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 8, 2021

Honorable Shaw Blackmon
Chairman, House Ways and Means
133 State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 469 (LC 44 1687S)

Dear Chairman Blackmon:

The subject bill makes several modifications to the state Historic Rehabilitation Tax Credit under O.C.G.A. §48-7-29.8. The bill:

- increases the ceiling on the pool of uncapped credits from $300,000 to $500,000, and it increases the aggregate state cap on the pool of capped credits from $25 million to $50 million per year.
- modifies the aggregate cap on capped credits such that, in the event that credits for projects in the capped pool are less than the aggregate cap in any year, the unused portion would be added to the cap for the following year.
- increases the standard per-project maximum credit from $5 million to $10 million, but for projects creating at least 200 permanent jobs or $5 million in annual payroll, allows a maximum credit of $15 million.
- broadens the definition of qualified projects to include workforce housing, as defined, for which qualifying projects would earn a 30 percent credit.
- reduces the restrictions and reporting requirements on selling or transferring unused credits.
- repeals certain reporting requirements of the Department of Natural Resources.
- adds a sunset provision such that this code section would be repealed effective July 1, 2031. The bill would be effective for certified rehabilitations completed on or after July 1, 2021.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would decrease state revenue by $14.0 million in FY 2022, with the amount increasing to more than $42 million in FYs 2024-2026 (Table 1). The attached appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of HB 469 LC 44 1687S

($ *millions*)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
State Estimate	($14.0)	($31.9)	($42.8)	($44.8)	($44.8)

FRC noted that the bill will result in additional projects that also meet the criteria for an 8.5-year property tax freeze on local property tax. The reduction in local government revenue cannot be estimated at this time.

Impact on State Expenditures

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

Sincerely,

Greg S. Griffin

Greg S. Griffin
State Auditor

Kelly Farr

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

O.C.G.A. §48-7-29.8, under current law, provides for a credit for the rehabilitation of historic structures generally equal to 25 percent of qualified rehabilitation expenditures, plus an added 5 percent for projects in a target area, as defined. Credits for projects involving historic homes cannot exceed $100,000 over a 120-month period. The maximum credit for other projects is generally $5 million, but in the case of projects that create 200 or more full-time jobs or $5 million in annual payroll within two years of being placed in service, the maximum credit equals $10 million.

Projects earning credits in excess of $300,000 are subject to an overall state credit of $25 million annually and are referred to as capped credits. Projects earning credits of $300,000 or less are not subject to this overall aggregate cap and are referred to as uncapped credits. Thus, the limit on the number of annual awards of uncapped credits is based on the number of successfully certified projects. After 2021, the pool of capped credits is eliminated, and the maximum credit allowed for any project other than historic homes equals $300,000.

Lastly, under current law, credits in excess of the tax otherwise owed by the taxpayer for the year may be carried forward for 10 years after the taxable year in which the certified project has been completed. Alternatively, credits may be sold or transferred one time to another taxpayer, subject to various information requirements to document the transfer.

HB 469 makes several modifications to the state Historic Rehabilitation Tax Credit under as follows:

- The definition of qualified projects is expanded to include workforce housing, as defined. Under the proposal, a project that rehabilitates multiple historic homes and maintains seven years of affordability for individuals making up to 80 percent of the area median income in at least 20 percent of its housing units are eligible for a 30 percent credit.
- The threshold to be classified into the capped pool is increased from $300,000 to $500,000.
- The aggregate state cap for credits generated by the capped pool of projects is increased from $25 million to $50 million per year, subject to adjustment as follows:
  - If the aggregate cap is not fully allocated in any given calendar year, the unused portion would roll over and be added to the following year's cap.
- The standard per-project maximum credit is increased from $5 million to $10 million, and for projects creating at least 200 permanent jobs or $5 million in annual payroll, the maximum credit is increased from $10 million to $15 million.
- Various restrictions and reporting requirements on the sale or transfer of unutilized credits are repealed.
- Reporting requirements of the Department of Natural Resources on the overall economic activity, usage, and impact to the state from the rehabilitation of eligible properties earning credits are repealed.
- Lastly, a sunset date of July 1, 2031 is added, at which time this code section would be automatically repealed.

The estimate consists of three components, outlined below.

