

2017 Regular Session

SENATE BILL NO. 95

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX EXEMPTIONS. Changes the rebate for donations to certain school tuition organizations to a nonrefundable income tax credit. (gov sig)

AN ACT

To amend and reenact the chapter heading of Chapter 3 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, and R.S. 47:6301(A)(1), the introductory paragraph of 6301(A)(2), 6301(A)(2)(c), and (3), (B)(1)(c)(iv), (vii), and (ix), (2)(a)(i), and (3)(a)(iii), (C)(1)(c), (e), and (f), (2)(a) and (b) and to repeal R.S. 47:6301(D), relative to donations to school tuition organizations; to convert the school tuition organization rebate to a nonrefundable income tax credit; to limit the donation amount eligible for the tax credit; to provide taxpayer eligibility; to provide for penalties to student tuition organizations for failure to comply or report timely; to provide student eligibility qualifications; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The chapter heading of Chapter 3 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, and R.S. 47:6301(A)(1), the introductory paragraph of 6301(A)(2), 6301(A)(2)(c), and (3), (B)(1)(c)(iv), (vii), and (ix), (2)(a)(i), and (3)(a)(iii), (C)(1)(c), (e), and (f), (2)(a) and (b) are hereby amended and reenacted to read as follows:

CHAPTER 3. ~~REBATES~~ CREDITS FOR DONATIONS TO SCHOOL

1 TUTION ORGANIZATIONS

2 §6301. ~~Rebates~~ **Credit**; donations to school tuition organizations

3 A.(1) ~~There~~ **For donations made on or after July 1, 2017, there** shall be
 4 allowed a ~~rebate~~ **nonrefundable income tax credit** for donations a taxpayer makes
 5 during a taxable year to a school tuition organization ~~which~~ **that** provides
 6 scholarships to qualified students to attend a qualified school. Upon making his
 7 donation, the donor shall indicate the duration of time which the school tuition
 8 organization may retain and carryforward his donation. The time may be indicated
 9 as being in perpetuity or for a stated period of time coinciding with a fiscal year of
 10 the state of Louisiana, the minimum of which shall not be less than twelve months
 11 or one fiscal year, whichever occurs later. In order to qualify for the ~~rebate~~ **credit**,
 12 the donation shall be made by a taxpayer who ~~files~~ **is required to file** a Louisiana
 13 income tax return. The amount of the ~~rebate~~ **credit** shall be ~~equal to~~ **fifty percent of**
 14 the actual amount of the taxpayer's donation used by a school tuition organization to
 15 fund a scholarship to a qualified student ~~which shall not include administrative costs,~~
 16 **and shall be limited to fifty thousand dollars per taxpayer per year.**

17 **(a) The credit may be used in addition to any federal tax credit or**
 18 **deduction earned for the same donation. However, a taxpayer shall not receive**
 19 **any other state tax credit, exemption, exclusion, deduction, or any other tax**
 20 **benefit for which the taxpayer has received a tax credit under this Section.**

21 **(b) In the event that the tax credit earned pursuant to this Section**
 22 **exceeds the total tax liability of the taxpayer in the taxable year, the amount of**
 23 **the credit not used as an offset against such tax liability in the taxable year may**
 24 **be carried forward as a credit against subsequent individual and corporation**
 25 **income tax liabilities for a period not to exceed three taxable years.**

26 (2) The ~~rebate may be paid~~ **credit is earned** only after the conclusion of the
 27 school year and only when all of the following requirements have been satisfied:

28 * * *

29 (c) If the qualified student is enrolled in public school on February first of

1 that school year pursuant to the definition of the student membership established by
 2 the State Board of Elementary and Secondary Education, the amount of the ~~rebate~~
 3 credit shall be ~~equal to the actual~~ **determined based upon the** amount expended by
 4 the school tuition organization on scholarships, ~~which shall not include~~
 5 ~~administrative costs and shall be prorated as applicable.~~

6 (3) In order for a donation from a taxpayer to qualify for the ~~rebate~~ credit,
 7 the donation shall be used by the school tuition organization to provide scholarships
 8 for tuition and fees for students to attend a qualified school in accordance with the
 9 provisions of this Section. No more than five percent of a donation shall be used by
 10 the school tuition organization for administrative or promotional costs. No
 11 scholarship shall be designated, referred to, or in any way named after a private
 12 entity nor shall any donation be earmarked by a donor to provide a scholarship for
 13 a particular qualified student or a particular qualified school. However this Paragraph
 14 shall not prohibit a donation being earmarked for a student with a disability. A
 15 student shall be considered to have a disability if such student is evaluated according
 16 to state and federal regulation or policy and is deemed to have a mental disability,
 17 hearing impairment (including deafness), multiple disabilities, deaf-blindness,
 18 speech or language impairment, visual impairment (including blindness), emotional
 19 disturbance, orthopedic impairment, other health impairment, specific learning
 20 disability, traumatic brain injury, dyslexia and related disorders, or autism, and as a
 21 result requires special education and related services.

