

**CONFERENCE COMMITTEE REPORT**  
**House Bill No. 969 By Representative Talbot**

April 23, 2012

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 969 by Representative Talbot, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments proposed by the Senate Revenue and Fiscal Affairs Committee and adopted by the Senate on April 17, 2012, be adopted.
2. That the set of Senate Floor Amendments consisting of one amendment proposed by Senator Adley and adopted by the Senate on April 18, 2012, be adopted.
3. That the Senate Floor Amendment proposed by Senator Heitmeier and adopted by the Senate on April 18, 2012, be adopted.
4. That the set of Senate Floor Amendments consisting of four amendments proposed by Senator Adley and adopted by the Senate on April 18, 2012, be adopted.
5. That the set of Senate Floor Amendments proposed by Senator Peacock and adopted by the Senate on April 18, 2012, be rejected.
6. That the following amendment be adopted:

AMENDMENT NO. 1

In Senate Floor Amendment No. 2 of the set consisting of four Senate Floor Amendments proposed by Senator Adley and adopted by the Senate on April 18, 2012, on page 1, at the end of line 4, change "total amount" to "total amount of"

AMENDMENT NO. 2

In Senate Floor Amendment No. 1 of the set consisting of one Senate Floor Amendment proposed by Senator Adley and adopted by the Senate on April 18, 2012, on page 1, line 8, after "brain injury," and before "or autism" insert "dyslexia and related disorders."

Respectfully submitted,

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Representative Kirk Talbot

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Senator John A. Alario, Jr.

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Representative Joel C. Robideaux

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Senator Robert Adley

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Representative Walt Leger III

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Senator Neil Riser

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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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## CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 969 by Representative Talbot

**Keyword and oneliner of the instrument as it left the House**

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

**Report adopts Senate amendments to:**

1. Require STOs to advertise the availability of scholarships to the public and parents of students in "F" or "D" public schools.
2. Authorize DOE to bar an STO or otherwise "qualified school" from participating in the rebate for failure to conduct criminal background checks.
3. Clarify that a "qualified school" may also be a school "approved" by BESE, as well as one probationally approved or provisionally approved.
4. Clarify that scholarships awarded or received may not exceed the tuition actually charged by the school or the appropriate percentage of the MFP authorized in proposed law for the type of student.
5. Authorize a donation to an STO to be earmarked for a student with a disability.
6. Prohibit the enrollment of scholarship recipients in a "qualified school" which has been approved, provisionally approved, or probationally approved for less than two years and the Student Scholarships for Educational Excellence Program from exceeding 20% of the school's total student enrollment.

**Report rejects Senate amendments which would have:**

1. Limited the amount of rebates issued per calendar year to \$300 million and provided for the approval of rebates on a first-come, first-served basis until the maximum amount of rebates per year had been issued.

**Report amends the bill to:**

1. Technical amendment changing "*total amount*" to "*total amount of*".
2. Add "dyslexia and related disorders" to the list of disabilities for which a donor may earmark a donation for a student.

**Digest of the bill as proposed by the Conference Committee**

**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 school.

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 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 a donor, at the time a donation is made, to indicate the duration of time the STO may retain and carryforward his donation. Further provides for the method of refunding donated monies at the request of the donor.

Proposed law provides that the rebate may be paid only after the conclusion of the school year and only when all of the following requirements have been satisfied:

1. The STO certifies to the DOE that the donation has funded a scholarship for a qualified student.
2. The DOE has verified that the student was not enrolled in a public school on Oct. 1<sup>st</sup> or Feb. 1<sup>st</sup> of that school year for purposes of the MFP formula, and has certified the student count.
3. If the qualified student is enrolled in a public school on Feb. 1<sup>st</sup> of that school year, the amount of the rebate shall be equal to the actual amount expended by the STO on scholarships, exclusive of administrative costs and shall be prorated as applicable.

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 or from being earmarked to provide a scholarship for a particular student or school; however, a donation may be earmarked for a student with a disability.

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. Authorizes an STO to carryforward donations under certain circumstances. Proposed law limits the maximum amount of a scholarship for a student in grades K-8 to the lesser of 80% of the state average MFP per pupil funding amount for the previous year or the actual amount of tuition and fees 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. Cease making scholarship payments to a qualified school if a student who has received a scholarship ceases to be enrolled in a qualified school.
7. 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.
8. Provide a public report to DOE and Dept. of Revenue (DOR) each fiscal year which contains information regarding donations received, scholarships awarded in the

previous fiscal year, and the actual tuition and fee amounts for attendance at qualified schools.

9. Annually demonstrate its financial accountability.
10. Adequately advertise the availability of scholarships to the public, with an emphasis on notifying parents of students in "F" and "D" public schools, as provided for in rules promulgated by the DOE in accordance with the APA.
11. Conduct criminal background checks on its employees and exclude from employment any person not permitted who violated R.S. 15:587.1, or it may be barred from participating in the rebate.

Proposed law defines a "qualified school" as a nonpublic elementary or secondary school which is approved, probationally approved, or provisionally approved by the Board of Elementary and Secondary Education and which meets the criteria set forth in *Brunfield, 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, or it may be barred from participating in the rebate.
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.
3. Admit qualified students for enrollment based on the letter grade of the public school for which the qualified student was attending or would have attended, giving first priority to qualified students from public schools that received a letter grade "F" or "D" or any variation thereof.

Proposed law provides for a process to be used by qualified schools regarding the admission of students, including preferences for certain students.

Proposed law prohibits enrollment of scholarship recipients in a qualified school which has been approved, provisionally approved, or probationally approved for less than two years and the Student Scholarships for Educational Excellence Program from exceeding 20% of the school's total student enrollment.

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 a qualified student receiving a scholarship from a STO from receiving any other publicly funded scholarship or other financial assistance; however, a student may receive scholarships from multiple STOs.

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 verify that each qualified student has not received scholarships in excess of actual tuition and fees. If a scholarship exceeds the actual tuition and fees, the STO is required to refund the difference to the state.

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 all of the requirements of proposed law for payment of the rebate have been satisfied.

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 the DOE to compile a public report which shall be made available no later than March 1<sup>st</sup> of each year on the department's website which lists the name of all qualified schools receiving scholarship recipients, the number of scholarship recipients attending each qualified school, and the results of the state's accountability testing laws for students in public school for scholarship recipients in each grade.

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 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)