

2015 Regular Session

SENATE BILL NO. 168

BY SENATOR HEITMEIER

TAX/TAXATION. Provides for a swap of refundable tax credits by establishing a system to terminate certain existing exemptions, exclusions, deductions, and credits to fund refundable credits for donations to higher education and health care. (7/1/15)

1 AN ACT

2 To enact R.S. 47:6039 and 6040, relative to tax exemptions, exclusions, deductions, and
3 credits; to provide refundable tax credits for certain donations; to provide for
4 donations to certain state entities; to provide for oversight; to provide for revenue
5 neutrality through termination of certain tax exemptions, exclusions, deductions, and
6 credits; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6039 and 6040 are hereby enacted to read as follows:

9 **§6039. Tax credits for donations made to state entities; post-secondary**
10 **educational institutions**

11 **A.(1) Effective upon implementation of the revenue neutrality provisions**
12 **in Subsection D of this Section, there shall be a credit against any Louisiana**
13 **individual or corporate income tax or corporate franchise tax liability for a**
14 **donation of money made to a public post-secondary institution and certified as**
15 **necessary to the institution by the Board of Regents. The board shall certify no**
16 **more than two hundred million dollars of such donations in a fiscal year. The**
17 **credit shall be an amount equal to one hundred percent of the donation.**

1 (2) The credit shall be taken against the applicable tax or taxes in the
2 taxable period in which the donation is made. If the credit allowed by this
3 Section exceeds the aggregate tax liabilities against which such allowable credit
4 may be applied, as provided in this Section, the excess shall constitute an
5 overpayment, as defined in R.S. 47:1621(A). The secretary shall make a refund
6 of such overpayment from the current collections of the taxes imposed under
7 Chapter 1 of Subtitle II of this Title, together with interest as provided in R.S.
8 47:1624. The right to a refund of any such overpayment shall not be subject to
9 the requirements of R.S. 47:1621(B). Any such refund, together with interest
10 thereon, shall be paid by the secretary within ninety days of receipt by the
11 secretary of the return on which the credit allowed by this Section is claimed.
12 Failure of the secretary to pay such refund, in whole or in part, shall entitle the
13 aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625.

14 B. No later than January 1, 2016, the Department of Revenue in
15 consultation with the Board of Regents shall promulgate such rules and
16 regulations as may be necessary to facilitate implementation of this Section in
17 accordance with the Administrative Procedure Act. The House Committee on
18 Ways and Means, the Senate Committee on Revenue and Fiscal Affairs, the
19 House Committee on Education, and the Senate Committee on Education shall
20 have joint legislative oversight over the promulgation of the rules and
21 regulations and of the revenue neutrality provisions in Subsection D of this
22 Section.

23 C.(1) The provisions of this Section shall apply to donations made after
24 this Section becomes effective.

25 (2) The tax credit granted by the provisions of this Section shall
26 terminate on January 1, 2020.

27 D.(1) To ensure that the effect of the tax credit provided for in this
28 Section is revenue neutral, the secretary of the Department of Economic
29 Development, the secretary of the Department of Revenue, and the

1 commissioner of administration shall meet and prepare a list of all exemptions,
2 exclusions, deductions, and credits in the most recent Tax Exemption Budget
3 published by the Department of Revenue pursuant to R.S. 47:1517. The
4 exemptions, exclusions, deductions, and credits shall be listed in the order of the
5 priority of each as determined by the secretaries and the commissioner based
6 upon their opinion of the economic impact and importance to the public of each
7 exemption, exclusion, deduction, and credit. This prioritized list shall be
8 provided to the committees charged with oversight of the tax credit provided for
9 in this Section by August 1, 2015. The secretaries and the commissioner shall
10 order for termination those exemptions, exclusions, deductions, and credits that
11 have a low priority on the list provided to the committees and which are
12 sufficient in the opinion of the secretaries and the commissioner to fund the tax
13 credit provided for in this Section each fiscal year.

14 (2) Notwithstanding any other provision of law to the contrary, if by
15 September 1, 2015, the committees charged with oversight of the tax credit
16 provided for in this Section meeting jointly or separately in a public meeting
17 each approve the order for termination of the low priority exemptions,
18 exclusions, deductions, and credits presented to them by the secretaries and the
19 commissioner, then such exemptions, exclusions, deductions, and credits shall
20 be terminated effective for tax years beginning in 2015 and thereafter, and the
21 tax credit provided for in this Section shall become effective.

