total amount of revenue for the performing arts category was about $351 million, from 565 entities that reported revenue. Most of the revenue in this category was concentrated in a small number of entities, the top six accounting for over half of reported revenues. The museum category included 71 entities reporting revenue of approximately $78 million in their most recent tax year. Revenues in museums are also concentrated in a small number of large organizations, with the five largest accounting for roughly 50 percent of the category total. The combined revenue of $429 million compares to a similarly derived estimate of $403 million in the fiscal note for HB 344 (2019 session) for 2016 total revenues

The proposed bill, however, does not limit museum eligibility to only those with tax-exempt status. To estimate the number of museums that might qualify that are not included in the IRS form 990 data, 2017 Economic Census data for Georgia, the most recent year available, are used. The census data for museums (NAICS code 712110) is limited due to census privacy rules. Though estimated sales for all museums are reported, for the subcategory of museums subject to the federal income tax (for profit museums) the sales estimate is suppressed, and only a range is given for the total number of employees of 100-249. Using revenue per employee from the full museum category, it is estimated that revenue from for profit museums was $9.9 million-$24.6 million in 2017. For purposes of this note, the midpoint value of $17.3 million in revenue for all for-profit museums in Georgia is assumed for 2017 and then grown to 2019 based on cumulative state nominal GDP growth of 10.1 percent. The resulting 2019 estimate of for-profit museum revenues of $19.1 million brings total estimated museum revenues to about $97 million for 2019.

These figures represent the estimates of total revenues for the two eligible sectors for calendar year (CY) 2019. To estimate the share of sales from admissions, a sample of the form 990 data for which admissions revenues were reported separately was used, suggesting that about 30 percent of revenues for performing arts organizations and about 39 percent of revenues for museums would be currently taxable admissions revenues. The resulting low case estimates of the 2019 tax base to be exempted are thus approximately $105.2 million for performing arts and $37.8 million for museums.

Estimating Projected Admissions Revenues: Accounting for the Pandemic and Recovery
Performing arts and museums were both severely impacted by the pandemic, initially by stay-at-home orders, and to varying degrees now due to social distancing requirements and public reluctance to venture out into crowded public spaces.

For performing arts, the U.S. Bureau of Economic Analysis (BEA) estimates that in 2020, consumer spending on admissions to live entertainment events other than sports was down nationally by 70 percent from 2019. The Census Quarterly Services Survey finds that total performing arts company revenues were down over 70 percent year-to-year in the second and third quarters of 2020 and only recovered slightly in the fourth quarter to down about 40 percent. The

[1] NTEE codes for media, fundraising, policy advocacy and other activities that would not qualify are excluded.

projections assume the first half of CY 2021 will be flat compared to the average revenue run rate of CY 2020. Given the current rollout of vaccines, together with the likelihood of much pent-up demand from consumers, the second half of CY 2021 and first half of CY 2022 (together FY 2022) are assumed to recover to CY 2019 revenue levels. Subsequent growth is assumed at 3 percent per year.

For museums, where visitors are typically in less crowded conditions compared to performing arts venues, the recovery came sooner. In October 2020, according to a survey by the American Alliance of Museum, 29 percent of museums nationally were still closed and visitation for those open was running about 35 percent of normal. However, the Quarterly Services Survey reports that for all of the fourth quarter, total museum industry revenues were up 5.7 percent over the same quarter in 2019, pre-pandemic. For all of 2020, admissions revenues are estimated to have fallen about 46 percent from 2019. Again, the first half of 2021 is assumed to be flat compared to the average revenue run rate for all of 2020, FY 2022 is assumed to equal CY 2019 estimated admissions revenue, and subsequent growth is assumed at 3 percent.

Resulting estimated admissions revenues for CYs 2019-20 and projected revenues for CYs 2021-22 are provided in Table 4 below.

Table 4. Estimated and Projected Admissions Revenues for Section 4

($ *millions*)	CY 2019	CY 2020	CY 2021	CY 2022
Performing Arts, nonprofit	$105.2	$31.6	$68.4	$106.8
Museums	$37.8	$20.4	$29.1	$38.4
Total	$143.0	$52.0	$97.5	$145.2

State and local revenue impacts of this provision are presented in Table 1. For the local estimates, the effective local sales tax rate is estimated based on local rates currently in effect in where organizations in the IRS data are located and weighted by revenue; the resulting effective local tax rate is thus estimated to be about 4.56 percent.

Section 5 – Concrete Mixing Truck Maintenance and Repair

The proposed bill would amend O.C.G.A. §48-8-3.2 to reestablish and clarify the recently expired sales and use tax exemption for maintenance and replacement parts for equipment used to mix, agitate, and transport freshly mixed concrete (clarified to mean concrete mixing trucks, and components and equipment thereof). The prior exemption expired on July 1, 2020; the exemption as provided by the present bill would expire June 30, 2026.

