

2021 Regular Session

HOUSE BILL NO. 443

BY REPRESENTATIVES BEAULLIEU AND BRYANT

TAX/INCOME-CREDIT: Provides for individual income tax credits for donations made to school tuition organizations

1 AN ACT

2 To amend and reenact R.S. 47:6301(A)(1) and (3), (B)(1)(c)(v) and (ix) and (2)(a)(ii), and  
3 (C)(1)(c), relative to the donations to school tuition organization tax credit; to  
4 provide for an amount of the tax credit; to provide for the use of the donations; to  
5 provide for administration of scholarship payments; to provide for reporting  
6 requirements; to provide for requirements of qualified schools; to provide for an  
7 effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6301(A)(1) and (3), (B)(1)(c)(v) and (ix) and (2)(a)(ii), and  
10 (C)(1)(c) are hereby amended and reenacted to read as follows:

11 §6301. Credit; donations to school tuition organizations

12 A.(1) For donations made on or after January 1, 2018, there shall be allowed  
13 a nonrefundable income tax credit for donations a taxpayer makes during a taxable  
14 year to a school tuition organization that provides scholarships to qualified students  
15 to attend a qualified school. In order to qualify for the credit, the donation shall be  
16 made by a taxpayer who is required to file a Louisiana income tax return. The  
17 amount of the credit shall be equal to the actual amount of the taxpayer's donation  
18 ~~used by a school tuition organization to fund a scholarship to a qualified student,~~  
19 ~~which shall not include administrative costs.~~ made pursuant to this Section.

20 \* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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

17                   (B)(1)

18   \*       \*       \*

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

21   \*       \*       \*

22           (v) Distribute scholarship payments ~~in September, December, February, and~~  
23          ~~May of each year as checks made out to a parent of a qualified student which are~~  
24          ~~mailed~~ at least twice per year to the qualifying school where the student is enrolled.  
25          The parent shall ~~restrictively endorse the check for deposit into the account of~~  
26          approve the payment to the school. The parent shall not designate any entity or  
27          individual associated with the school as the parent's attorney to ~~endorse a scholarship~~  
28          ~~check~~ approve a scholarship payment. ~~Any parent who receives payments in~~  
29          ~~accordance with the provisions of this Section shall not be allowed to claim the~~



1 unless ~~granted an extension of no more than thirty days by the Department of~~  
 2 ~~Education for good cause~~ the school tuition organization applies for a thirty-day  
 3 extension before the report due date, shall be deemed sufficient noncompliance of  
 4 this Section and shall result in the tuition organization being barred from  
 5 participating in the credit authorized under this Section for the current school year  
 6 and the upcoming school year. An electronic format of this report shall be furnished  
 7 to the Department of Revenue by the Department of Education on or by the first day  
 8 of ~~February~~ March of each year.

9 \* \* \*

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

15 \* \* \*

16 (ii) Using funds retained for administrative costs by the school tuition  
 17 organization, annually administer a nationally norm-referenced test approved by the  
 18 Board of Elementary and Secondary Education or the state test associated with the  
 19 school and district accountability system to measure learning gains in math and  
 20 language arts to all participating students in grades that require testing under the  
 21 state's accountability testing laws for public schools; however, the Department of  
 22 Education shall not incur any expense for the administration of the state tests to  
 23 students applying for tuition scholarships from a school tuition organization. The  
 24 qualified school shall provide the parents of each student who was tested with a copy  
 25 of the student's test results on an annual basis, beginning with the first year the  
 26 student is tested.

27 \* \* \*

28 C.(1)

29 \* \* \*

1 (c) The Department of Education shall certify and issue a receipt to a  
2 taxpayer indicating the ~~actual~~ amount of the taxpayer's donation to a school tuition  
3 organization ~~which was used to fund a scholarship after all of the requirements of~~  
4 ~~Paragraph (A)(2) of this Section have been satisfied.~~

5 \* \* \*

6 Section 2. This Act shall become effective on July 1, 2021.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 443 Engrossed

2021 Regular Session

Beaulieu

**Abstract:** Provides the amount of the school tuition organization tax credit is the amount of the donation and makes changes relative to the distribution, endorsement, and reservation of scholarship payments.

Present law provides for a nonrefundable tax credit equal to the actual amount of a taxpayer's donation actually used by a school tuition organization (STO) to fund a scholarship, exclusive of administrative costs. Further provides that to qualify for the credit, the taxpayer must be required to file a La. income tax return. Present law provides the credit is earned at the time the donation is made.

Proposed law provides that the amount of the credit is the amount of the donation instead of the amount used by the STO to fund a scholarship. Otherwise retains present law.

Present law provides the donation made to a STO shall be used by the organization to provide scholarships for tuition and fees for qualified students to attend a qualified school. Further provides that no more than five percent of the donation can be used by the STO for administrative or promotional costs.

Present law provides the amount of scholarships awarded by a STO shall equal the amount of donations the organization receives minus the permitted administrative costs. Further provides that no less than 95% of the monies received by the STO from taxpayer donations shall be used to provide scholarships to students.

Present law requires an STO to distribute scholarship payments in Sept., Dec., Feb., and May of each year as checks made out to a parent of a qualified student and mailed to the school where the student is enrolled. Further requires the parent to restrictively endorse the check for deposit into the account of the school and prohibits the parent from designating any entity or individual associated with the school as the parent's attorney to endorse a scholarship check.

Proposed law changes the distribution of the scholarship payments by the STO from four times a year to twice a year.

Present law provides a scholarship payment method in the form of a check restrictively endorsed by a parent. Proposed law retains present law but permits an electronic funds transfer requiring parental approval deposit into the school as an alternative scholarship

payment method. Proposed law prohibits a parent from designating any entity or individual associated with the school as the parent's attorney to approve payment of the scholarship.

Proposed law adds authorization for an STO to withhold scholarship payments to a parent or qualified student if previous scholarship payments have not been approved for deposit into the school account where the student is or was previously enrolled.

Present law requires the STO to provide a public report to the Dept. of Education (DOE) which contains information regarding all scholarships awarded or granted in the previous fiscal year. The report is required to contain information regarding the STO, the number and amounts of donations received by the STO, and the number and amounts of scholarships awarded to students and information regarding the amount of contributions received by the STO, including the social security number or La. taxpayer identification number of each contributor. The report shall be submitted no later than the first day of Jan. each year.

Proposed law changes the report submission date from the first day of Jan. each year to the last day of Jan. each year. Otherwise retains present law.

Present law provides failure of a STO to report required information by the first day of Jan. unless granted an extension of no more than 30 days by DOE for good cause shall be deemed sufficient noncompliance of the requirements of present law and shall result in the STO being barred from participating in the credit program for the current and the upcoming school years.

Proposed law changes present law and provides that failure of a STO to report required information by the last day of Jan. unless the STO *applies* for a 30 day extension before the report due date, shall be deemed sufficient noncompliance of the requirements of present law and shall result in the STO being barred from participating in the credit program for the current and the upcoming school years.

Present law provides an electronic format of the report shall be furnished to the Dept. of Revenue by DOE on or by the first day of Feb. of each year. Proposed law changes Feb. to March.

Present law provides a qualified school shall mean a nonpublic school approved by the Board of Elementary and Secondary Education and which, using funds retained for administrative costs, annually administers the state test associated with the school and district accountability system. Proposed law retains present law but provides schools the option of administering a state test associated with the school and district accountability system or an established nationally norm-referenced test.

Effective July 1, 2021.

(Amends R.S. 47:6301(A)(1) and (3), (B)(1)(c)(v) and (ix) and (2)(a)(ii), and (C)(1)(c))