Senate Bill 361
By: Senators Walker III of the 20th, Harbison of the 15th, Mullis of the 53rd, Cowsert 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."

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SECTION 2.
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
(ii) For the purchase, lease, maintenance, or improvement of equipment to be used by such officers; or

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

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

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

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

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

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

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

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

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

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

(1) The application and requirements to be certified as a qualified law enforcement foundation;
(2) The current list of all qualified law enforcement foundations and their affiliate law enforcement units;
(3) The total amount of tax credits remaining and available for preapproval for each year;
(4) A web based method for taxpayers seeking the preapproval status for contributions; and
(5) The information received by the department from each qualified law enforcement foundation pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv) of this Code section.

(d) Any valid law enforcement foundation as a qualified law enforcement foundation shall be certified by the commissioner following the commissioner's receipt of a properly completed application and after the commissioner has confirmed that a single local law enforcement unit has validly designated the applicant as its sole law enforcement
foundation. Such application shall be prescribed by the commissioner and shall include an agreement by the applicant to fully comply with the terms and conditions of this Code section.

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

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

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

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

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

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

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

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

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

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

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

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

(iv) A list of contributors, including the dollar value of each contribution and the dollar value of each approved tax credit.
(2) Except for the information published in accordance with paragraph (c) or (h) of this Code section, all information or reports relative to this Code section that were provided by qualified law enforcement foundations to the department shall be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such information relates to the contributor or the qualified law enforcement foundation.

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

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

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

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

(j)(1) Qualified contributions shall only be used for qualified expenditures. Each qualified law enforcement foundation shall maintain accurate and current records of all expenditures of qualified contributions and provide such records to the commissioner upon his or her request.
(2) A qualified law enforcement foundation that fails to comply with any of the requirements under this Code section shall be given written notice by the department of such failure to comply by certified mail and shall have 90 days from the receipt of such notice to correct all deficiencies.

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

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

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

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

(l) The commissioner shall promulgate rules and regulations necessary to implement and administer the provisions of this Code section.”
SECTION 3.
This Act shall become effective on July 1, 2022, and shall be applicable to taxable years beginning on or after January 1, 2023.

SECTION 4.
All laws and parts of laws in conflict with this Act are repealed.