22 §6040. Tax credits for donations made to state entities; health care

23 A.(1) Effective upon implementation of the revenue neutrality provisions
24 in Subsection D of this Section, there shall be a credit against any Louisiana
25 individual or corporate income tax or corporate franchise tax liability for a
26 donation of money made to the Department of Health and Hospitals and
27 certified as necessary to the department by the secretary of the Department of
28 Health and Hospitals. The secretary shall certify no more than two hundred
29 million dollars of such donations in a fiscal year. The credit shall be an amount

1 equal to one hundred percent of the donation.

2 (2) The credit shall be taken against the applicable tax or taxes in the
3 taxable period in which the donation is made. If the credit allowed by this
4 Section exceeds the aggregate tax liabilities against which such allowable credit
5 may be applied, as provided in this Section, the excess shall constitute an
6 overpayment, as defined in R.S. 47:1621(A). The secretary shall make a refund
7 of such overpayment from the current collections of the taxes imposed under
8 Chapter 1 of Subtitle II of this Title, together with interest as provided in R.S.
9 47:1624. The right to a refund of any such overpayment shall not be subject to
10 the requirements of R.S. 47:1621(B). Any such refund, together with interest
11 thereon, shall be paid by the secretary within ninety days of receipt by the
12 secretary of the return on which the credit allowed by this Section is claimed.
13 Failure of the secretary to pay such refund, in whole or in part, shall entitle the
14 aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625.

15 B. No later than January 1, 2016, the Department of Revenue in
16 consultation with the Department of Health and Hospitals shall promulgate
17 such rules and regulations as may be necessary to facilitate implementation of
18 this Section in accordance with the Administrative Procedure Act. The House
19 Committee on Ways and Means, the Senate Committee on Revenue and Fiscal
20 Affairs, the House Committee on Health and Welfare, and the Senate
21 Committee on Health and Welfare shall have joint legislative oversight over the
22 promulgation of the rules and regulations and of the revenue neutrality
23 provisions in Subsection D of this Section.

24 C.(1) The provisions of this Section shall apply to donations made after
25 this Section becomes effective.

26 (2) The tax credit granted by the provisions of this Section shall
27 terminate on January 1, 2020.

28 D.(1) To ensure that the effect of the tax credit provided for in this
29 Section is revenue neutral, the secretary of the Department of Economic

1 Development, the secretary of the Department of Revenue, and the
2 commissioner of administration shall meet and prepare a list of all exemptions,
3 exclusions, deductions, and credits in the most recent Tax Exemption Budget
4 published by the Department of Revenue pursuant to R.S. 47:1517. The
5 exemptions, exclusions, deductions, and credits shall be listed in the order of the
6 priority of each as determined by the secretaries and the commissioner based
7 upon their opinion of the economic impact and importance to the public of each
8 exemption, exclusion, deduction, and credit. This prioritized list shall be
9 provided to the committees charged with oversight of the tax credit provided for
10 in this Section by August 1, 2015. The secretaries and the commissioner shall
11 order for termination those exemptions, exclusions, deductions, and credits that
12 have a low priority on the list provided to the committees and which are
13 sufficient in the opinion of the secretaries and the commissioner to fund the tax
14 credit provided for in this Section each fiscal year.

15 (2) Notwithstanding any other provision of law to the contrary, if by
16 September 1, 2015, the committees charged with oversight of the tax credit
17 provided for in this Section meeting jointly or separately in a public meeting
18 each approve the order for termination of the low priority exemptions,
19 exclusions, deductions, and credits presented to them by the secretaries and the
20 commissioner, then such exemptions, exclusions, deductions, and credits shall
21 be terminated effective for tax years beginning in 2015 and thereafter, and the
22 tax credit provided for in this Section shall become effective.

23 Section 2. This Act shall become effective on July 1, 2015; if vetoed by the governor
24 and subsequently approved by the legislature, this Act shall become effective on July 1,
25 2015, or on the day following such approval by the legislature, whichever is later.

