

2019 Regular Session

HOUSE BILL NO. 595

BY REPRESENTATIVE WRIGHT

TAX CREDITS: Establishes an income tax credit for contributions to certain foster care charitable organizations

## 1 AN ACT

2 To enact R.S. 47:6040, relative to income tax credits; to establish an income tax credit for  
3 donations to certain foster care organizations; to provide for definitions; to provide  
4 for the amount of the credit; to provide for the application for and granting of tax  
5 credits; to provide for certain requirements; to authorize the promulgation of rules  
6 and regulations; and to provide for related matters.

7 Section 1. R.S. 47:6040 is hereby enacted to read as follows:

8 §6040. Credits; qualifying foster care charitable organizations

9 A.(1) There shall be allowed a nonrefundable income tax credit for donations  
10 a taxpayer makes during a taxable year to qualifying foster care charitable  
11 organizations, hereinafter "foster care organizations". In order to qualify for the  
12 credit, the donation shall be made by a taxpayer who is required to file a Louisiana  
13 income tax return. The amount of the credit shall be equal to the amount of the  
14 donation used by the foster care organization to provide services to a qualified  
15 individual, or one hundred thousand dollars, whichever is less. The total amount of  
16 credits granted by the department pursuant to the provisions of this Section shall not  
17 exceed one million dollars per calendar year. The granting of credits shall be on a  
18 first-come, first-served basis. If the total amount of credits applied for in any  
19 particular calendar year exceeds the amount of tax credits authorized for that year,  
20 the excess shall be treated as having been applied for on the first day of the

1        subsequent year. All requests received on the same business day shall be treated as  
2        received at the same time, and if the aggregate amount of the requests received on  
3        a single business day exceed the total amount of available tax credits, tax credits  
4        shall be approved on a pro rata basis. The credit may be used in addition to any  
5        federal tax credit or deduction earned for the same donation. However, a taxpayer  
6        shall not receive any other state tax credit, exemption, exclusion, deduction, or any  
7        other tax benefit for a donation in which the taxpayer has received a tax credit under  
8        this Section.

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

14              B. For purposes of this Section, the following words shall have the following  
15              meanings unless the context clearly indicates otherwise:

16              (1) "Department" means the Department of Revenue.

17              (2) "Qualified individual" means a child in a foster care placement program  
18              established by the Department of Children and Family Services or a child at  
19              significant risk of entering a foster care placement program established by the  
20              Department of Children and Family Services.

21              (3) "Qualifying foster care charitable organization" or "foster care  
22              organization" means a qualifying charitable organization that is exempt from federal  
23              income tax under Section 501(c)(3) of the Internal Revenue Code that each operating  
24              year provides services to at least one hundred qualified individuals in this state and  
25              spends at least fifty percent of its budget on services to qualified individuals in this  
26              state. A foster care organization that does not spend at least fifty percent of its  
27              overall budget in Louisiana may be a qualifying foster care charitable organization  
28              for purposes of this Section if the organization spends at least fifty percent of its state  
29              budget on services to qualified individuals in Louisiana and the organization certifies

1 to the department that one hundred percent of the donation from Louisiana taxpayers  
2 will be spent on services for Louisiana residents.

3 (4) "Services" means cash assistance, medical care, child care, food,  
4 clothing, shelter, job placement, and job-training services or any other assistance  
5 reasonably necessary to meet immediate basic needs that are provided for a qualified  
6 individual and used in this state.

7 C.(1) The tax credit shall be earned when the donation is made by the  
8 taxpayer to the foster care organization. The foster care organization shall issue a  
9 receipt to a taxpayer indicating the actual amount of the taxpayer's donation that is  
10 used by the organization to provide services to a qualified individual.

11 (2) No later than the thirty-first day of January following the year in which  
12 the donation is received by a qualifying foster care charitable organization, the foster  
13 care organization shall annually certify to the department that the foster care  
14 organization meets all of the requirements of this Section and shall annually submit  
15 the following:

16 (a) Written certification signed by an officer of the foster care organization  
17 under penalty of perjury of all the following:

18 (i) Verification of the organization's status under Section 501(c)(3) of the  
19 Internal Revenue Code.

20 (ii) Financial data indicating the foster care organization's budget for the  
21 prior operating year and the amount of the budget spent on services for qualified  
22 individuals of this state.

