

Senate Bill 361

By: Senators Walker III of the 20th, Harbison of the 15th, Mullis of the 53rd, Cowser of the 46th, Albers of the 56th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to enact the "Law Enforcement Strategic Support Act" ("LESS Crime
3 Act"); to provide for tax credits for certain contributions made by taxpayers to certain local
4 law enforcement foundations; to provide for an aggregate annual limit; to provide for terms
5 and conditions; to provide for applications and certifications; to provide for the revocation
6 of qualified status; to provide for certain penalties; to require annual reporting; to provide for
7 rules and regulations; to provide for construction; to provide for a short title; to provide for
8 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Law Enforcement Strategic Support Act"
13 or the "LESS Crime Act."

14

SECTION 2.

15 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
16 is amended by adding a new Code section to read as follows:

17 "48-7-29.25.

18 (a) As used in this Code section, the term:

19 (1) 'Law enforcement foundation' means any domestic nonprofit corporation with the
20 sole function of supporting one local law enforcement unit through a formal relationship
21 recognized by such local law enforcement unit and which maintains nonprofit status
22 under Section 501(c)(3) of the Internal Revenue Code and tax exempt status under Code
23 Section 48-7-25.

24 (2) 'Local law enforcement unit' means any agency, office, or department of a county,
25 municipality, or consolidated government of this state whose primary functions include
26 the enforcement of criminal or traffic laws, preservation of public order, protection of life
27 and property, or the prevention, detection, or investigation of crime. Such term shall
28 include any sheriff's office in this state. Such term shall not include any agency, office,
29 or department conducting similar functions for any court, state board, state authority,
30 state law enforcement division or department, railroad police, or any unit appointed under
31 the authority of Chapter 9 of Title 35 of the Official Code of Georgia Annotated.

32 (3) 'Qualified contributions' means the preapproved contribution of funds by a taxpayer
33 to a qualified law enforcement foundation under the terms and conditions of this Code
34 section.

35 (4) 'Qualified expenditures' means expenditures made by a qualified law enforcement
36 foundation:

37 (A)(i) For salary supplements paid no more than twice annually or training provided
38 directly to law enforcement officers employed by the local law enforcement unit
39 affiliated with such qualified law enforcement foundation; or

40 (ii) For the purchase, lease, maintenance, or improvement of equipment to be used
41 by such officers; or

42 (B) To cover any costs incurred by the local law enforcement unit for the operation of
43 an emergency response team that combines law enforcement officers and behavioral
44 health specialists, provided that such costs shall not include salaries or other regular
45 compensation.

46 (5) 'Qualified law enforcement foundation' means any law enforcement foundation that
47 has been designated as the sole local law enforcement foundation for a single local law
48 enforcement unit and has been certified and listed by the commissioner pursuant to
49 subsection (d) of this Code section.

50 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
51 exceed \$75 million per calendar year. Each qualified law enforcement foundation shall
52 be limited to accepting \$3 million per year of contributions made under this Code section.

53 (2) Subject to the aggregate limit provided in paragraph (1) of this subsection for taxable
54 years beginning on or after January 1, 2023, and ending on or before December 31, 2027,
55 each taxpayer shall be allowed a credit against the tax imposed by this chapter for
56 qualified contributions made by the taxpayer as follows:

57 (A) In the case of a single individual or a head of household, the actual amount of
58 qualified contributions made or \$5,000.00 per tax year, whichever is less;

59 (B) In the case of a married couple filing a joint return, the actual amount of qualified
60 contributions made or \$10,000.00 per tax year, whichever is less;

61 (C) Anything to the contrary contained in subparagraph (A) or (B) of this paragraph
62 notwithstanding, in the case of an individual taxpayer who is a member of a limited
63 liability company duly formed under state law, a shareholder of a Subchapter 'S'
64 corporation, or a partner in a partnership, the actual amount of qualified contributions
65 it made or \$10,000.00 per tax year, whichever is less; provided, however, that tax
66 credits pursuant to this paragraph shall only be allowed for the portion of the income

67 on which such tax was actually paid by such member of the limited liability company,
68 shareholder of a Subchapter 'S' corporation, or partner in a partnership; or

69 (D) A corporation or other entity not provided for in subparagraphs (A) through (C)
70 of this paragraph shall be allowed a credit against the tax imposed by this chapter, for
71 qualified contributions in an amount not to exceed the actual amount of qualified
72 contributions made or 75 percent of such corporation's or other entity's income tax
73 liability, whichever is less.

