DOAA
Georgia Department
of Audits & Accounts

Greg S. Griffin
State Auditor

April 1, 2022

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

SUBJECT: Fiscal Note
House Bill 1291 (LC 43 2426S)

Dear Chairman Hufstetler:

The bill would make multiple changes to existing high-technology related sales tax exemptions.

- Section 1 would extend the current-law exemption for qualified computer equipment purchases under O.C.G.A §48-8-3(68) from June 30 to December 31, 2023.

- Section 2, effective January 1, 2024, would modify the existing exemption for computer purchases by high-technology companies with respect to the expenditures that would qualify for the exemption and be counted to the minimum expenditure requirement. It would make the exemption on purchases up to the $15 million minimum partial instead of full. Section 2 also provides for an expiration date on the as-amended exemption of December 31, 2028.

- Section 3 extends and expands the sales and use tax exemption for high-technology data center (HTDC) equipment. The exemption's current expiration date of December 31, 2028 would be extended through December 31, 2033. The bill also reduces the minimum job and aggregate expenditure requirements for HTDC projects in counties with populations of 50 thousand or fewer people while raising it slightly for larger counties. Finally, the bill allows qualifying projects in counties with fewer than 50 thousand people to also earn quality jobs tax credits (QJTCs) under O.C.G.A. §48-7-40.17 on qualifying jobs created. Under current law, projects utilizing the sales tax exemption are precluded from also claiming the QJTC. Modifications to the credit terms in Section 3 would be effective upon enactment. For purposes of this note, effectiveness is assumed as of July 1, 2022.

Impact on State Revenue
Georgia State University's Fiscal Research Center (FRC) estimated that the bill would decrease state revenue slightly in FY 2023 before larger revenue impacts beginning in FY 2024 (Table 1). This state revenue decrease would be approximately $66 million in FY 2024 and by lower amounts in subsequent years. Local governments would experience slightly lower revenue decreases. The appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of HB 1291 LC 43 2426S

($ *millions*)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Computer Purch. Exemption Changes:					
State	-	($65.9)	($53.0)	($54.4)	($55.8)
Local	-	($55.2)	($44.4)	($45.6)	($46.8)
HTDC Exemption Changes:					
State Sales and Income Taxes	($0.6)	($1.3)	($1.4)	($1.5)	($1.6)
Local Sales Taxes	($0.6)	($1.1)	($1.1)	($1.1)	($1.1)

Impact on State Expenditures

The Department of Revenue (DOR) would incur additional one-time and annual costs as a result of the bill. The agency would need an additional auditor position as a result of the increase in exemption usage. The position would have one-time costs of $2,025 for equipment and annual costs of $79,632 for salaries and benefits.

Respectfully,

Greg S. Griffin
State Auditor

Kelly Farr
Kelly Farr, Director
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GSG/KF/mt

Analysis by the Fiscal Research Center

Computer Purchase Exemption Changes
HB 1291 LC 43 2426S would amend the existing sales tax exemption under O.C.G.A. §48-8-3(68) for computer equipment purchases by qualified high technology companies. Under current law, computer purchases made by a high-technology company totaling more than $15 million in a year are exempt from sales and use taxes. A high-technology company is one with a qualifying 2017 NAICS code as listed in subparagraph (68)(A) of this code section. To secure the exemption, companies must apply for and receive an exemption certificate. Applications must include estimates of planned, qualifying spending over the calendar year to which the application applies. If approved, the exemption is valid for the given calendar year only. The existing exemption is set to expire June 30, 2023.

Section 1 of the proposed bill would extend the sunset date on the existing exemption by six months, through December 31, 2023. Effective on January 1, 2024, Section 2 of the bill amends the exemption such that expenditures eligible for the exemption and counted toward the minimum expenditure requirement are restricted to exclude software as well as certain equipment issued to employees, including tablets, smart phones, personal or laptop computers, etc. In addition, rather than a full exemption on eligible purchases, the first $15 million of qualifying purchases made in a year would be taxed at one tenth the state sales tax rate or 0.4 percent; only amounts over $15 million would be fully exempted. Finally, Section 2 also provides for an expiration date of December 31, 2028, on the as-amended exemption.

DOR reports that companies applying for the sales tax exemption for computer purchases in FY 2020 reported planned spending of $1.4 billion while applicants the first 10 months of FY 2021 reported planned spending of $1.9 billion. Table 1A presents the reported number of taxpayer applicants seeking exemption under O.C.G.A §48-8-3(68) and applicants' expected computer purchases from FY 2018 through ten months of FY 2021.

