

Regular Session, 2012
HOUSE BILL NO. 969
BY REPRESENTATIVE TALBOT

ACT No. 25

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 CHAPTER 3. REBATES FOR DONATIONS TO SCHOOL

13 TUITION ORGANIZATIONS

14 §6301. Rebates; donations to school tuition organizations

15 A.(1) There shall be allowed a rebate for donations a taxpayer makes during
16 a taxable year to a school tuition organization which provides scholarships to
17 qualified students to attend a qualified school. Upon making his donation, the donor
18 shall indicate the duration of time which the school tuition organization may retain
19 and carryforward his donation. The time may be indicated as being in perpetuity or
20 for a stated period of time coinciding with a fiscal year of the state of Louisiana, the
21 minimum of which shall not be less than twelve months or one fiscal year, whichever
22 occurs later. In order to qualify for the rebate, the donation shall be made by a
23 taxpayer who files a Louisiana income tax return. The amount of the rebate shall be
24 equal to the actual amount of the taxpayer's donation used by a school tuition

1 ~~organization to fund a scholarship to a qualified student, which shall not include~~
2 ~~administrative costs.~~

3 (2) The rebate may be paid only after the conclusion of the school year and
4 only when all of the following requirements have been satisfied:

5 (a) The school tuition organization certifies to the Department of Education
6 that the donation made by the taxpayer has funded a scholarship for a qualified
7 student.

8 (b) The Department of Education has verified that the student was not
9 enrolled in a public school in Louisiana on October first or February first of that
10 school year pursuant to the definition of the student membership established by the
11 State Board of Elementary and Secondary Education for the purposes of the
12 Minimum Foundation Program formula, and the Department of Education has
13 certified the student count.

14 (c) If the qualified student is enrolled in public school on February first of
15 that school year pursuant to the definition of the student membership established by
16 the State Board of Elementary and Secondary Education, the amount of the rebate
17 shall be equal to the actual amount expended by the school tuition organization on
18 scholarships, which shall not include administrative costs and shall be prorated as
19 applicable.

20 (3) In order for a donation from a taxpayer to qualify for the rebate, the
21 donation shall be used by the school tuition organization to provide scholarships for
22 tuition and fees for students to attend a qualified school in accordance with the
23 provisions of this Section. No more than five percent of a donation shall be used by
24 the school tuition organization for administrative or promotional costs. No
25 scholarship shall be designated, referred to, or in any way named after a private
26 entity nor shall any donation be earmarked by a donor to provide a scholarship for
27 a particular qualified student or a particular qualified school. However this
28 Paragraph shall not prohibit a donation being earmarked for a student with a
29 disability. A student shall be considered to have a disability if such student is
30 evaluated according to state and federal regulation or policy and is deemed to have

1 a mental disability, hearing impairment (including deafness), multiple disabilities,
2 deaf-blindness, speech or language impairment, visual impairment (including
3 blindness), emotional disturbance, orthopedic impairment, other health impairment,
4 specific learning disability, traumatic brain injury, dyslexia and related disorders, or
5 autism, and as a result requires special education and related services.

6 B.(1)(a) For purposes of this Section, the term "school tuition organization"
7 shall mean a tax exempt organization organized under Section 501(c)(3) of the
8 Internal Revenue Code which adheres to the requirements of this Section. The
9 amount of scholarships awarded by a school tuition organization shall equal the
10 amount of donations the organization receives from taxpayers, minus allowable
11 administrative or promotional costs. No less than ninety-five percent of the monies
12 received by the school tuition organization from taxpayer donations for scholarships
13 shall be used to provide scholarships to students for attendance at a qualified
14 nonpublic school of their parent's choice. A school tuition organization shall
15 carryforward all funds in accordance with the duration of time indicated by the donor
16 pursuant to Paragraph (A)(1) of this Section. If, at the end of the fiscal year, a donor
17 requests a refund of unexpended funds from his donation, the school tuition
18 organization shall reimburse the donor the full amount of unexpended funds
19 otherwise available to be used on scholarships, exclusive of funds available for
20 administrative costs. If the donor does not elect to receive a refund, the school
21 tuition organization may retain and carryforward the funds indefinitely or for a
22 shorter period of time if so indicated by the donor. In addition, a school tuition
23 organization shall provide educational scholarships to students without limiting
24 available scholarships to students of only one qualified school.

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

1 Minimum Foundation Program per pupil funding amount for the previous year,
2 whichever is less.

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. If a student who has received a
23 scholarship ceases to be enrolled in a qualified school, the school shall immediately
24 notify the respective student tuition organization and the Department of Education
25 that the student is no longer enrolled. Upon receipt of such notification, the student
26 tuition organization shall cease making payments to the school for that student.

27 (vi) Provide certification to the Department of Education that scholarships
28 have been issued within thirty days of issuing the scholarships. This certification
29 shall include a list of the taxpayers whose donations to the school tuition
30 organization funded the scholarships, the amount of each taxpayer's donation used

1 to fund a scholarship, as well as all other documentation required by the Department
2 of Education, as established in rules and regulations.

