

SENATE BILL NO. 95

BY SENATOR MORRISH

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

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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)(3), (B)(1)(a) and (c)(vii) and (ix) and (2)(a)(i), (C)(1)(d) and (e) and (2), to enact R.S. 47:6301(B)(1)(c)(xii), and to repeal R.S. 47:6301(A)(2)(a), (b), and (c) and (D), relative to donations to school tuition organizations; to convert the school tuition organization rebate to a nonrefundable income tax credit; 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)(3), (B)(1)(a) and (c)(vii) and (ix) and (2)(a)(i), (C)(1)(d) and (e) and (2) are hereby amended and reenacted and R.S. 47:6301(B)(1)(c)(xii) is hereby enacted to read as follows:

CHAPTER 3. ~~REBATES~~ **CREDITS** FOR DONATIONS TO SCHOOL
TUITION ORGANIZATIONS

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

A.(1) ~~There~~ **For donations made on or after January 1, 2018, there** shall be allowed a ~~rebate~~ **nonrefundable income tax credit** for donations a taxpayer makes during a taxable year to a school tuition organization ~~which~~ **that** provides scholarships to qualified students to attend a qualified school. ~~Upon making his donation, the donor shall indicate the duration of time which the school tuition organization may retain and carryforward his donation. The time may be indicated as being in perpetuity or for a stated period of time coinciding with a fiscal year of the state of Louisiana, the minimum of which shall not be less than twelve months or one fiscal year, whichever occurs later.~~ In order to qualify for the ~~rebate~~ **credit**,

1 the donation shall be made by a taxpayer who ~~files~~ **is required to file** a Louisiana
 2 income tax return. The amount of the ~~rebate~~ **credit** shall be equal to the actual
 3 amount of the taxpayer's donation used by a school tuition organization to fund a
 4 scholarship to a qualified student, which shall not include administrative costs.

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

9 **(b) In the event that the tax credit earned pursuant to this Section**
 10 **exceeds the total tax liability of the taxpayer in the taxable year, the amount of**
 11 **the credit not used as an offset against such tax liability in the taxable year may**
 12 **be carried forward as a credit against subsequent income tax liabilities for a**
 13 **period not to exceed three taxable years.**

14 (2) ~~The rebate may be paid only after the conclusion of the school year and~~
 15 ~~only when all of the following requirements have been satisfied:~~ **credit shall be**
 16 **earned when the donation is made.**

17 * * *

18 (3) In order for a donation from a taxpayer to qualify for the ~~rebate~~ **credit**,
 19 the donation shall be used by the school tuition organization to provide scholarships
 20 for tuition and fees for students to attend a qualified school in accordance with the
 21 provisions of this Section. No more than five percent of a donation shall be used by
 22 the school tuition organization for administrative or promotional costs. No
 23 scholarship shall be designated, referred to, or in any way named after a private
 24 entity nor shall any donation be earmarked by a donor to provide a scholarship for
 25 a particular qualified student or a particular qualified school. However this Paragraph
 26 shall not prohibit a donation being earmarked for a student with a disability. A
 27 student shall be considered to have a disability if such student is evaluated according
 28 to state and federal regulation or policy and is deemed to have a mental disability,
 29 hearing impairment (including deafness), multiple disabilities, deaf-blindness,
 30 speech or language impairment, visual impairment (including blindness), emotional

1 disturbance, orthopedic impairment, other health impairment, specific learning
2 disability, traumatic brain injury, dyslexia and related disorders, or autism, and as a
3 result requires special education and related services.

4 B.(1)(a) For purposes of this Section, the term "school tuition organization"
5 shall mean a tax exempt organization organized under Section 501(c)(3) of the
6 Internal Revenue Code which adheres to the requirements of this Section. The
7 amount of scholarships awarded by a school tuition organization shall equal the
8 amount of donations the organization receives from taxpayers, minus allowable
9 administrative or promotional costs. No less than ninety-five percent of the monies
10 received by the school tuition organization from taxpayer donations for scholarships
11 shall be used to provide scholarships to students for attendance at a qualified
12 nonpublic school of their parent's choice. ~~A school tuition organization shall~~
13 ~~carryforward all funds in accordance with the duration of time indicated by the donor~~
14 ~~pursuant to Paragraph (A)(1) of this Section. If, at the end of the fiscal year, a donor~~
15 ~~requests a refund of unexpended funds from his donation, the school tuition~~
16 ~~organization shall reimburse the donor the full amount of unexpended funds~~
17 ~~otherwise available to be used on scholarships, exclusive of funds available for~~
18 ~~administrative costs. If the donor does not elect to receive a refund, the school tuition~~
19 ~~organization may retain and carryforward the funds indefinitely or for a shorter~~
20 ~~period of time if so indicated by the donor.~~ In addition, a school tuition organization
21 shall provide educational scholarships to students without limiting available
22 scholarships to students of only one qualified school.