Table 1A. High-Technology Computer Purchase Exemption Applications

($ *millions*)	FY 2018	FY 2019	FY 2020	FY 2021
Applications	32	28	25	32
Expected Purchases	$1,367.9	$1,463.1	$1,435.3	$1,910.4

The estimates of foregone state and local sales tax revenues from Sections 1 and 2 of the bill are based on the following data and assumptions:

- Given that reported planned spending is for the calendar year, we assume that applications DOR reports receiving in FY 2021 correspond to CY 2021 planned purchases. Likewise, planned spending from FY 2020 applications is assumed to correspond to CY 2020 purchases.
- Expenditures are assumed to be uniform over the calendar year.
- At this time, no data are available for actual exempted purchases, so planned spending is taken as a proxy. Actual spending that qualified for the exemption may be higher or lower.
- IBISWorld forecasted growth rates for national revenues in the various qualifying industries are averaged and used to project exempted computer sales, assuming existing exemption terms, from the CY 2021 base year through CY 2027.This baseline of qualified purchases is presented in Table 2A, along with the amounts of state and local taxes forgone under current law, under which the exemption expires June 30, 2023.
- The effect of the six-month extension under existing exemption terms in Section 1, for the first half of FY 2024, is estimated to be $40.7 million in state and $34.1 million in local revenues.
- Effective January 1, 2014, certain equipment that is issued to employees will no longer be eligible for exemption or be counted toward the expenditure minimum. However, it is not clear from the bill text when otherwise-eligible equipment would be deemed to be "issued to

employees" as opposed to simply being used by them or how the exclusion of such issued equipment could be enforced. If such a distinction can be made in regulation and enforced, the amount so excluded may also not be material to the overall estimated expenditures. Thus, no adjustment is made for this equipment.

- To account for the software share of expenditures, we relied on estimates from research firms Research Synergy Group and Spiceworks Ziff Davis of the software and hardware shares of IT spending in, on the one hand, the data centers industry and, on the other, across all industries. These firms report software shares of about 23 percent for data centers and 47 percent across all industries; we assume the midpoint, 35 percent, for the industries eligible for this exemption and reduce projected eligible expenditures accordingly.
- This 35 percent estimate of the software share of spending implies that firms would need about $23 million of spending including software to reach the $15 million minimum after software is excluded. Based on discussions with DOR, we assume that three of the 25 approved applicants in FY 2020, accounting for about 3.5 percent of total planned spending, would not have reached the minimum had software been excluded then. Projected eligible expenditures are thus reduced by this amount as well.
- The reduced-rate tax collected on the first $15 million of purchases for each approved taxpayer is calculated assuming that the number of eligible purchasers under the proposed law, net of applicants who would not meet the minimum expenditure requirement given elimination of software from eligible spending beginning in 2024, would be 31 that year, growing to 33 in 2027.
- Local tax effects assume an average local rate of 3.35%.

Table 2A presents baseline (current policy) qualified purchases, current-law exempted revenues, the estimated amount of qualifying computer purchases under HB 1291, and the proforma exempted revenues for FY 2023-27. The net change in projected revenue resulting from the bill is presented in Table 1.

Table 2A. Estimated Computer Purchases Subject to §48-8-3(68)

($ *millions*)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Baseline Qualified Purchases	$1,995.9	$2,065.2	$2,123.2	$2,179.7	$2,235.8
Current-Law Exempted Revenue:					
State	$79.8	$0.0	$0.0	$0.0	$0.0
Local	$66.9	$0.0	$0.0	$0.0	$0.0
Proforma Qualified Purchases	$1,995.9	$1,694.9	$1,372.7	$1,409.2	$1,445.4
HB 1291 Exempted Revenue:					
State	$79.8	$65.9	$53.0	$54.4	$55.8
Local	$66.9	$55.2	$44.4	$45.6	$46.8

HTDC Exemption Changes
Section 3 of the bill affects state and local sales taxes by reducing the minimum job and aggregate expenditure requirements for qualification for the high-tech data centers exemption under O.C.G.A. §48-8-3(68.1). Current law provides for an exemption on materials and equipment used to build a high-technology data center (HTDC), subject to minimum expenditure and job-creation requirements. The bill would amend the minimum requirements as follows:

- For HTDCs in counties with populations greater than 50 thousand, the minimum job requirement is increased from 20 to 25 while the minimum investment is unchanged.
- For HTDCs in counties with populations of more than 30 thousand and up to 50 thousand, the minimum new jobs requirement is reduced from 20 to 10 and the aggregate expenditure requirement is reduced from $150 million to $75 million.
- For HTDCs in counties with populations of 30 thousand or less, the minimum job requirement is reduced from 20 to 5 and the aggregate expenditure requirement is reduced from $100 million to $25 million.

The bill also extends the current expiration date of the exemption by five years, from December 31, 2028, to the same day in 2033. This extension would decrease state and local tax revenues for FY's 2029-34, beyond the timeframe for analysis in this fiscal note. However, DOR data indicate that the total state sales tax exempted by this provision was $33.3 million in 2020.