Part 1. Estimate of pool of capped credits –

- Based on data provided by Department of Revenue (DOR), all credits through 2021 were reserved as of April 2019.
- DOR data shows that generated credits for 2017 through 2021 equal $25 million annually.
- Based on information provided by DOR, the estimate assumes that on average 18 projects will be certified annually. Under current law, all projects certified after 2021 will qualify for a maximum credit of $300,000 per project.
- Thus, the current law baseline for 2021 equals $25 million in credit generation but declines to approximately $5 million annually for years 2022-2027.
- Based on conversations with HPO, the size of this pool of projects which will be available for the capped credits is difficult to determine. The office provided data on current projects which are currently in the pre-approval process. This set of projects is estimated to generate approximately $30 million in capped credits. It is difficult, though, to determine if these projects would qualify for the new tranche of capped credits as many of these projects are scheduled for completion prior to July 1, 2021. Another $25 million worth of credits are represented by projects in the final approval process.
- Based on the existing number of applicants in the certification process and the past history of this program, we assume the proposed law baseline of generated credits would equal the maximum of $50 million annually. Although this may be interpreted as a maximum estimate, the legislation allows unreserved credits from one year to be added the pool of credits available in the next year. Therefore, the proposed law baseline assumes an average of $50 million in credits are generated annually as an upper bound.
- Thus, the estimate assumes the baseline of credits generated by the capped pool of credits increases from $5 million to $50 million in 2022 and for each year thereafter.

Part 2. Estimate of pool of uncapped credits –

- The estimate assumes a current law baseline of $4.2 million in uncapped credits based on historic data of uncapped credits generation provided by DOR for the 2017-2021 period.
- To account for the increase in the maximum value from $300,000 to $500,000 for inclusion in the uncapped pool, the estimate relies on data on qualified expenses of projects in Georgia which have qualified for the federal historic tax credit over the 2017-2019 period.
- This information indicates that the number of projects with qualifying expenses between $300,000 and $500,000 were 66 percent of the number of projects with expenses under $300,000. The estimate assumes a similar distribution exists for the state credits and thus, the current law baseline is grossed by 66 percent to represent the effect of increasing the ceiling on this pool of credits to $500,000 from $300,000.
- An additional adjustment is made to the uncapped credit baseline. Because all credits had been reserved in previous years, some projects earning more than $300,000 in credits were denied access to the capped pool of credits. Under the proposed law, the estimate assumes these projects would be able to claim the capped credit.
- Per DOR guidance, these projects claimed credits of $300,000 per project and are included data for the uncapped credits. DOR data indicates on average about 7 of these projects were included in the uncapped pool annually. Data from the state HPO indicates that on average over the last several years, 11 projects annually opted for the uncapped credits. These

- projects had expenses which allowed them to qualify for the capped credits, but they were denied access due to the cap.
- The estimate assumes that on average there were 9 of these projects annually and each received $300,000 per project. Thus, these credits ($ 2.7 million annually) are netted out of the uncapped baseline under the proposed law to avoid double-counting.
- Due to this offset, the impact on credits generated in the uncapped pool under the proposed law is estimated to be less than $500,000 annually.

Part 3. Credit Utilization of capped and uncapped credits -

- The estimate of capped and uncapped generated credits is adjusted to reflect the rate of utilization of the credits to produce the revenue impact on the state budget.
- Currently, only $30 million of the $125 million in capped credits generated over the 2017-2021 period have been utilized by taxpayers. In the case of the uncapped credits, $9 million of the $21 million generated have been utilized. The remaining tax credits, both capped ($95 million) and uncapped ($12 million), remain available for use against future tax liabilities.
- Using the information on the value of credits utilized vs generated, on average, 40 percent of the capped credits are utilized, and 55 percent of the uncapped credits are utilized annually. Thus, the estimate assumes that the capped credits are utilized over a 3-year period (year 1 = 40 percent, year 2 = 40 percent and year 3 = 20 percent) and the uncapped credits are utilized over a 2-year period (year 1 = 54.7 percent and year 2 = 45.3 percent).

Note that projects meeting the criteria for state tax credits are eligible for an 8.5-year property tax freeze on local property tax. Thus, the expansion of this tax credit program will result in additional projects becoming eligible for the property tax freeze and result in a reduction in local government revenue. This revenue effect cannot be estimated at this time and is not included in the amount shown in Table 1.