23 * * *

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

26 * * *

27 (vii) Perform criminal background checks on all of its employees and board
28 members according to the provisions of R.S. 15:587.1. A person who has been
29 convicted of or has entered a plea of nolo contendere to a crime listed in R.S.
30 15:587.1 may not be employed by, or be a board member of, a school tuition

1 organization. The Department of Education may shall bar a school tuition
 2 organization from participating in the ~~rebate~~ **credit** authorized under this Section if
 3 the school tuition organization fails to comply with the requirements of this Item.

4 * * *

5 (ix) Provide a public report to the Department of Education which contains
 6 information regarding all scholarships awarded or granted in the previous state fiscal
 7 year. The report shall be prepared by a certified public accountant and shall be
 8 submitted to the department no later than the first day of January each year. The
 9 report shall contain the name and address of the school tuition organization, the total
 10 number and total dollar amount of donations received during the previous state fiscal
 11 year, the total number and total dollar amount of educational scholarships awarded
 12 to qualified students, the total amount expended on administrative costs, and the
 13 percentage breakdown of donations expended on scholarship and administrative
 14 costs during the previous state fiscal year. The report shall include the actual tuition
 15 and fee amounts published by the qualifying schools which enrolled a student with
 16 a scholarship from that school tuition organization. The report shall also contain the
 17 total amount of contributions received by the school tuition organization, the total
 18 amount of contributions made by each contributor during the previous calendar year,
 19 and the social security number or Louisiana taxpayer identification number of each
 20 contributor. **Failure of a student tuition organization to report all information**
 21 **required in this Item to the Department of Education by the first day of**
 22 **January, unless granted an extension of no more than thirty days by the**
 23 **Department of Education for good cause, shall be deemed sufficient**
 24 **noncompliance of this Section and shall result in the tuition organization being**
 25 **barred from participating in the credit authorized under this Section for the**
 26 **current school year and the upcoming school year.** An electronic format of this
 27 report shall be furnished to the Department of Revenue by the Department of
 28 Education on or by the first day of February of each year.

29 * * *

30 **(xii) Shall annually pay out or reserve for scholarships at least seventy-**

1 five percent of all funds from donations. In order for a reservation of funds to
 2 qualify under this Item, the funds are required to be designated for a specific
 3 student who is awarded a scholarship for the next school year or for multiple
 4 school years. On July first of each year, the school tuition organization shall
 5 make an accounting of all funds received as donations during the previous
 6 calendar year and retained from the year before the previous calendar year.
 7 Any donated funds retained by a school tuition organization as of July first that
 8 exceed twenty-five percent of all funds available from donations from all prior
 9 calendar years shall be remitted to the Department of Education for deposit into
 10 the state general fund.

11 * * *

12 (2)(a) For purposes of this Section, a "qualified school" shall mean a
 13 nonpublic elementary or secondary school in this state which is approved,
 14 provisionally approved, or probationally approved by the Board of Elementary and
 15 Secondary Education and which complies with the criteria set forth in *Brumfield, et*
 16 *al. v. Dodd, et al., 425 F. Supp 528*. A qualified school shall do all of the following:

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

22 * * *

23 C.(1)

24 * * *

25 (d)**(1)** The Department of Education shall verify that each qualified student
 26 has received scholarships not to exceed the lesser of actual tuition and fees at the
 27 qualified school or eighty percent of the state average Minimum Foundation Program
 28 per pupil funding amount for the previous year in the case of a qualified student
 29 enrolled in kindergarten through eighth grade, or ninety percent of the state average
 30 Minimum Foundation Program per pupil funding amount for the previous year in the

1 case of a qualified student enrolled in ninth through twelfth grade. If the total amount
 2 of scholarships received by a qualified student has exceeded one of these amounts,
 3 as applicable, the school tuition organization that had awarded the scholarship that
 4 caused the student's total scholarship amount to exceed this amount shall refund the
 5 state the difference.

6 **(2)The Department of Education shall verify that each student receiving**
 7 **a scholarship from a school tuition organization was not enrolled in a public**
 8 **school in Louisiana on October first or February first of the school year for**
 9 **which the student received the scholarship pursuant to the definition of the**
 10 **student membership established by the State Board of Elementary and**
 11 **Secondary Education for the purposes of the Minimum Foundation Program**
 12 **formula.**

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

18 * * *

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

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

30 Section 2. R.S. 47:6301(A)(2)(a), (b), and (c) and (D) are hereby repealed in their

1 entirety.

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.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____