

The House Committee on Ways and Means offers the following substitute to SB 361:

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 an aggregate annual limit
8 for the tax credits that allow contributions directed by taxpayers; to provide for a short title;
9 to provide for related matters; to provide for an effective date and applicability; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

S. B. 361 (SUB)

SECTION 2.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

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

"48-7-29.25.

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

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

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

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

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

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

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

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

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

51 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
52 exceed \$60 million per calendar year. Each qualified law enforcement foundation shall
53 be limited to accepting \$3 million per year of contributions made under this Code section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

201 **SECTION 3.**

202 Said chapter is further amended by adding a new Code section to read as follows:

203 "48-7-29.26.

204 (a) Notwithstanding any provision of this chapter to the contrary, on and after January 1,
205 2023, the tax credits provided for in Code Sections 48-7-29.16, 48-7-29.20, 48-7-29.21,
206 48-7-29.24, and 48-7-29.25 shall be subject to an aggregate limit of \$250 million per year,
207 and in no event shall the commissioner preapprove or allow tax credits in excess of \$250
208 million for Code Sections 48-7-29.16, 48-7-29.20, 48-7-29.21, 48-7-29.24, and 48-7-29.25
209 combined.

210 (b) To ensure that the aggregate limit established in subsection (a) of this Code section is
211 not exceeded, the commissioner shall preapprove, deny, or prorate requested amounts on
212 a first come, first served basis and shall provide notice to such taxpayer and the entity to
213 which the contribution has been proposed to be made of such preapproval, denial, or
214 proration. The preapproval or proration of contributions by the commissioner for tax
215 credits allowed under Code Sections 48-7-29.16, 48-7-29.20, 48-7-29.21, 48-7-29.24, and
216 48-7-29.25 shall be based both on the availability of tax credits subject to the limits
217 provided for by the individual Code section, as well as the aggregate limit imposed by
218 subsection (a) of this Code section."

219 **SECTION 4.**

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

222 **SECTION 5.**

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