74 (3) Nothing in this Code section shall be construed to limit the ability of a local law
75 enforcement unit to receive gifts, grants, and other benefits from any source allowed by
76 law; provided, however, that no local law enforcement unit shall, under this Code section,
77 accept or receive more than \$3 million in contributions in any calendar year.

78 (c) The commissioner shall establish a page on the department's website for the purpose
79 of implementing this Code section. Such page shall contain, at a minimum:

80 (1) The application and requirements to be certified as a qualified law enforcement
81 foundation;

82 (2) The current list of all qualified law enforcement foundations and their affiliate law
83 enforcement units;

84 (3) The total amount of tax credits remaining and available for preapproval for each year;

85 (4) A web based method for taxpayers seeking the preapproval status for contributions;
86 and

87 (5) The information received by the department from each qualified law enforcement
88 foundation pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv)
89 of this Code section.

90 (d) Any valid law enforcement foundation as a qualified law enforcement foundation shall
91 be certified by the commissioner following the commissioner's receipt of a properly
92 completed application and after the commissioner has confirmed that a single local law
93 enforcement unit has validly designated the applicant as its sole law enforcement

94 foundation. Such application shall be prescribed by the commissioner and shall include an
95 agreement by the applicant to fully comply with the terms and conditions of this Code
96 section.

97 (e)(1) Prior to making a contribution to any qualified law enforcement foundation, the
98 taxpayer shall electronically notify the department, in a manner specified by the
99 commissioner, of the total amount of contribution that such taxpayer intends to make to
100 such qualified law enforcement foundation.

101 (2) Within 30 days after receiving a request for preapproval of contributions, the
102 commissioner shall preapprove, deny, or prorate requested amounts on a first come, first
103 served basis and shall provide notice to such taxpayer and the qualified law enforcement
104 foundation of such preapproval, denial, or proration. Such notices shall not require any
105 signed release or notarized approval by the taxpayer. The preapproval of contributions
106 by the commissioner shall be based solely on the availability of tax credits subject to the
107 limits established under paragraph (1) of subsection (b) of this Code section.

108 (3) Within 60 days after receiving the preapproval notice issued by the commissioner
109 pursuant to paragraph (2) of this subsection, the taxpayer shall contribute the preapproved
110 amount to the qualified law enforcement foundation or such preapproved contribution
111 amount shall expire. The commissioner shall not include such expired amounts in
112 determining the remaining amount available under the aggregate limit for the respective
113 calendar year.

114 (f)(1) Each qualified law enforcement foundation shall issue to each contributor a letter
115 of confirmation of contribution, which shall include the taxpayer's name, address, tax
116 identification number, the amount of the qualified contribution, the date of the qualified
117 contribution, and the total amount of the credit allowed to the taxpayer.

118 (2) In order for a taxpayer to claim the tax credit allowed under this Code section, all
119 such applicable letters as provided for in paragraph (1) of this subsection shall be attached
120 to the taxpayer's tax return. When the taxpayer files an electronic return such

121 confirmation shall only be required to be electronically attached to the return if the
122 Internal Revenue Service allows such attachments to be affixed and transmitted to the
123 department. In any such event, the taxpayer shall maintain such confirmation and such
124 confirmation shall only be made available to the commissioner upon request.

125 (3) The commissioner shall allow tax credits for any preapproved contributions made to
126 a local law enforcement foundation at the time the contributions were made if such
127 foundation was a qualified law enforcement foundation at the time of the commissioner's
128 preapproval of the contributions and the taxpayer has otherwise complied with this Code
129 section.

