

2021 Regular Session

HOUSE BILL NO. 131

BY REPRESENTATIVE COUSSAN

TAX CREDITS: Establishes an income tax credit for donations of property used for research or direct education of students to certain educational institutions

1 AN ACT

2 To enact R.S. 47:6042, relative to income tax credits; to establish an income tax credit for
3 certain donations to certain educational institutions; to provide for definitions; to
4 provide for the amount of the credit; to provide for requirements and limitations; to
5 authorize the promulgation of rules; to provide for termination of the credit; to
6 provide for applicability; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6042 is hereby enacted to read as follows:

9 §6042. Tax credit; contributions to educational institutions

10 A.(1) There shall be allowed an income tax credit for donations,
11 contributions, or sales below cost of tangible movable property, hereinafter referred
12 to in this Section as "property" made to educational institutions in Louisiana or for
13 amounts donated and utilized by an educational institution to purchase property. In
14 order to qualify for the credit, software or courseware donated pursuant to the
15 provisions of this Section shall be compatible with the existing hardware of the
16 educational institution. For donations of property, the amount of the credit shall be
17 equal to twenty-nine percent of the cost of new property, twenty-nine percent of the
18 appraised value of used property, or, in the case of a sale below cost, twenty-nine
19 percent of the difference between the price received for the property by the taxpayer
20 and the value of the property. The sale of used property below cost means the sale

1 of property below its appraised value. For amounts donated and utilized to purchase
2 property, the amount of the credit shall be equal to twenty-nine percent of the
3 amount donated. The amount of the credit shall not exceed the taxpayer's total tax
4 liability for the taxable year for which the credit is being claimed and shall be in lieu
5 of the deductions from gross income provided for in R.S. 47:57.

6 (2) No credit shall be allowed if the taxpayer arbitrarily, capriciously, or
7 unreasonably discriminates against any person because of race, religion, ideas,
8 beliefs, or affiliations.

9 B. For purposes of this Section the following words shall have the following
10 meanings unless the context indicates otherwise:

11 (1) "Cost", in the case of a donation or sale by a wholesale or retail business,
12 means the amount actually paid by the wholesaler or retailer to the supplier for the
13 property. In the case of a donation or sale by a manufacturer, the term "cost" means
14 the lowest price at which the manufacturer sells the property. Cost shall not mean
15 the retail value of property.

16 (2) "Educational institution" means any public, private, or parochial
17 elementary school, secondary school, vocational-technical school, higher education
18 facility, community college, special school, or museum, or any public library in
19 Louisiana.

20 (3) "New" means the property is state of the art and has never been used
21 except for normal testing by the manufacturer to insure that the property is of a
22 proper quality and in good working order or has been used by the retailer or
23 wholesaler solely for the purpose of demonstrating the product to customers for sale.

24 (4) "State of the art machinery and equipment" means machinery and
25 equipment which is of the same type, design, and capability as like machinery and
26 equipment which is currently sold or manufactured by the donor for sale to
27 customers.

28 (5) "Tangible movable property" or "property" means state of the art
29 machinery, equipment, or other property of a sophisticated and technological nature,

1 including any computer or data processing equipment, either hardware, software, or
2 both, which is capable of being used for purposes of research, research training, or
3 direct education of students.

4 C.(1)(a) Only donations, contributions, or sales of property approved and
5 accepted by the board charged with supervision and management of the educational
6 institution shall qualify for the credit authorized in this Section. Prior to any
7 donation, contribution, or purchase of property, the board of the educational
8 institution shall certify in writing that the property to be donated, contributed, or
9 purchased will only be used in research, research training, or direct education of
10 students.

11 (b) For donations of amounts utilized to purchase property, only amounts
12 donated to an established technology fund at the educational institution shall qualify
13 for the credit authorized in this Section. The purpose of the technology fund as
14 established by the educational institution shall be limited to the purchase of property
15 used exclusively in research, research training, or direct education of students.

16 (2)(a) When new property is donated, contributed, or sold to an educational
17 institution, the donor or seller shall submit an invoice indicating the cost of the
18 property to the board of the educational institution. When used property is donated,
19 contributed, or sold to an educational institution, the educational institution shall
20 obtain an appraisal of the property. The educational institution shall furnish a
21 certification of the donation, contribution, or sale, to the donor or seller which shall
22 include the date and the value of the property donated, contributed, or sold. When
23 claiming the credit authorized in this Section, the donor shall attach the certification
24 to the income tax return filed with the Department of Revenue.

25 (b) For amounts donated and utilized to purchase property, the educational
26 institution shall furnish a certification of the amount donated which shall include the
27 date and amount donated to be utilized for the purchase of property. When claiming
28 the credit authorized in this Section, the donor shall attach the certification to the
29 income tax return filed with the Department of Revenue.