The subject bill also impacts state income tax revenues by allowing qualifying HTDC projects to also qualify for quality job tax credits (QJTCs) under O.C.G.A. §48-7-40.17 if they are located within counties with populations of 50 thousand or less.

Data centers with total construction and equipment costs of less than $150 million or that create fewer than 20 new quality jobs do not currently qualify for the HDTC sales tax exemption but may qualify under the amended requirements if located in qualifying rural counties. A hypothetical new data center costing marginally less than the current-law threshold, or around $148 million, would be expected to employ about 26 people, based on information in a 2017 report by the U.S. Chamber of Commerce, "Data Centers, Jobs and Opportunities in Communities Nationwide." The sales tax revenue impacts of one such hypothetical HTDC are as follows:

- Computer purchases associated with the HTDC would be exempt under §48-8-3(68) if not for (68.1).
- 20.9 percent of the project costs, or about $30.9 million, are assumed to be for materials and equipment that would be exempted under the bill.
- Foregone state sales tax revenues under the amended HTDC exemption would be approximately $1.2 million.
- At an effective local tax rate of 3.61 percent, the population-weighted average local rate in those counties with populations of 50 thousand or less in the 2020 U.S. Census, forgone local sales tax revenues would be about $1.1 million.

According to the Technology Association of Georgia (TAG), Georgia has more than 50 major data centers, all but two in close-in metro Atlanta counties. This is roughly consistent with the numbers and locations reported by various other sources, including the website datacentermap.com, which reports 44 data centers in the close-in metro counties and one each in Bulloch, Carroll, Muscogee, and Whitfield counties. Excluded from either of these tabulations is the data center built by Facebook in Newton County. To date, according to available sources, no HTDCs have been built in any county with a population of 50 thousand or fewer people. However, a number have been built in counties adjacent to such rural counties. Figure 1 below shows the locations of all counties with populations of 50 thousand or fewer and of 30 thousand or fewer people as of 2020.

