

Regular Session, 2012

HOUSE BILL NO. 969

BY REPRESENTATIVE TALBOT

TAX/TAX REBATES: Authorizes a rebate for taxpayers who donate to certain school tuition organizations

1 AN ACT

2 To enact Chapter 3 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to  
3 be comprised of R.S. 47:6301, relative to rebates; to authorize a rebate for certain  
4 donations to certain school tuition organizations; to provide for definitions,  
5 requirements, and limitations; to provide for the amount, approval, and issuance of  
6 rebates; to authorize the Department of Education to conduct audits; to authorize the  
7 promulgation of rules and regulations; to provide for an effective date; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 3 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of  
11 1950, comprised of R.S. 47:6301, is hereby enacted to read as follows:

12 §6301. Rebates; contributions to school tuition organizations

13 A.(1) There shall be allowed a rebate for donations a taxpayer makes during  
14 a taxable year to a school tuition organization which provides scholarships to  
15 qualified students to attend a qualified school. In order to qualify for the rebate, the  
16 donation shall be made by a taxpayer who files a Louisiana income tax return. The  
17 rebate may only be claimed by a taxpayer when the school tuition organization  
18 certifies to the Department of Education that the donation made by the taxpayer has  
19 funded a scholarship for a qualified student. The amount of the rebate shall be equal

1 to the actual amount of the taxpayer's donation used by a school tuition organization  
2 to fund a scholarship to a qualified student, which shall not include administrative  
3 costs.

4 (2) In order for a donation from a taxpayer to qualify for the rebate, the  
5 donation shall be used by the school tuition organization to provide scholarships for  
6 tuition and fees for students to attend a qualified school in accordance with the  
7 provisions of this Section. No more than five percent of a donation shall be used by  
8 the school tuition organization for administrative or promotional costs. No  
9 scholarship shall be designated, referred to, or in any way named after a private  
10 entity.

11 B.(1)(a) For purposes of this Section, the term "school tuition organization"  
12 shall mean a tax exempt organization organized under Section 501(c)(3) of the  
13 Internal Revenue Code which adheres to the requirements of this Section. The  
14 amount of scholarships awarded by a school tuition organization shall equal the  
15 amount of donations the organization receives from taxpayers, minus allowable  
16 administrative or promotional costs. No less than ninety-five percent of the monies  
17 received by the school tuition organization from taxpayer donations for scholarships  
18 shall be used to provide scholarships to students for attendance at a qualified  
19 nonpublic school of their parent's choice. A school tuition organization shall not  
20 carryforward more than twenty-five percent of net donations from one fiscal year to  
21 the next. In addition, a school tuition organization shall provide educational  
22 scholarships to students without limiting available scholarships to students of only  
23 one qualified school.

24 (b) The maximum amount for a scholarship provided by the school tuition  
25 organization to a qualified student in kindergarten through eighth grade shall not  
26 exceed eighty percent of the state average Minimum Foundation Program per pupil  
27 funding amount for the previous year, and the maximum amount for a scholarship  
28 for a qualified student in ninth through twelfth grades shall not exceed ninety percent

1 of the state average Minimum Foundation Program per pupil funding amount for the  
2 previous year.

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

5 (i) Notify the Department of Education of its intent to provide educational  
6 scholarships to qualified students attending qualified schools.

7 (ii) Provide documentary evidence to the Department of Education that it has  
8 been granted an exemption from federal income tax and is established as an  
9 organization described in Section 501(c)(3) of the Internal Revenue Code.

10 (iii) Document the eligibility of each qualified student for each year that a  
11 qualified student receives a scholarship.

12 (iv) Provide scholarships to qualified students on a first-come, first-served  
13 basis, with priority given to students who received a scholarship in the previous year.

14 (v) Distribute scholarship payments in September, December, February, and  
15 May of each year as checks made out to a parent of a qualified student which are  
16 mailed to the qualifying school where the student is enrolled. The parent shall  
17 restrictively endorse the check for deposit into the account of the school. The parent  
18 shall not designate any entity or individual associated with the school as the parent's  
19 attorney to endorse a scholarship check. Any parent who receives payments in  
20 accordance with the provisions of this Section shall not be allowed to claim the  
21 amount received as any other credit, deduction, exemption, or rebate under Title 47  
22 of the Louisiana Revised Statutes of 1950.

23 (vi) Provide certification to the Department of Education that scholarships  
24 have been issued within thirty days of issuing the scholarships. This certification  
25 shall include a list of the taxpayers whose donations to the school tuition  
26 organization funded the scholarships, the amount of each taxpayer's donation used  
27 to fund a scholarship, as well as all other documentation required by the Department  
28 of Education, as established in rules and regulations.

1            (vii) Perform criminal background checks on all of its employees and board  
2            members according to the provisions of R.S. 15:587.1. A person who has been  
3            convicted of or has entered a plea of nolo contendere to a crime listed in R.S.  
4            15:587.1 may not be employed by, or be a board member of, a school tuition  
5            organization.