1 (3)(a) Any taxpayer contributing, donating, or selling property below cost
2 to an educational institution shall enter into an orientation agreement with the
3 educational institution receiving the property. The orientation must occur within two
4 weeks after installation of the property, must be provided at no cost to the
5 educational institution, and shall be provided at a location determined pursuant to the
6 agreement.

7 (b) If requested by the educational institution, the taxpayer contributing,
8 donating, or selling the property to an educational institution shall enter into a
9 minimum three-month maintenance or service agreement with the educational
10 institution in order to receive the tax credit provided for pursuant to the provisions
11 of this Section.

12 D. The secretary of the Department of Revenue may promulgate rules in
13 accordance with the Administrative Procedure Act as are necessary to implement the
14 provisions of this Section.

15 E. No credits shall be allowed pursuant to the provisions of this Section on
16 or after January 1, 2027.

17 Section 2. The provisions of this Act shall be applicable for taxable years beginning
18 on or after January 1, 2022.

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 131 Engrossed

2021 Regular Session

Coussan

Abstract: Establishes an income tax credit for donations or sales below cost to educational institutions in La. of state of the art machinery and equipment or other technological property used for research, research training, or direct education of students or for amounts donated and utilized by an educational institution to purchase technological property.

Proposed law establishes an income tax credit for donations or sales below cost of tangible movable property, hereinafter "property", made to educational institutions in Louisiana or amounts donated and utilized by an educational institution to purchase property. The amount of the credit is equal to 29% of the amount donated, 29% of the cost of new property, 29% of the appraised value of used property, or, in the case of a sale below cost, 29% of the difference between the price received for the property by the taxpayer and the

value of the property. The sale of used property below cost means the sale of property below its appraised value.

Proposed law limits the amount of the credit to the taxpayer's total tax liability for the taxable year for which the credit is claimed and is in lieu of other deductions provided for in present law. No credit is allowed if the taxpayer arbitrarily, capriciously, or unreasonably discriminates against any person because of race, religion, ideas, beliefs, or affiliations.

Proposed law defines "property" as state of the art machinery and equipment or other property of a sophisticated and technological nature, including any computer or data processing equipment, either hardware, software, or both, which is capable of being used for purposes of research, research training, or direct education of students.

Proposed law defines an "educational institution" as any public, private, or parochial elementary school, secondary school, vocational-technical school, higher education facility, community college, special school, or museum, or any public library in Louisiana.

Proposed law defines "cost", in the case of a donation or sale by a wholesale or retail business, as the amount paid by the wholesaler or retailer to the supplier for the property. In the case of a donation or sale by a manufacturer, "cost" shall mean the lowest price at which the manufacturer sells the property. "Cost" shall not mean the retail value of property.

Proposed law provides that only donations, contributions, or sales of property approved by the board of the educational institution shall qualify for the credit authorized in proposed law. Prior to any donation, the board shall certify in writing that the property to be donated or purchased will only be used in research, research training, or direct education of students.

Proposed law provides, that for donations of amounts utilized to purchase property, only amounts donated to an established technology fund at the educational institution shall qualify for the credit authorized in proposed law. Further requires the purpose of the technology fund to be limited to the purchase of property used exclusively in research, research training, or direct education of students.

Proposed law requires the donor or seller to furnish an invoice to the board indicating the cost of the property and when used property is donated the educational institution must obtain an appraisal of the property. Proposed law requires the educational institution to furnish a certification of the donation or sale, which shall include the date and the value of the property donated or sold. Further requires the donor to attach the certification to the income tax return filed with the Dept. of Revenue (DOR).

Proposed law requires the educational institution to furnish a certification of the amount donated which shall include the date and amount donated to be utilized for the purchase of property. Further requires the donor to attach the certification to the income tax return filed with DOR.

Proposed law requires a taxpayer making a contribution or selling property below cost to an educational institution to enter into a no-cost orientation agreement with the educational institution at a location determined pursuant to the agreement. Further requires, if requested, the taxpayer donating or selling the property to enter into a minimum three-month maintenance or service agreement with the educational institution.

Proposed law authorizes DOR to promulgate rules as are necessary to implement the provisions of proposed law.

Proposed law prohibits credits from being allowed on or after Jan. 1, 2027.

Proposed law provides that provisions of proposed law shall be applicable for taxable years beginning on or after Jan. 1, 2022.

(Adds R.S. 47:6042)

Summary of Amendments Adopted by House

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

1. Authorize the credit to also apply to amounts donated to an educational institution and utilized to purchase property.
2. Require amounts donated to purchase property to be donated to an established technology fund at the educational institution in order to qualify for the credit authorized in proposed law and require monies in the technology fund to be limited to the purchase of property used exclusively in research, research training, or direct education of students.
3. Require the educational institution to furnish a certification of the amount donated and require the donor to attach the certification to the income tax return when claiming the credit.
4. Prohibit credits from being allowed on or after Jan. 1, 2027.