DOAA
Georgia Department of Audits & Accounts

Greg S. Griffin
State Auditor

January 16, 2024

Honorable Sam Park
State Representative
609 Coverdell Legislative Office Building
Atlanta, GA 30334

SUBJECT: Fiscal Note
House Bill 79 (LC 43 2554)

Dear Representative Park:

The bill has three sections that would impact state revenue. The provisions would:

- amend the existing tax credit for qualified child and dependent care expenses to increase the match of the federal credit from 30 percent to 100 percent and make the credit refundable;
- create a refundable state child tax credit equal to 25 percent of the federal child tax credit; and
- create a refundable state income tax credit equal to 20 percent of the federal earned income credit.

The bill would be effective for tax years beginning on or after January 1, 2023.

Impact on State Revenue
Georgia State University's Fiscal Research Center (FRC) estimated that the bill would decrease state revenue as shown in **Table 1**. The largest portion of the revenue reduction is attributed to the refundable earned income tax credit. It should be noted that the FY 2024 revenue impact would only occur in that year if the bill became law before taxpayers filed CY 2023 tax revenues. If amended returns are filed after June 2024, the impacts would be shifted to FY 2025. The appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of HB 79 LC 43 2554

($ millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
High Case (DOR)	($1,724.93)	($1,755.51)	($1,624.75)	($1,414.44)	($1,349.79)	($1,289.32)
Low Case (SOI)	($1,599.76)	($1,596.88)	($1,436.96)	($1,198.00)	($1,103.88)	($1,012.89)

Impact on State Expenditures
The Department of Revenue would incur additional annual and one-time costs associated with the bill (see Table 2). Additional staffing costs are associated with three audit staff and 15 examiners in the taxpayer services division. The two divisions also estimate significant costs associated with printing and mailing audit notices and refunds.

Table 2. Estimated DOR Costs

	One-Time Costs	Annual Costs*
Audits		
Staff (Two auditors and one examiner)	$5,500	$236,039
Postage		$472,500
Taxpayer Services		
Staff (15 examiners)	$27,375	$1,045,202
Mailings/Postage		$520,000
Total	**$32,875**	**$2,273,741**

Existing DOR resources would be used to make necessary information system changes. The changes would take employees approximately 30 weeks, equating to approximately $381,000 in staff time.

Respectfully,

Greg S. Griffin
State Auditor

Richard Dunn, Director
Office of Planning and Budget

GSG/RD/mt

Analysis by the Fiscal Research Center

Section 2 – Qualified child and dependent care expenses credit:

Section 2 of the bill proposes to amend O.C.G.A. §48-7-29.1, the existing qualified child and dependent care expense credit, by increasing the match of the federal credit under IRC Section 21 from 30 percent to 100 percent and by making the credit refundable for all the taxable years beginning on or after January 1, 2023. To estimate the revenue effects of this provision, the projected tax expenditure baselines from the Georgia Tax Expenditure Report for FY 2025 are extended through FY 2029 based on pre-pandemic trend growth. This baseline is then adjusted upward based on historical differences between credits generated and those utilized in a given year to reflect the proposed refundability of the credit and finally grossed up to reflect the higher match of the federal credit. Baseline tax expenditures and proforma projections with the proposed modifications are provided in Table 2.

Table 2. Baseline and Proforma Tax Expenditures and Net Revenue Impact of Section 2

($ *millions*)	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**
Baseline	($43.05)	($43.90)	($44.76)	($45.61)	($46.47)	($47.32)
Proforma	($146.98)	($149.83)	($152.68)	($155.53)	($158.38)	($161.23)
Net Revenue Effect	**($103.93)**	**($105.93)**	**($107.92)**	**($109.92)**	**($111.91)**	**($113.91)**

Section 3 – State child tax credit:

Section 3 of the bill proposes to create a new, refundable state tax credit equal to 25 percent of the federal child tax credit under IRC Section 24, subject to the taxpayer's income for purposes of determining eligibility for the federal child credit remaining below the relevant eligibility limits after adding back net operating loss (NOL) carryforwards deducted on their federal return in arriving at federal adjusted gross income (AGI). Eligibility for the credit depends on, among other things, AGI being below certain limits based on filing status and the number of eligible dependents.

We use Statistics of Income (SOI) data for Georgia from the Internal Revenue Service, aggregated data from returns filed for TY 2020 with a Georgia address at the time of filing. These SOI data would not include nonresident Georgia taxpayers and would also differ in counting of part-year residents, excluding those who move out of state before filing their returns for the year. SOI data show that TY 2020 federal returns from Georgia claimed approximately $3.9 billion of federal child tax credits, including amounts reported on both line 19 and line 28 (the refundable portion of the federal credit) of Form 1040. Administrative tax return data from the Department of Revenue (DOR) for which federal form data are available include only e-filed returns, so likely materially understate the total amount of federal credits claimed by Georgia taxpayers. The amount claimed on federal returns by Georgia e-filers for TY 2020 and TY 2021 totaled approximately $3.6 billion and $4.1 billion respectively, generally supporting the use of the SOI aggregate figures for the base year of our analysis.