According to the National Ready Mixed Concrete Association (NRMCA) 2020 Fleet Benchmarking survey, there were an estimated 75 thousand concrete mixing trucks in the U.S. in 2019. Based on Census County Business Patterns data on industry establishments and employment for 2014-18, Georgia's share of the national ready mixed concrete fleet is assumed to be between about 3.2 and 3.7 percent.

The same survey reported that maintenance costs for the industry's truck fleet nationally were estimated to be $4.03 per cubic yard in total and $2.26 per cubic yard for parts and components the purchase of which would be taxable in Georgia under current law. This latter figure is assumed, for purposes of this fiscal note, to represent taxable maintenance costs per cubic yard delivered in Georgia as of calendar 2019. Growth in maintenance costs over the period of the estimates is assumed to equal the 1.0 percent average annual increase from 2013 to 2019, the rate implied by costs reported in the 2014 and 2020 NRMCA surveys.

NRMCA also reports that the average annual volume of concrete delivered per truck was 4,897 cubic yards in 2013. No comparable figure is available for more recent years, so the same figure is assumed for subsequent periods. This figure is multiplied by the estimated taxable maintenance cost per cubic yard to estimate the annual cost per truck.

Expected fleet growth through 2026 is uncertain. IBISWorld estimates that industry sales declined by nearly 13 percent in 2020. Though they project a rebound of over 6 percent growth the next three years, average annual growth from 2019 through 2025 is projected at only about 1.4 percent. At recent inflation rates for the industry (1.86 percent for 2020 per BLS), this implies average U.S. industry volume growth of -0.4 percent annually for 2019-25. For purposes of the estimates herein, a modest, above-average volume (and thus fleet size) growth rate is assumed for Georgia, 0.5 percent annually. Table 5 summarizes the fleet and maintenance cost estimates.

Table 5. Georgia Ready Mixed Truck Fleet and Taxable Maintenance Costs

(*millions except cost/truck*)	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
GA Mixing Truck Fleet:					
High	2,780	2,794	2,808	2,823	2,837
Low	2,400	2,412	2,425	2,437	2,449
Taxable Maintenance Cost/Truck	$12,552	$12,681	$12,811	$12,943	$13,076
Total Taxable Maintenance Costs:					
High	$34.9	$35.4	$36.0	$36.5	$37.1
Low	$30.1	$30.6	$31.1	$31.5	$32.0

Section 6 – Boat Repair

Section 5 would extend the expiration date from June 30, 2025 to June 30, 2026, for the partial sales and use tax exemption for boat repairs under O.C.G.A. §48-8-3.4. Under current law, the maximum combined state and local sales and use tax collected on any one boat repair or refitting event, as defined, is $35,000, which when the local tax rate is 3 percent and the state rate is 4 percent, is functionally equivalent to exempting taxable parts and materials in excess of $500,000 in value.

The economic impact assessment of the Savannah Yacht Center (SYC), beginning limited operations in 2017 (see company website, savannahyc.com), projects revenues for the facility, and describes the activities and cost structure such that the cost of parts for major repair and refitting activities could be roughly estimated.

- Revenues at anticipated operating levels are projected in the report to be $57 million in CY 2022. For purposes of the projections, revenues after CY 2022 are assumed to grow at 3 percent per annum.
- Based on the same report, it is assumed that major repairs, those of the scope and duration likely to reach the $35,000 maximum sales tax ($500,000 of tangible property) threshold

- in the bill, account for about 64 percent of total revenues. Of that, about 43 percent is assumed to be spent for the purchase of parts and materials for these major repairs.
- Finally, based on the same report, 12 major repair projects were expected to reach the threshold in calendar year 2018 with an average of $1.14 million in parts and materials each. Thus, with the first $500,000 of each repair's parts cost taxed and the balance exempted, $0.64 million or 56 percent of parts and materials purchased for major repairs, on average, are assumed to be exempt parts and materials purchases.

On this basis, state and local (at the 3 percent local rate in Chatham County) sales tax revenue losses from SYC's major repairs parts and materials purchases, assuming passage of the exemption, would be as shown in Table 6.

Table 6. Savannah Yacht Center, Estimated Sales Tax Revenue Loss

($ *millions*)	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
State Revenue	$0.33	$0.34	$0.35	$0.36	$0.37
Local Revenue	$0.25	$0.25	$0.26	$0.27	$0.28

Existing businesses may also qualify for the proposed exemption, but no data are available as to the volumes of such existing, qualifying activity. However, a search for yacht and ship repair yards in Georgia revealed two operations that, to varying degrees, are similar to SYC in terms of facilities and services offered. Both appear to be smaller in terms of boat sizes handled and only one appears to have a dry dock. However, both have lifts and ship rails and offer major repair and refitting services. Other facilities may exist, though none could be identified. For this reason, the estimates in Table 6 are grossed up to allow for existing, qualifying activity of between one and two times that estimated for SYC.