23 (iii) A statement that the foster care organization plans to continue spending  
24 at least fifty percent of its budget on services to residents in this state who are  
25 qualified individuals. A foster care organization that does not spend at least fifty  
26 percent of its overall budget in Louisiana shall submit a statement that it spends at  
27 least fifty percent of its state budget on services to qualified individuals in this state  
28 and that one hundred percent of the donations it receives from Louisiana taxpayers  
29 will be spent on services to Louisiana residents.

1           D.(1) The department shall provide a standardized format for a receipt to be  
 2           issued by the foster care organization to the taxpayer. The department shall require  
 3           a taxpayer to provide a copy of the receipt when claiming the credit authorized by  
 4           this Section.

5           (2) The secretary of the department may promulgate rules and regulations  
 6           in accordance with the provisions of the Administrative Procedure Act to implement  
 7           the provisions of this Section.

8           Section 2. The provisions of this Act shall be applicable for donations made by  
 9 taxpayers to qualifying foster care charitable organizations on and after January 1, 2020.

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

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#### 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)]

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HB 595 Engrossed

2019 Regular Session

Wright

**Abstract:** Authorizes a nonrefundable income tax credit for donations a taxpayer makes to a foster care organization equal to the actual amount of the donation used by the organization to provide services to a qualified individual, or \$100,000, whichever is less.

Proposed law authorizes a nonrefundable income tax credit for donations a taxpayer makes during a taxable year to qualifying foster care charitable organizations, hereinafter "foster care organizations". In order to qualify for the credit, the donation shall be made by a taxpayer who is required to file a La. income tax return.

Proposed law provides that the amount of the credit shall be equal to the amount of the donation used by the foster care organization to provide services to a qualified individual, or \$100,000, whichever is less. The total amount of credits granted pursuant to proposed law shall not exceed \$1,000,000 per calendar year.

Proposed law requires the credits to be granted on a first-come, first-served basis. If the total amount of credits applied for in a calendar year exceeds the amount of tax credits authorized for that year, the excess shall be treated as having been applied for on the first day of the subsequent year. All requests received on the same business day shall be treated as received at the same time, and if the aggregate amount of the requests received on a single

business day exceed the total amount of available tax credits, tax credits shall be approved on a pro rata basis.

Proposed law authorizes a taxpayer to carry forward the amount of the tax credit not used as an offset against the taxpayer's tax liability as a credit against subsequent income tax liabilities for a period not to exceed five taxable years.

Proposed law defines a "qualified individual" as a child in a foster care placement program established by the Dept. of Children and Family Services (DCFS) or a child at significant risk of entering a foster care placement program established by the DCFS.

Proposed law defines a "foster care organization" as a charitable organization exempt from federal income tax under federal law that, each operating year provides services to at least 100 qualified individuals in this state and spends at least 50% of its budget on services to qualified individuals in this state. Further provides that a foster care organization that does not spend at least 50% of its overall budget in La. is to be considered a foster care organization for purposes of proposed law if the organization spends at least 50% of its state budget on services to qualified individuals in La. and the organization certifies to the Dept. of Revenue (DOR) that 100% of the donation from La. taxpayers will be spent on services for La. residents.

Proposed law defines "services" as cash assistance, medical care, child care, food, clothing, shelter, job placement, and job-training services or any other assistance reasonably necessary to meet immediate basic needs that are provided for a qualified individual and used in La.

Proposed law requires the foster care organization to issue a receipt to a taxpayer indicating the actual amount of the taxpayer's donation that is used by the organization to provide services to a qualified individual and to annually certify, no later than Jan. 31, following the year in which the donation is received, to DOR that the foster care organization meets all of the requirements of proposed law.

Proposed law requires DOR to provide a standardized format for a receipt to be issued by the foster care organization to the taxpayer. Further requires DOR to require a taxpayer to provide a copy of the receipt when claiming the credit.

Proposed law authorizes DOR to promulgate rules and regulations in accordance with the APA to implement the provisions of proposed law.

Effective Jan. 1, 2020 and applicable to donations made by a taxpayer to a qualifying foster care charitable organization on and after Jan. 1, 2020.

(Adds R.S. 47:6040)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add provisions relative to the payment of tax credits on a first-come first-served basis.
2. Add requirement that the foster care charitable organization annually certify that it is in compliance with the provisions of proposed law no later than Jan. 31st following the year in which the donation was received by the organization.
3. Authorize, rather than require, DOR to promulgate rules and regulations to implement the provisions of proposed law.