6            (viii) Ensure that scholarships granted to qualified students are portable  
7            during the school year and can be used at any qualifying school that accepts a  
8            qualified student. If the parent of a qualified student who is receiving a scholarship  
9            desires the student to move to a new qualified school during a school year, the  
10           scholarship amount may be prorated.

11           (ix) Provide a public report to the Department of Education which contains  
12           information regarding all scholarships awarded or granted in the previous fiscal  
13           year. The report shall be prepared by a certified public accountant and shall be  
14           submitted to the department no later than the first day of January each year. The  
15           report shall contain the name and address of the school tuition organization, the total  
16           number and total dollar amount of donations received during the previous fiscal year,  
17           and the total number and total dollar amount of educational scholarships awarded to  
18           qualified students during the previous fiscal year. The report shall also contain the  
19           total amount of contributions received by the school tuition organization, the total  
20           amount of contributions made by each contributor during the previous calendar year,  
21           and the social security number or Louisiana taxpayer identification number of each  
22           contributor. An electronic format of this report shall be furnished to the Department  
23           of Revenue by the Department of Education on or by the first day of February of  
24           each year.

25           (x) Annually demonstrate its financial accountability through a financial  
26           information report that complies with uniform financial accounting standards. The  
27           report shall be prepared by a certified public accountant and shall be submitted to the  
28           Department of Education. The report shall contain a certification from an auditor  
29           that the report is free of material misstatements.

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

6           (i) Conduct criminal background checks on its employees and exclude from  
7           employment any person not permitted by state law to work in a nonpublic school.

8           (ii) Using funds retained for administrative costs by the school tuition  
9           organization, annually administer the state test associated with the school and district  
10          accountability system to measure learning gains in math and language arts to all  
11          participating students in grades that require testing under the state's accountability  
12          testing laws for public schools; however, the Department of Education shall not incur  
13          any expense for the administration of the state tests to students applying for tuition  
14          scholarships from a school tuition organization. The qualified school shall provide  
15          the parents of each student who was tested with a copy of the student's test results  
16          on an annual basis, beginning with the first year the student is tested.

17          (b) Any qualified school that receives more than fifty thousand dollars in  
18          scholarship donations from a school tuition organization shall demonstrate its  
19          financial viability by filing, prior to the start of a school year, a surety bond payable  
20          to the school tuition organization in an amount equal to the aggregate amount of  
21          donations expected to be received during the school year or by filing, prior to the  
22          start of a school year, financial information with the qualified school tuition  
23          organization demonstrating its financial viability; however, a qualified school which  
24          has been in business for more than five years shall not be required to post a surety  
25          bond.

26          (3) For purposes of this Section, a "qualified student" shall mean a child who  
27          is a member of a family that resides in Louisiana with a total household income that  
28          does not exceed an amount equal to two hundred fifty percent of the federal poverty  
29          level based on the federal poverty guidelines established by the federal office of

1 management and budget. A qualified student shall also be a student who is entering  
2 kindergarten for the first time, a student who attended a public school the previous  
3 year, or a student who received a scholarship from a school tuition organization for  
4 the previous school year.

5 (4) For purposes of this Section, a "parent" shall mean a guardian, custodian,  
6 or other person with authority to act on behalf of the child.

7 C.(1)(a) The Department of Education shall promulgate rules and regulations  
8 in accordance with the provisions of the Administrative Procedure Act, as are  
9 necessary to implement the provisions of this Section.

10 (b) The Department of Education shall approve the application used by a  
11 school tuition organization in awarding scholarships to qualified students.

12 (c) The Department of Education shall certify and issue a receipt to a  
13 taxpayer indicating the actual amount of the taxpayer's donation to a school tuition  
14 organization which was used to fund a scholarship after the Department of Education  
15 receives certification from the school tuition organization that the scholarship has  
16 been issued on behalf of a parent.

17 (d) The Department of Education may conduct either a financial review or  
18 audit of a school tuition organization as deemed necessary by the department. The  
19 Department of Education shall bar a school tuition organization from participating  
20 in the rebate authorized under this Section if the school tuition organization  
21 intentionally and substantially fails to comply with the requirements of this Section.

22 (2) The Department of Revenue shall provide a standardized format for a  
23 receipt to be issued by the Department of Education to a school tuition organization.  
24 The Department of Revenue shall require a taxpayer to provide a copy of the receipt  
25 when claiming the rebate authorized by this Section.

26 D. Notwithstanding any provision of law to the contrary, the secretary of the  
27 Department of Revenue shall make the rebate authorized pursuant to the provisions  
28 of this Section from the current collections of the taxes imposed by Title 47 of the  
29 Louisiana Revised Statutes of 1950, as amended.

1           Section 2. The provisions of this Act shall become effective beginning on or after  
2 January 1, 2013, and shall be applicable to donations made to a school tuition organization  
3 which provides scholarships to qualified students to attend a qualified school for the 2013-  
4 2014 school year and thereafter.

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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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Talbot

HB No. 969

**Abstract:** Authorizes a rebate for donations to school tuition organizations equal to the actual amount donated by the taxpayer used to fund a scholarship for a qualified student.