Figure 1. 2020 Census County Population Map

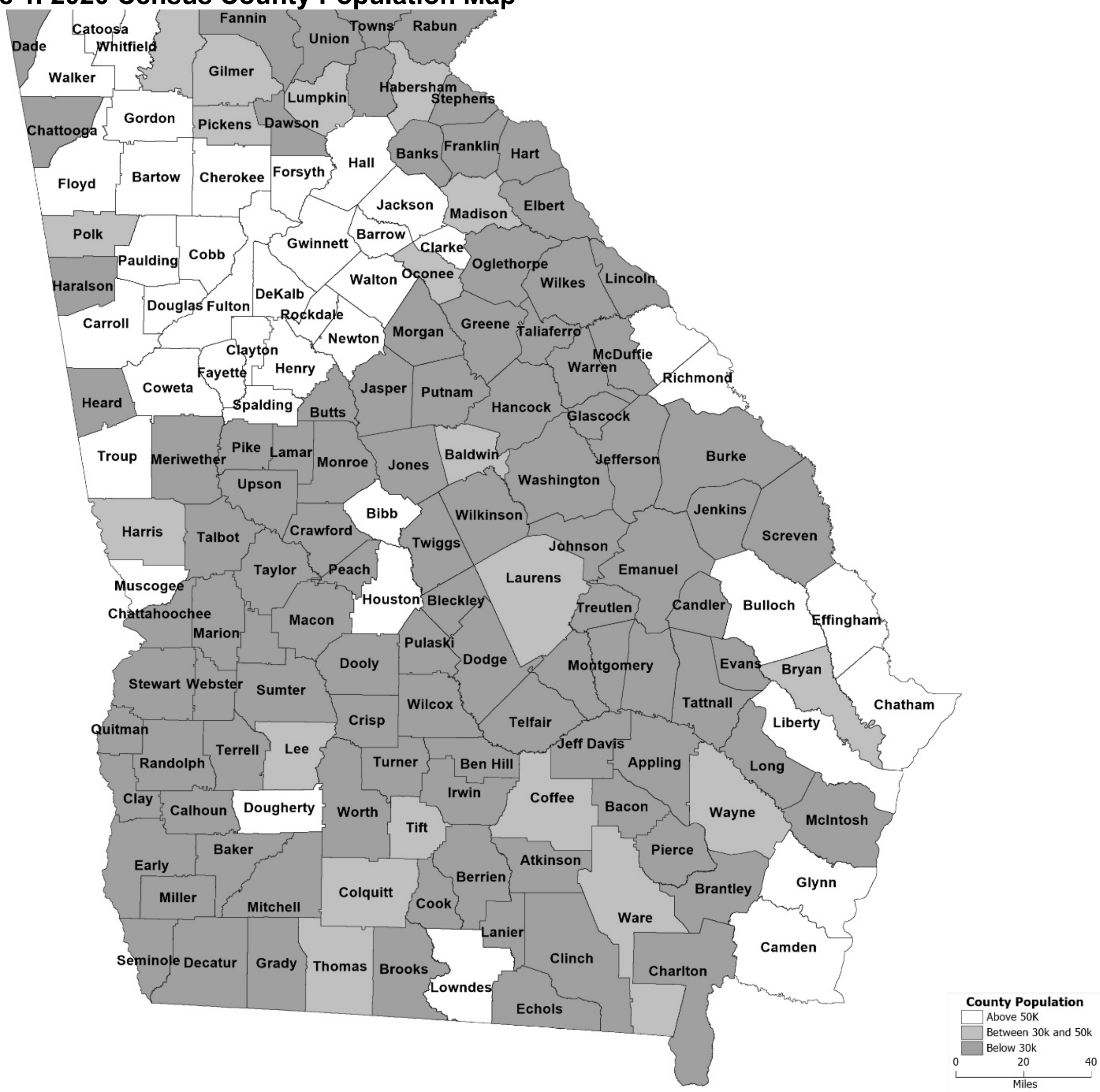

Table 3A includes projected sales tax and income tax revenue effects of the amended HTDC sales tax exemption based on one $148 million data center project started each year, beginning in FY 2023, in a qualifying rural county and becoming operational one year later with 26 employees.

Quality Job Tax Credits

QJTC requirements are based on the county in which the qualifying job is located, and its tier as defined in O.C.G.A. §48-7-40. To earn QJTCs, a business must create at least 10 new jobs in a tier one rural county, 25 in tier two rural counties, and 50 in any other Georgia county. Credits are equal to $2,500 annually for five years if the jobs pay between 110 and 120 percent of the county's average wage, $3,000 between 120 and 150 percent, $4,000 between 150 and 175 percent, $4,500 between 175 and 200 percent, and $5,000 if the jobs may more than 200 percent of the county's average wage.

According to data from the Bureau of Economic Analysis, the average annual wages of workers in Georgia counties with populations of 50 thousand or less are approximately $38.8 thousand per year. Data center technicians, according to data from multiple recruiting websites, earn around $74 thousand per year on average, or about 191 percent of the average wage. Together, these data suggest that HTDC jobs in these counties would typically qualify for credits of $4,500 per year, on average, for up to five years.

The 2017 report by the U.S. Chamber of Commerce indicates that a typical large data center, costing about $215 million to build and equip in 2017, would employ during its operating phase approximately 38 people at an aggregate wage of $2.8 million annually. Such a project would qualify for the HTDC exemption under current law, and under the bill would also qualify for QJTCs if the project is located in a qualifying rural county. At $4,500 per job, total credits earned would be $171 thousand per year or $855 thousand over five years. So-called hyperscale data centers, at around five times the size of a typical large data center, could earn QJTCs of around $855 thousand per year, or nearly $4.3 million over five years, if built in a qualifying rural county.

Under the proposed bill, a qualifying HTDC of any size would be able to claim QJTC's if the data center is located in a county with a population of 50 thousand or less. Such a mega or hyperscale data center could create more than 150 quality jobs, according to the U.S. Chamber of Commerce study. If one such HTDC were to locate in a county with a population of 50 thousand or less, it would generate $757 thousand per year for five years in new QJTCs. However, all mega r hyperscale data centers built in the state to date have been located in metro Atlanta counties, where they would not be eligible to claim the QJTC in addition to the HTDC exemption. Nevertheless, as the map in Figure 1 shows, there are eligible rural counties adjacent to metro counties where HTDCs of this size have been built; see, for example, that there are three under-30 thousand counties immediately adjacent to Newton County, where Facebook has built and is already expanding such a center.

Though larger HTDCs or more projects are certainly possible, for purposes of this note, we include the cost of QJTCs for the scenario described above of one $148 million cost data center project per year, each creating 26 new quality jobs.

Table 3A details the numbers of new quality jobs created and earning credits during the operational phase of new data centers in eligible rural counties

Table 3A. Exempted HTDC Equipment Purchases and New Quality Jobs*

($ *millions*)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Exempted Purchases	$15.5	$30.9	$30.9	$30.9	$30.9
Quality Jobs Created in Year	-	13	26	26	26
Total Credit-Earning Jobs		13	39	65	91
Revenue Effects:					
State Sales Tax	$0.6	$1.2	$1.2	$1.2	$1.2
Local Sales Tax	$0.6	$1.1	$1.1	$1.1	$1.1
Income Taxes – QJTC's	-	$0.1	$0.2	$0.3	$0.4

* Based on one $148 million project per year starting in 2023