DEPARTMENT OF AUDITS AND ACCOUNTS

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

SUBJECT: Fiscal Note
House Bill 586 (LC 43 2029S)

Dear Chairman Hufstetler:

The bill would create or extend three sales tax exemptions and modifies two tax credits as follows:

- Section 2 of the bill creates a temporary exemption for admissions to qualified fine arts performances and museums, expiring December 31, 2022, and assumed to be effective beginning July 1, 2021.
- Section 3 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, effective July 1, 2021. The exemption would be set to expire on June 30, 2026, and replaces and clarifies a similar one that expired July 1, 2020
- Section 4 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.
- Sections 5 and 6 amend existing new facilities job and investment credits under O.C.G.A. §48-7-40.24 and 40.25 to allow high impact aerospace defense projects certified on or after July 1, 2021, to claim both credits for the same project, to begin claiming the investment credit at a lower investment and jobs thresholds than under current law, and to claim up to $100 million in credits for a project versus $50 million under current law.
- Section 7 extends the railroad track maintenance credit for two additional years through December 30, 2026.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) provided the estimates of revenue loss shown in Table 1. Please note that the credits related to high impact aerospace defense projects is not included in the annual totals but is included as a cost of more than $30 million over the next five years. The attached appendix provides details of the analysis.

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

($ *millions*)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Section 2: Arts Admissions	($5.7)	($2.9)			
Section 3: 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 4: Boat Repair					
High					($1.1)
Low					($0.7)
Section 7: RR Track Maintenance				($1.9)	($7.7)
State Effect Subtotal:					
High	($7.1)	($4.3)	($1.4)	($3.4)	($10.3)
Low	($6.9)	($4.1)	($1.2)	($3.2)	($9.7)
Section 5 and 6: Aerospace Defense Projects				($30+)	

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

($ *millions*)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Section 2: Arts Admissions	($6.5)	($3.3)			
Section 3: 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 4: Boat Repair					
High					($0.8)
Low					($0.6)
Total Local Effect:					
High	($7.7)	($4.5)	($1.2)	($1.2)	($2.0)
Low	($7.5)	($4.3)	($1.0)	($1.0)	($1.7)

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

Section 2 – Fine Arts Performance and Museum Admissions

Section 2 of HB 586 LC 43 2029S 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.

Unlike the similar exemption created by earlier bills in the current session, HB 226 and a previous version of HB 586, this provision would apply to local sales and use taxes as well as the state tax. The 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

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

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 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 3 below.

Table 3. 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 3 – 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 be effective July 1, 2021 and 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 4 summarizes the fleet and maintenance cost estimates.

Table 4. 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 4 – Boat Repair

This section would extend the expiration date for the partial sales and use tax exemption for boat repairs under O.C.G.A. §48-8-3.4 from June 30, 2025, to June 30, 2026. 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 under current law and assuming passage of the extension, would be as shown in Table 5.

Table 5. Savannah Yacht Center, Estimated Sales Tax Revenue Absent Exemption

($ *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 5 are grossed up for purposes of the estimates in Tables 1 and 2 to allow for existing, qualifying activity of between one and two times that estimated for SYC.

Section 5 and 6 - High Impact Aerospace Defense Project Credit

The subject bill proposes to amend O.C.G.A. §48-7-40.24, the new facilities jobs credit, and §48-7-40.25, the new manufacturing facilities investment credit, to modify certain conditions for high-impact aerospace defense projects, as defined. If enacted, the bill would allow qualifying U.S. defense contractors to earn both the new facilities investment credit and either (but not both) of two jobs credits, the new facilities jobs credit or the quality jobs credit under O.C.G.A. §48-7-40.17, for the same project where such stacking of credits is not allowed under current law.

In addition, the bill would allow the taxpayer to begin claiming the investment credit upon reaching investment and job creation thresholds that are lower than under current law. Finally, the bill would increase the maximum amount of the new facilities investment credit for qualifying defense projects from $50 million to $100 million. The bill would become effective upon signing and apply to high-impact aerospace defense projects certified by the Georgia Department of Economic Development on or after July 1, 2021.

Given the large scale and narrow industry qualifications for the modified credit terms, and uncertainties around awards of large defense contracts to support projects of this scale, eligible projects are likely to be infrequent. Projecting fiscal costs tied to specific state fiscal years is not possible without information on investment and job creation plans, and timelines for specific projects currently planned or under consideration.

Nevertheless, one such project is reportedly planned, contingent on bidding and award of one or more federal contracts over the next 1-3 years. If awarded, such contract(s) could be expected to result in investment credits of $30 million or more being claimed by FY 2026 that would not be available under current law. It is, of course, possible that other potential projects could arise, or that investment and job creation timelines could be accelerated, such that the amount of credits claimed in the next five years could be materially higher.