Proposed law authorizes a rebate for donations a taxpayer makes to a school tuition organization (STO) which provides scholarships to qualified students to attend a qualified school. The rebate may be claimed by a taxpayer when the STO certifies to the Dept. of Education (DOE) that the donation has funded a scholarship for a qualified student. The amount of the rebate shall be equal to the actual amount of the taxpayer's donation used by a STO to fund a scholarship, exclusive of administrative costs.

Proposed law requires that in order for a taxpayer's donation to qualify for the rebate, the donation shall be used by the STO to provide scholarships for tuition. No more than 5% of a donation shall be used for administrative or promotional costs. Additionally requires that the donation be made by a taxpayer who files a La. income tax return.

Proposed law prohibits a scholarship from being designated or named after a private entity.

Proposed law defines an "STO" as a §501(c)(3) tax exempt organization which donates no less than 95% of the monies from donations for scholarships to students for attendance at a qualified nonpublic school of their parent's choice. Prohibits a STO from carrying forward more than 25% of net donations into the next fiscal year. Proposed law limits the maximum amount of a scholarship for a student in grades K-8 to 80% of the state average MFP per pupil funding amount for the previous year, and for a student in grades 9-12 to 90% of the state average MFP per pupil funding amount for the previous year.

Proposed law establishes requirements for STO's which include:

- (1) Notify DOE of its intent to provide educational scholarships.
- (2) Provide evidence of its §501(c)(3) status and perform criminal background checks on all of its employees and board members.
- (3) Document the eligibility of students.
- (4) Provide scholarships on a first-come, first-served basis, giving priority to students who received a scholarship the previous year.
- (5) Provide certification to the DOE that scholarships have been issued within 30 days of issuance.

- (6) Ensure that scholarships granted to qualified students are portable during the school year and can be used at any qualifying school that accepts a qualified student.
- (7) Provide a public report to DOE and Dept. of Revenue (DOR) each fiscal year which contains information regarding donations received and scholarships awarded in the previous fiscal year.
- (8) Annually demonstrate its financial accountability.

Proposed law defines a "qualified school" as a nonpublic elementary or secondary school which is approved by the Board of Elementary and Secondary Education and meets the criteria set forth in *Brumfield, et al. v. Dodd*.

Proposed law requires a qualified school to do all of the following:

- (1) Conduct criminal background checks on its employees and exclude from employment any person not permitted by state law to work in a nonpublic school.
- (2) Annually administer the school and district accountability system test that measures learning gains in math and language arts to all participating students in grades that require testing. The costs of administering the tests shall be paid using funds retained by the STO for administrative costs.

Proposed law requires any qualified school that receives more than \$50,000 in scholarship donations from a STO to demonstrate its financial viability by filing, prior to the start of a school year, either a surety bond payable to the STO in an amount equal to the aggregate amount of donations expected to be received during the school year, or by filing financial information demonstrating its financial viability; however, a qualified school which has been in business for more than five years shall not be required to post a surety bond.

Proposed law defines a "qualified student" as a child who is a member of a family that resides in La. with a total household income that does not exceed 250% of the federal poverty level.

Proposed law prohibits any parent who receives scholarship payments in accordance with the provisions of proposed law from claiming the amount received for purposes of any other credit, deduction, exemption, or rebate under present law.

Proposed law requires DOE to promulgate rules and regulations in accordance with the APA, as are necessary to implement the provisions of proposed law.

Proposed law requires DOE to certify and issue a receipt to a taxpayer indicating the actual amount of the taxpayer's donation used to fund a scholarship after receiving certification from the STO that the scholarship has been issued on behalf of the parent.

Proposed law grants discretionary authority to DOE to conduct either a financial review or audit of a STO. Further requires DOE to bar a STO from participating in the provisions of proposed law under certain circumstances.

Proposed law requires DOR to approve a standardized format for a receipt to be issued by DOE to a STO.

Proposed law requires DOR to pay rebates from the current collections of the taxes imposed by present law.



Effective on or after Jan. 1, 2013, for donations made to a school tuition organization which provides scholarships to qualified students to attend a qualified school for the 2013-2014 school year and thereafter.

(Adds R.S. 47:6301)

Summary of Amendments Adopted by House

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

1. Deleted references to "tuition grants".
2. Added provision that the rebate may only be claimed by a taxpayer when the STO certifies to the DOE that the taxpayer's donation has funded a scholarship.
3. Changed the amount of the rebates from the actual amount of the taxpayer's donation to the STO to the actual amount of the taxpayer's donation used by the STO to fund a scholarship, exclusive of administrative costs.
4. Deleted requirement that the taxpayer's La. adjusted gross income be increased by the portion of the rebate claimed under proposed law which is included in the taxpayer's federal adjusted gross income.
5. Prohibited any parent who receives scholarship payments in accordance with the provisions of proposed law from claiming the amount received for purposes of any other credit, deduction, exemption or rebate under present law.
6. Prohibited a scholarship from being designated or named after a private entity.
7. Required that the costs of administering the school and district accountability system tests be paid using funds retained by the STO for administrative costs.
8. Authorized, rather than requires the DOE to conduct either a financial review or audit of a STO.