130 (g)(1) Each qualified law enforcement foundation shall annually submit to the
131 department:

132 (A) A complete copy of its IRS Form 990 and other applicable attachments, or for any
133 qualified law enforcement foundation that is not required by federal law to file an IRS
134 Form 990, such foundation shall submit to the commissioner equivalent information on
135 a form prescribed by the commissioner; and

136 (B) A report detailing the contributions received during the calendar year pursuant to
137 this Code section on a date determined by, and on a form provided by, the
138 commissioner which shall include:

139 (i) The total number and dollar value of individual contributions and tax credits
140 approved. Individual contributions shall include contributions made by those filing
141 income tax returns as a single individual or head of household and those filing joint
142 returns;

143 (ii) The total number and dollar value of corporate contributions and tax credits
144 approved;

145 (iii) The total number and dollar value of all qualified expenditures made; and

146 (iv) A list of contributors, including the dollar value of each contribution and the
147 dollar value of each approved tax credit.

148 (2) Except for the information published in accordance with paragraph (c) or (h) of this
149 Code section, all information or reports relative to this Code section that were provided
150 by qualified law enforcement foundations to the department shall be confidential taxpayer
151 information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such
152 information relates to the contributor or the qualified law enforcement foundation.

153 (h) Each qualified law enforcement foundation shall publish on its website a copy of its
154 affiliated local law enforcement unit's prior year's annual budget containing the total
155 amount of funds received from its local governing body. If a qualified law enforcement
156 foundation does not maintain a public website, such information shall be otherwise made
157 available by the qualified law enforcement foundation to the public upon request.

158 (i)(1) A taxpayer shall not be allowed to designate or direct the taxpayer's qualified
159 contributions to any particular purpose or for the direct benefit of any particular
160 individual.

161 (2) A taxpayer that operates, owns, is affiliated with, or is a subsidiary of an association,
162 organization, or other entity that contracts directly with a qualified law enforcement
163 foundation or the local law enforcement unit that is affiliated with a qualified law
164 enforcement foundation shall not be eligible for tax credits allowed under this Code
165 section for contributions made to such qualified law enforcement foundation.

166 (3) In soliciting contributions, no person shall represent or direct that, in exchange for
167 making qualified contributions to any qualified law enforcement foundation, a taxpayer
168 shall receive any direct or particular benefit. The status as a qualified law enforcement
169 foundation shall be revoked for any law enforcement foundation determined to be in
170 violation of this paragraph and shall not be renewed for at least two years.

171 (j)(1) Qualified contributions shall only be used for qualified expenditures. Each
172 qualified law enforcement foundation shall maintain accurate and current records of all
173 expenditures of qualified contributions and provide such records to the commissioner
174 upon his or her request.

175 (2) A qualified law enforcement foundation that fails to comply with any of the
176 requirements under this Code section shall be given written notice by the department of
177 such failure to comply by certified mail and shall have 90 days from the receipt of such
178 notice to correct all deficiencies.

179 (3) Upon failure to correct all deficiencies within 90 days, the department shall revoke
180 the law enforcement foundation's status as a qualified law enforcement foundation and
181 such entity shall be immediately removed from the department's list of qualified law
182 enforcement foundations. All applications for preapproval of tax credits for contributions
183 to such law enforcement foundation under this Code section made on or after the date of
184 such removal shall be rejected.

185 (4) Each law enforcement foundation that has had its status revoked and has been
186 delisted pursuant to this Code section, shall immediately cease all expenditures of funds
187 received relative to this Code section, and shall transfer all of such funds that are not yet
188 expended, to a properly operating qualified law enforcement foundation within 30
189 calendar days of its removal from the department's list of qualified law enforcement
190 foundations.

191 (k)(1) No credit shall be allowed under this Code section to a taxpayer for any amount
192 of qualified contributions that were utilized as deductions or exemptions from taxable
193 income.

194 (2) In no event shall the total amount of the tax credit under this Code section for a
195 taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be
196 allowed the taxpayer against the succeeding five years' tax liability. No such credit shall
197 be allowed the taxpayer against prior years' tax liability.

198 (l) The commissioner shall promulgate rules and regulations necessary to implement and
199 administer the provisions of this Code section."

200

SECTION 3.

201 This Act shall become effective on July 1, 2022, and shall be applicable to taxable years
202 beginning on or after January 1, 2023.

203

SECTION 4.

204 All laws and parts of laws in conflict with this Act are repealed.