Current-Law Summary of Relevant Credit Provisions

The changes proposed by HB 586 regarding the proposed high impact aerospace project credits that effect state revenues are best understood in how they interact with existing credits that are conditioned on job creation and business investment. Current law terms of the three credits impacted by the bill are as follows:

§48-7-40.17 Establishing or Relocating Quality Jobs Credit

- Requires $2.5 million in qualified investment and new jobs totaling 10 new jobs in tier 1 counties, 25 new jobs in tier 2 counties, or 50 new jobs in any other county.

- Credits amounts range from $2,500 per job paying at least 110 percent of the county average wage to $5,000 per job paying at least 200 percent of the county average wage.
- Credits may be claimed for up to five years, subject to job maintenance requirements.

§48-7-40.24 New Facilities Jobs Credit

- Requirements:
  - 1,800 new jobs created within 6 years, subject to extension to 8 years if $600 million in qualified investment is made within 6 years and to 10 years if $800 million within 8 years;
  - Either $150 million or more of annual payroll or $450 million of qualified investment; and
  - Qualifying new jobs are full-time (35+ hours/week) and pay at or above the average wage of the county with the lowest average wage in the state.
- Credit amount is $5,250 per job for five years, subject to recapture based on failure to meet job and payroll maintenance requirements. Only jobs created by the end of the 7th year qualify for a credit, unless the $600 million within 6 years or $800 million within 8 years investment thresholds are met, in which cases new jobs created within 8 year or 10 years, respectively, can earn a credit. No more than 4,500 such new jobs can earn a credit for any project.

§48-7-40.25 New Manufacturing Facilities Investment Credit

- Requires a minimum of $800 million of qualified investment and 1,800 qualified new jobs. Qualifying new jobs are full-time (35+ hours/week) and pay at or above the average wage of the county with the lowest average wage in the state.
- Credit amount is 6 percent of qualified investment made through the tax year in which the investment and new jobs requirements are met, and in subsequent tax years the amount of additional qualified investment made in each year, subject to a maximum credit of $50 million per project.

Under current law, a taxpayer may not claim more than one of these credits for the same project, but rather must choose only one. In the case of the jobs credits, they also may not switch between credits, for example switching to the quality jobs credit if they fail to meet the requirements for the larger new facilities job credit.

Proposed changes in HB 587
Under the proposed law, restrictions on "stacking" of these credits are relaxed for high-impact aerospace defense projects as follows:

- Lines 313-316 allow a taxpayer claiming the investment credit to also claim, for the same project, either the quality jobs or the new facilities jobs credit.
- Lines 96-101 allow a taxpayer eligible for and claiming the new facilities jobs credit for a given project to also claim the quality jobs credit for the same project, provided that they may not claim both jobs credits for the same project in the same tax year.

In addition, high-impact aerospace defense projects may claim the investment credit beginning upon reaching $500 million of qualified investment and 1,000 qualifying new jobs for the project.

Unlike earlier versions of this provision in HB 481 and HB 587, credits claimed after meeting these lower thresholds are recaptured if the higher levels required – $800 million of qualified investment and 1,800 qualified new jobs – are not reached within ten years.

Finally, high-impact aerospace defense projects may claim up to $100 million in investment credits, up from the current-law limit of $50 million.

These modified terms would be available for projects "constructed by a business enterprise that is a prime aerospace defense contractor with greater than 40 percent of its revenues derived from sales to the United States government in its most recently completed tax year; and certified by the commissioner of economic development as materially supportive of the mission of the Georgia Joint Defense Commission and the Governor's Defense Initiative."

As a result of these changes, a high-impact aerospace defense project that would have qualified under current law for the new facilities investment credit or the new facilities jobs credit, but not both, would be able to claim both credits and would be able to start utilizing investment credits sooner, upon reaching the lower thresholds, than under current law. If the project ultimately falls short of the higher thresholds, the taxpayer would be able to claim the quality jobs credit instead. Also, in the case of failure to meet job maintenance requirements of the new facilities jobs credit, the apparent ability to amend returns to take the quality jobs credit instead would reduce the cost of recapture.

Fiscal Impact
Given the large scale and narrow industry qualifications for the modified credit terms, eligible projects are likely to be infrequent, so projecting fiscal costs tied to specific state fiscal years is not possible without information on investment and job creation plans and timelines for specific projects currently planned or under consideration. At this time, one project has been the subject of public discussion, including in a Ways and Means subcommittee hearing during the week of February 22-26. Lockheed Martin Corporation reportedly discussed its plans for the company to bid on federal defense contracts that, if successful, would involve investing up to $3.3 billion and creating between 1,800 and 3,300 jobs. The timeline for the project would be over several years, contingent on a bidding process over the next 1-3 years.

Assuming an initial contract award in calendar year 2022, it is assumed the project would reach the initial thresholds for claiming the investment credit by 2025. In this event, at least $30 million of investment credits could be expected to be claimed by FY 2026. Jobs credits claimed would not change versus current law.

Section 7 - Railroad Track Maintenance Tax Credit, Extend
The subject 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, 2026 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.

This credit is modeled on 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 6 as well as Table 1.

Table 6. Railroad Maintenance Credit, Extend State Revenue Effects

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