



February 2, 2022

Honorable Chuck Hufstetler
Chairman, Senate Finance
121-C State Capitol
Atlanta, GA 30334

SUBJECT: Fiscal Note
Senate Bill (LC 43 2159)

Dear Chairman Hufstetler:

The bill would create an income tax credit for individuals and corporations that make qualified contributions to local law enforcement foundations. Credits are equal to 100 percent of the amount of qualifying donations paid by the taxpayer to an approved organization. The total amount of tax credits utilized in any year may not exceed the taxpayer's income tax liability for the year, but unutilized tax credits may be carried forward and applied to offset future tax liabilities for up to five years. The amount of credits available is subject to a statewide aggregate cap of \$100 million per year. The credit would be available for tax years beginning on or after January 1, 2023 and ending on or before December 31, 2027.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would decrease state revenue by \$67.5 million in FY 2024, with the amount nearing the \$100 million cap by FY 2026. The appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of LC 43 2159

(\$ million)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Utilized Credits	–	(\$67.5)	(\$91.9)	(\$98.0)	(\$99.5)

Impact on State Expenditures

The Department of Revenue would incur initial cost and annual costs as a result of the bill. The Taxpayer Services Division would need two additional tax examiners at a total annual cost of \$110,744. One-time costs of \$3,650 would pay for their computers and equipment.

The need for two additional examiners is based on the workload attributed to a similar tax credit program—the qualified education expense credit. While tax returns are filed electronically, the error rate for those credits requires a manual review for more than 2,500 returns each tax season.

Respectfully,

A handwritten signature in blue ink, appearing to read "Greg S. Griffin".

Greg S. Griffin
State Auditor

A handwritten signature in black ink, appearing to read "Kelly Farr".

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

SB 361, The Law Enforcement Strategic Support Act, establishes criteria that qualify a law enforcement foundation for their donors to earn tax credits equal to their donations. The state revenue commissioner is tasked with verifying all the requirements to qualify law enforcement foundations and preapproving contributions to qualify for the tax credit. A qualified law enforcement foundation is defined as any domestic non-profit corporation that maintains its non-profit status under Section 501(c)(3) of the Internal Revenue Code and tax-exempt status under O.C.G.A. §48-7-25, and which has as its sole function the supporting a local law enforcement unit, as defined in the bill.

The statewide annual aggregate amount of donations eligible for the tax credit is capped \$100 million per year. The maximum amount of credit that may be earned by any taxpayer in any year is capped as follows:

- \$5,000 for single head of single individual or head of household,
- \$10,000 for a married couple or an individual who is part of a limited liability company, a S-corporation shareholder, or partnership and
- 75 percent of income tax liability for a corporation.

Similar donation-based tax credit programs in Georgia include the qualified education expense credit (QEEC) for donations to student scholarship organizations and the rural hospital credit, both of which currently award credits equal to 100 percent of the amount donated, though the credit rate for rural hospital donations was 70 percent in its first year, 2017. The history of these credits shows some variation in terms of reaching their respective aggregate caps. While it fell well short of its cap in the first year, once the credit rate was raised to 100 percent in 2018, the rural hospital credit reached its \$60 million cap that year. However, donations fell off in 2019 to about 78 percent of the cap, possibly due to uncertainty over proposed IRS regulations affecting such state tax credit programs to close a loophole created by the Tax Cut and Jobs Act. Since the regulation was finalized, credits earned have rebounded, reaching 99.9 percent of the cap in 2021. The QEEC has been around longer, since 2009, and preapprovals have generally reached the cap since at least 2011 (reporting of preapprovals for 2009 and 2010 is not available), except for 2019 and 2020, when they reached 98 and 95 percent of the cap respectively.

Based on these other programs, and assuming that a sufficient number of eligible organizations are prepared to promote the credit in their fundraising, the estimates herein assume the \$100 million cap is reached in the second year, with first-year preapprovals assumed to reach 90 percent of the cap.

Experience with utilization of the two similar credits also suggests that significant amounts of credits earned in a year are not utilized that year and instead are carried forward. For purposes of this note, 75 percent of credits available, including carryforwards from prior years, are assumed to be utilized in the given year, the balance to be carried forward.

Finally, utilized credits for a given tax year are assumed to impact state tax collections through reductions in estimated and final tax payments made during the fiscal year starting July 1 of the given tax year.