From the TY 2020 base year, we project the Georgia credit amount – 25 percent of the federal credit – based on the Governor's Office of Planning and Budget (OPB) 2023 projections of the state's child population (aged 0-14). OPB's projections show an average increase in this population of approximately 0.25 percent per year from 2020 to 2028. Notably, the congressional Joint Committee on Taxation (JCT) projects a faster decline from 2026 when the pandemic expansion of the credit in 2021 made in the Tax Cut and Jobs Act (TCJA) is set to expire.

Under current federal law, the per-child amount of the federal credit is scheduled to fall from $2,000 to $1,000, the level before passage of TCJA, in TY 2026. TCJA's increased income limits for the federal credit will also expire in TY 2026, if not extended. JCT's federal tax expenditure estimates project the federal cost of this credit dropping approximately in half beginning TY 2026, thus we make a similar adjustment, impacting the estimates for FY's 2027 to 2029. Results are reported in Table 3.

Table 3. Projected Tax Expenditure Cost of Section 3

($ *millions*)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Net Revenue Effect	($979)	($982)	($828)	($595)	($506)	($421)

Section 4 – State earned income tax credit:

Section 4 of the bill proposed to create a state earned income tax credit (EITC) be equal to 20 percent of the federal EITC, subject to the taxpayer's income for purposes of determining eligibility for the EITC remaining below the relevant eligibility limits after adding back net operating loss (NOL) carryforwards deducted on their federal return in arriving at federal adjusted gross income (AGI). Eligibility for the credit depends on, among other things, AGI being below certain limits based on filing status and the number of eligible dependents.

Based on administrative tax return data from the Department of Revenue (DOR) for which federal EITC data are available, approximately 1.28 million Georgia taxpayers claimed the federal credit in TY 2021, including about 1.18 million full-year residents, 43 thousand part-year residents, and 44 thousand nonresidents. The total amount of federal EITC claimed was approximately $2.88 billion, $2.7 billion of that by full-year residents. For purposes of this fiscal note, it is assumed that the Georgia EITC would be adjusted for part-year and nonresident filers, as are most deductions and exemptions, to reflect the filer's Georgia share of total AGI shown on the Georgia return's Schedule 3, line 9.

Approximately 6.6 thousand filers claiming the EITC also reported federal NOL carryforwards on their Georgia returns, where they are an addition to federal AGI in arriving at Georgia AGI and taxable income. Reported NOL carryforwards are added to reported federal AGI for comparison to the relevant EITC eligibility limits.

Using a microsimulation model of the proposed credit, together with the DOR return data for TY 2021, it is estimated that about 1.26 million Georgia filers would have received the Georgia EITC in an aggregate amount of about $556 million for TY 2021 had the proposed law been in effect at the time.

As an alternative source, because the return data from DOR only includes e-filers and thus may understate the number and amount of federal EITC claims by Georgia taxpayers, we use Statistics of Income (SOI) data for Georgia from the Internal Revenue Service. These aggregated data include returns filed for TY 2020 with a Georgia address at the time of filing, so would not include nonresident Georgia taxpayers and would also differ in counting of part-year residents, excluding those who move out of state before filing their returns for the year. SOI data show approximately 1.07 million TY 2020 federal returns from Georgia claiming approximately $2.71 billion of federal EITCs. Given refundability of the proposed state EITC, this implies proforma TY 2020 Georgia EITCs of approximately $541 million.

We project the DOR-based and SOI-based estimates for TY 2020 forward under the following assumptions:

- *High-growth case*: The DOR-based estimate of $556 million is projected forward assuming growth at the rate of population growth, as projected by OPB, plus inflation at actual rates through TY 2023 and using Congressional Budget Office February 2023 forecasts of inflation for subsequent years. Inflation is measured with a 1-year lag as the prior year's inflation is the basis for annual inflation adjustments to EITC parameters made by the IRS.
- *Low-growth case*: The IRS-based estimate of $541 million is projected forward assuming a 1.54 percent annual decline in EITC amounts claimed, the average annual percent change from 2013 to 2020.

Projected revenue effects under the high- and low-growth cases are provided in Table 4.

Table 4. Projected Tax Expenditure Cost of Section 4

($ millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
High Case (DOR)	($641.7)	($667.2)	($688.6)	($709.5)	($731.4)	($754.5)
Low Case (SOI)	($516.5)	($508.6)	($500.8)	($493.1)	($485.5)	($478.0)

Note: the changes in all three sections are assumed to impact state revenues at the time of filing of returns. Given that TY 2023 is the first tax year affected, the first state fiscal year impacted is assumed to be FY 2024. If the bill becomes law after taxpayers file their 2023 tax return the impact in FY 2024 would be lower. To the extent that eligible taxpayers have filed their 2023 tax returns before this bill becomes law the revenue impact in FY 2024 would be lower. However, should those taxpayers file amended returns for 2023 those revenue effects would likely be realized in FY 2025.