22 B.(1) * * *
 23 * * *
 24 (c) * * *
 25 * * *

26 (iv) Provide scholarships to qualified students on a first-come, first-served
 27 basis, with priority given to students who received a scholarship from the school
 28 tuition organization ~~or the Student Scholarships for Educational Excellence Program~~
 29 in the previous year.

* * *

(vii) Perform criminal background checks on all of its employees and board members according to the provisions of R.S. 15:587.1. A person who has been convicted of or has entered a plea of nolo contendere to a crime listed in R.S. 15:587.1 may not be employed by, or be a board member of, a school tuition organization. The Department of Education ~~may~~ **shall** bar a school tuition organization from participating in the ~~rebate~~ **credit** authorized under this Section if the school tuition organization fails to comply with the requirements of this Item.

* * *

(ix) Provide a public report to the Department of Education which contains information regarding all scholarships awarded or granted in the previous **state** fiscal year. The report shall be prepared by a certified public accountant and shall be submitted to the department no later than the first day of January each year. The report shall contain the name and address of the school tuition organization, the total number and total dollar amount of donations received during the previous **state** fiscal year, the total number and total dollar amount of educational scholarships awarded to qualified students, the total amount expended on administrative costs, and the percentage breakdown of donations expended on scholarship and administrative costs during the previous **state** fiscal year. The report shall include the actual tuition and fee amounts published by the qualifying schools which enrolled a student with a scholarship from that school tuition organization, **the number of scholarships awarded by grade level, and the scholarship amount provided to the qualifying school for each student from the student tuition organization.** The report shall also contain the total amount of contributions received by the school tuition organization, the total amount of contributions made by each contributor during the previous calendar year, and the social security number or Louisiana taxpayer identification number of each contributor. **Failure of a student tuition organization to report all information required in this Item to the Department of Education by the first day of January shall be deemed sufficient noncompliance of this**

1 (e) The Department of Education shall annually conduct an audit of a school
2 tuition organization. The Department of Education shall bar a school tuition
3 organization from participating in the ~~rebate~~ **credit** authorized under this Section if
4 the school tuition organization intentionally and substantially fails to comply with
5 the requirements of this Section.

6 (f) The Department of Education shall compile a public report which shall be
7 made available no later than March first of each year on the department's website
8 **and which shall be submitted to the Senate Committee on Education and the**
9 **House Committee on Education** which lists the name of all qualified schools
10 receiving scholarship recipients pursuant to the provisions of this Section, the
11 number of scholarship recipients attending each qualified school, **the percentage of**
12 **the total enrollment of each school represented by scholarship recipients,** and
13 ~~the results of the state's accountability testing laws for students in public school~~
14 **aggregate test result data** for scholarship recipients in each grade **and the school**
15 **as a whole**. The Department of Education shall not include the name or any other
16 identifying information for individual students.

17 * * *

18 (2)(a) The Department of Revenue shall provide a standardized format for a
19 receipt to be issued by the Department of Education to a school tuition organization.
20 The Department of Revenue shall require a taxpayer to provide a copy of the receipt
21 when claiming the ~~rebate~~ **credit** authorized by this Section.

22 (b) The Department of Education ~~shall ensure that the public of the state is~~
23 ~~aware of the availability of scholarships, with an emphasis on notifying parents of~~
24 ~~students in public schools that received a letter grade of "F" or "D", and shall provide~~
25 for requirements for school tuition organizations to adequately advertise the
26 availability of scholarships to the public, **with an emphasis on notifying parents**
27 **of students in public schools that received a letter grade of "D" or "F",** all as
28 provided for in rules and regulations which shall be promulgated by the Department
29 of Education in accordance with the Administrative Procedure Act.

