DOAA
Georgia Department
of Audits & Accounts

Greg S. Griffin
State Auditor

March 10, 2022

Honorable Chuck Hufstetler
Chairman, Senate Finance
121-C State Capitol
Atlanta, GA 30334

SUBJECT: Fiscal Note
Senate Bill 405 (LC 34 5791)

Dear Chairman Hufstetler:

The bill would exempt non-profit organizations that provide support services to U.S. armed services veterans from paying sales and use tax. The exemption applies to the sales of goods and services both by and to the organizations. The bill does not have an effective date but is assumed to be on July 1, 2022 for purposes of the analysis.

Impact on State and Local Revenue
Georgia State University's Fiscal Research Center (FRC) estimated that the bill would decrease state revenue by approximately $1 million in FY 2023, with the amount increasing slightly in subsequent years. The revenue loss would be similar for local governments. The appendix provides details of the analysis.

Table 1. Estimated Revenue Effects of LC 34 5791

($ *millions*)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
State	($1.1)	($1.1)	($1.2)	($1.2)	($1.3)
Local	($0.9)	($1.0)	($1.0)	($1.0)	($1.1)

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

Respectfully,

Greg S. Griffin
State Auditor

Kelly Farr
Kelly Farr, Director
Office of Planning and Budget

GSG/KF/st

Analysis by the Fiscal Research Center

LC 34 5791 would establish a sales and use tax exemption for non-profit organizations operating in Georgia whose primary purpose is to provide support services to veterans of the U.S. armed services. The exemption applies to sales of goods and services both by and to the organization.

To qualify for this exemption, the organization must be registered as a tax-exempt organization under Section 501(c)(19) of the Internal Revenue Code. To be exempt under this the organization must be a post or organization of past or present members of the United States Armed Forces, an auxiliary unit or society of such post or organization, or a trust or foundation for such post or organization. Qualifying organizations in Georgia include chapters or posts of the American Legion, Veterans of Foreign Wars, and similar organizations.

Data for the estimation is sourced from Cause IQ, which compiles statistics on, and records of U.S. nonprofits. According to CauseIQ, there are currently 567 nonprofit organizations operating in Georgia under the aforementioned IRC Section 501(c)(19). Of these organizations, 136 file a form 990 to the IRS annually, the data from which is compiled and reported by Cause IQ, while the rest fall below the $50,000 revenue threshold requiring a form 990 and file using the "postcard return" for nonprofits, a form 990-N, which does not include revenue or expenditure information.

The following summarizes the available data (reporting periods are generally 2019 unless not available):

- Total 501(c)(19) organizations in Georgia 567
- Number reporting revenues 136
- Total annual net revenues $15,715,651
    - Average per organization $115,556
- Total annual expenditures $15,366,313
    - Average per organization $112,98

Analysis of a sample of the organizations' 990 data (from the largest ¼ of those reporting) reveals a high degree of inconsistency in reporting of revenues and expenses. Categories of both revenues and expenses often lacked adequate descriptions, and in some cases were reported in the wrong section or line of the form. Nevertheless, we were able to identify certain major revenue streams that would be subject to sales tax, at least in part.

- Program services revenues, for many organizations, was largely comprised of event revenues, for which admissions would be taxable, and canteen revenues, which would consist of taxable food and beverage sales.
- Fundraising event revenues, net of amounts considered donations, would also be taxable event admissions.
- Gaming revenues apparently consist of revenues from operating bingo games or coin operated amusement machines (COAM), or in some cases from lottery sales.
    - Nonprofits in Georgia may legally operate bingo games, subject to licensing by the state. Gross revenues, the total amount paid for participation in games, are subject to sales tax. Based on the sample data, bingo appears to account for the largest portion of gaming revenues of the organizations.
    - COAM are also licensed by the state, but revenues from them are exempt from Georgia sales taxes. Only a few sampled 990s specifically reported revenues from COAM.
    - Though the small number of 990s specifically reporting lottery sales do not say so explicitly, we assume these are sales of state lottery tickets or scratch-off games as private lotteries are legal in Georgia. Sales of Georgia Lottery tickets or games are not subject to sales tax.

- Note that gaming revenue reporting generally, but not always, includes gross sales, the cost of prizes, and direct costs of operating the games. Only the amounts collected net of prizes and direct costs are included in the organizations' total reported revenues (the $15.7 million aggregate cited above), and in many cases gross gaming revenues exceed the total net revenues of the organization.

- "Canteen sales" (sometimes described as kitchen services, lounge revenues, or similar) are on-premises food and beverage services and are taxable.
- "Sales from inventory" refers to sales of tangible goods (e.g., clothing, hats, or pins bearing the organization's logo) and are taxable.

Though precise shares of gaming revenues from each of the types of gaming are not known, for purposes of this note, we assume all gaming gross revenues are taxable. Because reporting of this revenue was inconsistent – some 990s only showed revenues net of prizes and other direct costs – and because other revenues reported without reasonably clear (or in some cases any) descriptions were excluded, we do not expect that this assumption will materially overestimate taxable revenues.

Based on this analysis, we estimate that in aggregate, gross taxable sales are approximately equal to the aggregate of total net revenues. We assume further that the 136 organizations (24 percent of all eligible organizations) large enough to be required to file a form 990 account for about 80 percent of revenues of all 567 organizations. Thus, we estimate that for 2019, aggregate taxable revenues of eligible organizations were approximately $19.6 million.

On the expenditure side, clearly taxable spending consists primarily of utilities, lease and rental of equipment, and purchases of office or lounge supplies, though some 990s identified other expenses like shipping costs or uniforms that would also be taxable. Like revenues, many 990s reported other significant expenses with little or no clear descriptions. Note also that utility expenses are sometimes reported separately and sometimes included in occupancy expenses along with other, non-taxable costs like rent, property taxes, etc. Some organizations report no utility or occupancy expenses at all, though it is likely those expenses are included in some other category without explicit identification. Finally, 990s do not report capital expenditures such as for furniture, fixtures, and kitchen equipment, which would all be taxable under current law and exempted under the bill.

We estimate that, excluding all occupancy costs (but not explicitly identified utility expenses), taxable expenses average about 16.5 percent of total expenditures. Including occupancy costs, the estimated taxable share rises to about 29.2 percent. Given the uncertainty and the lack of reporting of capital expenditures, we assume a taxable share of 23 percent. Again, we assume the 136 organizations reporting expenditures account for 80 percent of total expenditures for all 567 organizations. Thus, we estimate that for 2019, aggregate taxable expenditures of eligible organizations were about $4.4 million.

We project taxable revenues and expenditures forward assuming an annual growth rate averaging 4 percent, allowing for inflation and population growth. Resulting projected taxable revenues and expenditures are provided in Table 2 below for FY 2023-27.

Net state and local revenue effects of the bill are reported in Table 1, with local effects calculated at a rate of 3.35 percent, the population-weighted average local rate as of January 2022, according to the Tax Foundation.

Table 2. Projected Current-Law Taxable Activity

($ million)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Taxable Revenues	$22.5	$23.4	$24.4	$25.4	$26.4
Taxable Expenditures	$5.1	$5.3	$5.5	$5.7	$5.9