

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 SENATE

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 a short title; to provide for related matters; to provide
8 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

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

13 **SECTION 2.**

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

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16 "48-7-29.24.

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

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

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

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

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

36 (A)(i) Direct compensation or training of law enforcement officers employed by the
37 local law enforcement unit affiliated with such qualified law enforcement foundation;

38 or

39 (ii) Purchase, lease, maintenance, or improvement of equipment to be used by such
40 officers; or

41 (B) Costs incurred by the local law enforcement unit for the operation of an emergency
42 response team that combines law enforcement officers and behavioral health specialists.

43 (5) 'Qualified law enforcement foundation' means any law enforcement foundation that
44 has been certified and listed by the commissioner pursuant to subsection (d) of this Code
45 section.

46 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
47 exceed \$100 million per calendar year. Each qualified law enforcement foundation shall
48 be limited to accepting \$5 million per year of contributions made under this Code section.

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

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

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

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

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

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

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

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

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

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

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

82 (d) The commissioner shall certify any valid law enforcement foundation as a qualified
83 law enforcement foundation upon its satisfactory application on the form prescribed by the
84 commissioner. Such application shall include an agreement by the applicant to fully
85 comply with the terms and conditions of this Code section.

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

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

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

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

107 (2) In order for a taxpayer to claim the tax credit allowed under this Code section, all
108 such applicable letters as provided for in paragraph (1) of this subsection shall be attached
109 to the taxpayer's tax return. When the taxpayer files an electronic return such
110 confirmation shall only be required to be electronically attached to the return if the
111 Internal Revenue Service allows such attachments to be affixed and transmitted to the
112 department. In any such event, the taxpayer shall maintain such confirmation and such
113 confirmation shall only be made available to the commissioner upon request.

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

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

121 (A) A complete copy of its IRS Form 990 and other applicable attachments, or for any
122 qualified law enforcement foundation that is not required by federal law to file an IRS

123 Form 990, such foundation shall submit to the commissioner equivalent information on
124 a form prescribed by the commissioner; and
125 (B) A report detailing the contributions received during the calendar year pursuant to
126 this Code section on a date determined by, and on a form provided by, the
127 commissioner which shall include:

- 128 (i) The total number and dollar value of individual contributions and tax credits
129 approved. Individual contributions shall include contributions made by those filing
130 income tax returns as a single individual or head of household and those filing joint
131 returns;
- 132 (ii) The total number and dollar value of corporate contributions and tax credits
133 approved;
- 134 (iii) The total number and dollar value of all qualified expenditures made; and
- 135 (iv) A list of contributors, including the dollar value of each contribution and the
136 dollar value of each approved tax credit.

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

142 (h) Each qualified law enforcement foundation shall publicly post on its website in a
143 prominent place a copy of its affiliated local law enforcement unit's prior year's annual
144 budget containing the total amount of funds received from its local governing body. If a
145 qualified law enforcement foundation does not maintain a public website, such information
146 shall be otherwise made available by the qualified law enforcement foundation to the
147 public upon request.

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

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

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

161 (j)(1) Each qualified law enforcement foundation shall only use funds received by it from
162 qualified contributions to make qualified expenditures. Each qualified law enforcement
163 foundation shall maintain accurate and current records of all expenditures of such funds
164 and provide such records to the commissioner upon his or her request.

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

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

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

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

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

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

190 **SECTION 3.**

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

193 **SECTION 4.**

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