DOAA
Georgia Department
of Audits & Accounts

Greg S. Griffin
State Auditor

January 9, 2023

Honorable Viola Davis
State Representative
404-D Coverdell Legislative Office Building
Atlanta, GA 30334

SUBJECT: Fiscal Note
House Bill (LC 43 2492)

Dear Representative Davis:

The subject bill has five sections that propose revenue impacting changes.

- The Georgia jobs tax credit taken against the insurance premium tax is reduced by half.
- The state income tax deduction for global intangible low-taxed income (GILTI) is eliminated.
- The employer's credit for employee retraining programs is reduced by half.
- The research and development tax credit is reduced by half.
- The quality jobs tax credit is reduced by half.

The bill would be effective on June 30, 2023.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would increase state revenue beginning in FY 2024, as shown in **Table 1**. Most of the bill's revenue impact is associated with elimination of the global intangible low-taxed income, though FRC notes that those amounts are upper bound due to the likelihood that taxpayers can adjust their holdings to avoid the Georgia tax. The appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of LC 43 2492

($ *millions*)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Sec. 1 - Georgia Jobs (IPT Only)	$0.4	$0.8	$1.1	$1.4	$1.7
Sec. 2 - GILTI Exclusion	$221.9	$239.6	$258.7	$279.3	$301.6
Sec. 3 - Employee Retraining	$5.5	$14.9	$21.7	$26.9	$31.0
Sec. 4 - Research Expense	$9.9	$31.4	$67.6	$98.9	$117.9
Sec. 5 - Quality Jobs	$5.8	$16.9	$38.4	$22.9	$48.6
Total	**$243.6**	**$303.6**	**$387.6**	**$429.5**	**$500.8**

Impact on State Expenditures

The Department of Revenue (DOR) would be able to implement the bill's provisions with existing resources. However, changes to information systems would require eight weeks of staff time, which is equivalent to $76,000.

Respectfully,

Greg S. Griffin
State Auditor

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

LC 43 2492 contains five revenue-impacting provisions in 5 numbered sections, 4 that amend existing tax credits and one repealing an income tax deduction for businesses.

Reduction of Tax Credits

The tax credit provisions, by numbered bill section, are as follows:

1. Reduce the job tax credit for business enterprises located in less-developed areas, for purposes of the state IPT only, by amending O.C.G.A. §33-8-4.1. Under current law, qualified insurers are allowed annual credits for up to five years for eligible new full-time employees, with the amount of the credit based on the Department of Community Affairs designation of the county in which the business is located as a tier 1 to tier 4 county. Under the proposed law, the credit amounts for each tier are reduced by half as follows:
    - For tier 1 counties, $3,500 becomes $1,750.
    - For tier 2 counties, $2,500 becomes $1,250.
    - For tier 3 counties, $1,250 becomes $625.
    - For tier 4 counties, $750 becomes $375.

    The additional credit of $500 for one year for “existing business enterprises,” those operating facilities in this state for the immediately preceding three years, is reduced to $250. The similar income tax credit under Title 48 is unchanged.

3. Reduce the income tax credit for approved employee retraining programs by amending O.C.G.A. §48-7-40.5. Under current law, employers are allowed a credit of 50 percent of retraining costs, up to a maximum of $500 per full-time employee for each approved program completed and no more than $1,250 per full-time employee who has completed more than one program. Under the proposed law, these limits would be reduced to $250 and $625 respectively.

4. Reduce the income tax credit for qualified research expenses under O.C.G.A. §48-7-40.12. Under current law, businesses are allowed a credit equal to 10 percent of qualified research expenses over the base amount, as defined in IRC Section 41, provided such expenses are for research conducted in the state. Under the proposed law, the credit rate would be reduced to 5 percent.

5. Reduce the income tax credit for new quality jobs under O.C.G.A. §48-7-40.17 by reducing the amount of the credit allowed annually for up to five years for each new quality job as follows:
    - For each new quality job paying 110 percent or more, but less than 120 percent, of the average wage of the county in which the new quality job is located, the annual credit is reduced from $2,500 to $1,250.
    - For each that pays at least 120 percent, but less than 150 percent, of this average, $3,000 is reduced to $1,500.
    - For each that pays at least 150 percent, but less than 175 percent, of this average, $4,000 is reduced to $2,000.
    - For each that pays at least 175 percent, but less than 200 percent, of this average, $4,500 is reduced to $2,250.
    - For each that pays at least 200 percent of this average, $5,000 is reduced to $2,500.