1 Section 2. R.S. 47:6301(D) is hereby repealed.

2 Section 3. This Act shall become effective upon signature by the governor or, if not
3 signed by the governor, upon expiration of the time for bills to become law without signature
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become
6 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 95 Original

2017 Regular Session

Morrish

Present law authorizes a rebate for donations made to a school tuition organization (STO) by a taxpayer who files a Louisiana income tax return. The donation must be used by the STO to provide scholarships to qualified students to attend a qualified school. The amount of the rebate is equal to the actual amount of the taxpayer's donation used by an STO to fund a scholarship, exclusive of administrative costs.

Proposed law replaces the rebate with a nonrefundable tax credit that is equal to 50% of the donation. Proposed law also specifies that in order to qualify for the credit, the taxpayer must be required to file a Louisiana income tax return.

Proposed law provides the credit may be used in addition to any federal tax credit or deduction earned for the same donation, but prohibits the taxpayer from receiving any other state tax credit, exemption, exclusion, deduction or any other benefit for which the taxpayer has received a credit for the donation.

Proposed law provides a three-year carry forward for credits that cannot be used in the year originally earned.

Present law provides that the rebate may be paid only after the conclusion of the school year and after certain requirements are satisfied. Proposed law retains present law with the exception of replacing the rebate with the credit.

Present law defines an "STO". Proposed law retains present law.

Present law requires an STO to give priority to students who received a scholarship from the STO the previous year and to students that participated in the Student Scholarships for Educational Excellence Program in the previous year.

Proposed law removes the priority for students that participated in the Student Scholarships for Educational Excellence Program.

Present law provides the Department of Education may bar an STO from participating in the rebate if the STO fails to perform criminal background checks on all of its employees and board members. Proposed law provides the Department of Education shall bar an STO for participating in the credit if it does not perform such criminal background checks.

Present law requires the STO to provide a public report to the Department of Education regarding all scholarships awarded in the previous fiscal year which contains information regarding donations received, scholarships awarded in the previous fiscal year, and the actual

tuition and fee amounts for attendance at each qualified school by January first of each year.

Proposed law retains present law and provides the report is for the state's prior fiscal year and also requires the STO to report the number of scholarships awarded and the total scholarship amount provided to each qualifying school.

Present law requires the Department of Education to provide an electronic copy of the report to the Department of Revenue by February first of each year. Proposed law retains present law and requires a redacted copy of the report be provided to the Senate and House education committees by February first of each year.

Proposed law provides that failure of the STO to report accurately and timely to the Department of Education shall result in the STO being barred from participating in the credit for the current and upcoming academic years.

Present law defines a "qualified school" and permits the Department of Education to prohibit a school from participating in the rebate if the school does not conduct criminal background checks on its employees and exclude from employment any person not permitted by state law to work in a nonpublic school.

Proposed law requires the Department of Education to bar a school that does conduct such criminal background checks and exclude such persons prohibited from working in a nonpublic school from employment.

Present law defines a "qualified student" as a child who is a member of a family that resides in Louisiana with a total household income that does not exceed 250% of the federal poverty line and that meets any of the following criteria:

- (1) Is a student entering kindergarten for the first time.
- (2) Is a student that attended a public school the previous year.
- (3) Is a student that received a scholarship from the STO or the Student Scholarship for Educational Excellence Program the prior year.

Proposed law provides that to be a qualified student a student must meet the income definition and have received a scholarship from the STO the prior school year.

Present law requires the Department of Education to compile an annual public report that is made available by March first on the department's website which lists the name of all qualified schools receiving scholarship recipients, the number of scholarship recipients attending each qualified school, and the results of the state's accountability testing laws for students in each grade.

Proposed law retains present law and additionally requires the department to provide the report to the Senate and House education committees. Proposed law further requires the report to include the percentage of total school enrollment represented by scholarship recipients and aggregate test result data for each grade and the school as a whole.

Present law requires that the Department of Education ensures the public, with an emphasis of parents in public schools with a letter grade "D" or "F", be aware of the scholarships and shall provide requirements for STO to adequately advertise the availability of scholarships to the public.

Proposed law removes the requirement that the Department of Education make the public aware of the scholarships but otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6301(A)(1), (2)(intro para) and (c), (3), (B)(1)(c)(iv), (vii), and (ix), (2)(a)(i), (3)(a)(iii), (C)(1)(c), (e), and (f), (2)(a) and (b); repeals R.S. 47:6301(D))