

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)

1 AN ACT

2 To amend and reenact the chapter heading of Chapter 3 of Subtitle VII of Title 47 of the

3 Louisiana Revised Statutes of 1950, and R.S. 47:6301(A)(1), the introductory

4 paragraph of 6301(A)(2), 6301(A)(2)(c), and (3), (B)(1)(c)(vii), and (ix),(2)(a)(i),

5 (C)(1)(e), and (2) and to repeal R.S. 47:6301(D), relative to donations to school

6 tuition organizations; to convert the school tuition organization rebate to a

7 nonrefundable income tax credit; to provide for an effective date; and to provide for

8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. The chapter heading of Chapter 3 of Subtitle VII of Title 47 of the

11 Louisiana Revised Statutes of 1950, and R.S. 47:6301(A)(1), the introductory paragraph of

12 6301(A)(2), 6301(A)(2)(c), and (3), (B)(1)(c)(vii) and (ix), (2)(a)(i),(C)(1)(e), and (2) are

13 hereby amended and reenacted to read as follows:

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

15 TUITION ORGANIZATIONS

16 §6301. ~~Rebates~~ Credit; donations to school tuition organizations

17 A.(1) ~~There~~ For donations made on or after January 1, 2018, there shall

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

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

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

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

24 \* \* \*

25 (c) If the qualified student is enrolled in public school on February first of  
 26 that school year pursuant to the definition of the student membership established by  
 27 the State Board of Elementary and Secondary Education, the amount of the ~~rebate~~  
 28 **credit** shall be ~~equal to the actual~~ **determined based upon the** amount expended by  
 29 the school tuition organization on scholarships, which shall not include

1 administrative costs and shall be prorated as applicable.

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

18 B.(1) \* \* \*  
19 \* \* \*

20 (c) A school tuition organization which provides scholarships to qualified  
21 students shall do all of the following:

22 \* \* \*

23 (vii) Perform criminal background checks on all of its employees and board  
24 members according to the provisions of R.S. 15:587.1. A person who has been  
25 convicted of or has entered a plea of nolo contendere to a crime listed in R.S.  
26 15:587.1 may not be employed by, or be a board member of, a school tuition  
27 organization. The Department of Education ~~may~~ **shall** bar a school tuition  
28 organization from participating in the **rebate credit** authorized under this Section if  
29 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 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, unless granted an extension of no more than thirty days by the Department of Education for good cause, shall be deemed sufficient noncompliance of this Section and shall result in the tuition organization being barred from participating in the credit authorized under this Section for the current school year and the upcoming school year.** An electronic format of this report shall be furnished to the Department of Revenue by the Department of Education on or by the first day of February of each year.

\* \* \*

(2)(a) For purposes of this Section, a "qualified school" shall mean a nonpublic elementary or secondary school in this state which is approved, provisionally approved, or probationally approved by the Board of Elementary and

1 Secondary Education and which complies with the criteria set forth in *Brumfield, et*  
2 *al. v. Dodd, et al., 425 F. Supp 528*. A qualified school shall do all of the following:

3 \* \* \*

4 (i) Conduct criminal background checks on its employees and exclude from  
5 employment any person not permitted by state law to work in a nonpublic school.  
6 The Department of Education ~~may~~ **shall** bar an otherwise qualified school from  
7 participating in the ~~rebate~~ **credit** authorized under this Section if the otherwise  
8 qualified school fails to comply with the requirements of this Item.

9 \* \* \*

10 C.(1) \* \* \*

11 (e) The Department of Education shall annually conduct an audit of a school  
12 tuition organization. The Department of Education shall bar a school tuition  
13 organization from participating in the ~~rebate~~ **credit** authorized under this Section if  
14 the school tuition organization intentionally and substantially fails to comply with  
15 the requirements of this Section.

16 \* \* \*

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

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

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

29 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature  
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 4 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 Engrossed 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 the actual amount of the taxpayer's donation used by an STO to fund a scholarship, exclusive of administrative costs for all donations made after December 31, 2017. 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 carryforward 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 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 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 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 and authorizes the Department of Education

to grant an extension of up to 30 days for good cause.

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 replaces the requirement that the STO advertise to the public with a requirement that the STO shall notify the public 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)(vii) and (ix), (2)(a)(i),(C)(1)(e), and (2) repeals R.S. 47:6301(D))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Changes amount of credit to actual amount of the taxpayer's donation used by an STO to fund a scholarship.
2. Removes \$50,000 cap.
3. Retains priority for students that participated in the Student Scholarships for Educational Excellence Program.
4. Authorizes the Department of Education to grant an extension of up to 30 days for good cause to an STO to meet its January reporting requirement.