For each tax credit provision, projected tax expenditure baselines from the forthcoming Tax Expenditure Report for FY 2024 are extended through FY 2028 for purposes of this note and reported in Table 2 below, along with proforma projections giving effect to the reductions in the proposed bill. In all cases, credits generated, utilized, and carried forward (including past carryforwards) are accounted for. Actual utilization of credits in any year and amounts carried forward to future years are based on past relationships with credits generated, adjusting for fluctuations in utilization with the business cycle

(i.e., with taxable profits and tax liability). The reduction in the estimated tax expenditure from the bill's reductions and repeals of the credits is reported in Table 1 as a projected revenue gain. Key assumptions for these tax credit provisions are as follows:

- For the jobs tax credit and the quality jobs credit (bill sections 1 and 5), tax expenditure estimates are based on trends in credits generated, utilized, and carried forward, as reported by the Georgia Department of Revenue (DOR) and the Office of the Commissioner of Insurance (OCI) through 2022, and on state job growth forecasts through 2024 from the GSU Economic Forecasting Center (EFC). Credits generated are assumed to grow at the EFC's projected job growth rates for 2022-24, with the 2024 growth rate assumed to continue for the remaining periods. New jobs created before the effective date of the bill are assumed to earn credits at the current law credit rates for the full five years.

- For the employee retraining credit (bill Section 3), tax expenditure estimates are based on past growth trends from DOR credit reports through TY 2022 and 5 percent annual growth in credits generated after 2022.

- For the qualified research expense credit (bill section 4), expenditure estimates are based on DOR credit reports through 2022, with growth in 2022 based on estimates from R&D World magazine's "Global R&D Funding Forecast," dated April 12, 2022. After 2022, assumed growth in generated credit is based on long-run research spending projections from the National Science Foundation. Utilization and carryforwards are assumed to following existing patterns from the DOR credit utilization data.

Table 2. Baseline and Proforma Tax Expenditure Estimates by Tax Credit

($ *millions*)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Baseline:					
Sec. 1 – Georgia Jobs (IPT)	$4.3	$4.5	$4.7	$4.8	$4.9
Sec. 3 – Retraining	$61.1	$63.4	$66.0	$69.0	$72.2
Sec. 4 – Research	$240.5	$258.4	$272.9	$286.1	$302.9
Sec. 5 – Quality Jobs	$101.4	$103.4	$104.7	$105.5	$106.6
Baseline Total	**$407.3**	**$429.7**	**$448.3**	**$465.4**	**$486.6**
Proforma:					
Sec. 1 – Georgia Jobs (IPT)	$3.9	$3.7	$3.5	$3.4	$3.3
Sec. 3 – Retraining	$55.6	$48.5	$44.3	$42.1	$41.2
Sec. 4 – Research	$230.6	$227.0	$205.3	$187.3	$185.0
Sec. 5 – Quality Jobs	$95.6	$86.5	$66.2	$82.6	$58.0
Proforma Total	**$385.7**	**$365.7**	**$319.3**	**$315.4**	**$287.5**

Repeal of the Global Intangible Low-Taxed Income Exclusion

Section 2 of the bill amends O.C.G.A. §48-7-21(b) so as to conform Georgia tax treatment of certain foreign-source corporate income to federal treatment of that income under the Tax Cut and Jobs Act of 2017 (TCJA). Under current state law, corporations subject to tax in Georgia are allowed an exclusion from state taxable income for any income classified as Section 951A income under the Internal Revenue Code of 1986, also referred to as Global Intangible Low-Taxed Income (GILTI). The bill would effectively repeal that exclusion.

Prior to the passage of TCJA, this foreign-source income of US corporations was not taxed until it was paid by a foreign corporation to the US corporation in the form of a dividend. Thus, tax on this income was deferred until it was paid to the US corporate shareholder. TCJA modified the treatment of this income such that it became taxable as if it had been paid as a dividend, but IRC Section 250, in part, allows a deduction of 50 percent of GILTI from federal taxable income. In 2018, Georgia conformed its

tax code to many of the new provisions in the federal tax code resulting from the passage of TCJA but did not choose to tax GILTI income at the state level, the exclusion from taxable income thus creating a tax expenditure for the state.

This provision in LC 43 2492 would modify the state tax code to conform to the federal code such that Section 951(A) or GILTI income would be included in state taxable income, but net of the Section 250 deduction. The estimated revenue gains from Section 3 of the bill are thus equal to the current-law tax expenditure estimates (forthcoming in the Tax Expenditure Report for FY 2024) for the exclusion of GILTI, which are based on the JCT estimates of the related federal tax expenditure through FY 2024, shared down to Georgia and extended through FY 2028 at the FY 2024 growth rate. These estimates are included in Table 1.

Note, however, that these estimates should be considered an upper bound of revenue gains. Based on discussions with DOR, it is likely that adoption of this provision would encourage taxpayers to adjust their financial holdings, where possible, such that income made taxable by this provision is attributed to another state for a more favorable tax treatment and, therefore, not subject to tax in Georgia.

Table 3. Repeal of GILTI Exclusion

($ *millions*)	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**
State Revenue Effect	$221.9	$239.6	$258.7	$279.3	$301.6