3 (vii) Perform criminal background checks on all of its employees and board
4 members according to the provisions of R.S. 15:587.1. A person who has been
5 convicted of or has entered a plea of nolo contendere to a crime listed in R.S.
6 15:587.1 may not be employed by, or be a board member of, a school tuition
7 organization. The Department of Education may bar a school tuition organization
8 from participating in the rebate authorized under this Section if the school tuition
9 organization fails to comply with the requirements of this Item.

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

15 (ix) Provide a public report to the Department of Education which contains
16 information regarding all scholarships awarded or granted in the previous fiscal
17 year. The report shall be prepared by a certified public accountant and shall be
18 submitted to the department no later than the first day of January each year. The
19 report shall contain the name and address of the school tuition organization, the total
20 number and total dollar amount of donations received during the previous fiscal year,
21 the total number and total dollar amount of educational scholarships awarded to
22 qualified students, the total amount expended on administrative costs, and the
23 percentage breakdown of donations expended on scholarship and administrative
24 costs during the previous fiscal year. The report shall include the actual tuition and
25 fee amounts published by the qualifying schools which enrolled a student with a
26 scholarship from that school tuition organization. The report shall also contain the
27 total amount of contributions received by the school tuition organization, the total
28 amount of contributions made by each contributor during the previous calendar year,
29 and the social security number or Louisiana taxpayer identification number of each
30 contributor. An electronic format of this report shall be furnished to the Department

1 of Revenue by the Department of Education on or by the first day of February of
 2 each year.

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

8 (xi) The school tuition organization shall adequately advertise the
 9 availability of scholarships to the public, with an emphasis on notifying parents of
 10 students in public schools that received a letter grade of "F" or "D", in the manner
 11 provided for in rules and regulations which shall be promulgated by the Department
 12 of Education in accordance with the Administrative Procedure Act.

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

18 (i) Conduct criminal background checks on its employees and exclude from
 19 employment any person not permitted by state law to work in a nonpublic school.
 20 The Department of Education may bar an otherwise qualified school from
 21 participating in the rebate authorized under this Section if the otherwise qualified
 22 school fails to comply with the requirements of this Item.

23 (ii) Using funds retained for administrative costs by the school tuition
 24 organization, annually administer the state test associated with the school and district
 25 accountability system to measure learning gains in math and language arts to all
 26 participating students in grades that require testing under the state's accountability
 27 testing laws for public schools; however, the Department of Education shall not incur
 28 any expense for the administration of the state tests to students applying for tuition
 29 scholarships from a school tuition organization. The qualified school shall provide

1 the parents of each student who was tested with a copy of the student's test results
2 on an annual basis, beginning with the first year the student is tested.

3 (iii) If more first-time qualified students who are otherwise eligible apply
4 than there are seats available, conduct a random selection process that ensures all
5 qualified and otherwise eligible students an equal chance for admission; however,
6 the qualified school may give preference for the following:

7 (aa) Siblings of students already enrolled in the qualified school.

8 (bb) Qualifying students who had previously enrolled at a different qualified
9 school and who are otherwise eligible.

10 (iv) Admit qualified students for enrollment based on the letter grade of the
11 public school for which the qualified student was attending or would have attended.
12 Qualified students from public schools that received a letter grade "F" or "D" or any
13 variation thereof shall be given the first priority.

14 (v) Not charge a higher total tuition and fee amount to a qualified student
15 than is charged to all students enrolled at the school.

16 (vi) Annually provide to each school tuition organization who has provided
17 a scholarship to a student enrolled in that school the actual tuition and fee amounts
18 charged to all students.

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

28 (c) Enrollment of scholarship recipients in a qualified school under the
29 provisions of this Section and under the provisions of the Student Scholarships for
30 Educational Excellence Program that has been approved, provisionally approved, or

1 probationally approved for less than two years shall not exceed twenty percent of
2 such school's total student enrollment.

3 (3) For purposes of this Section, a "qualified student" shall mean a child who
4 is a member of a family that resides in Louisiana with a total household income that
5 does not exceed an amount equal to two hundred fifty percent of the federal poverty
6 level based on the federal poverty guidelines established by the federal office of
7 management and budget. A qualified student shall also be a student who is entering
8 kindergarten for the first time, a student who attended a public school the previous
9 year, or a student who received a scholarship from a school tuition organization for
10 the previous school year. Any qualified student receiving a scholarship from a
11 school tuition organization pursuant to the provisions of this Section shall be
12 prohibited from receiving any other publicly funded scholarship, voucher, or other
13 form of financial assistance specific to that student for purposes of attending a
14 nonpublic school; however, a qualified student may receive scholarships from
15 multiple school tuition organizations not to exceed the lesser of eighty percent of the
16 state average Minimum Foundation Program per pupil funding amount for the
17 previous year in the case of a qualified student enrolled in kindergarten through
18 eighth grade, or ninety percent of the state average Minimum Foundation Program
19 per pupil funding amount for the previous year in the case of a qualified student
20 enrolled in ninth through twelfth grade.

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

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

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

28 (c) The Department of Education shall certify and issue a receipt to a
29 taxpayer indicating the actual amount of the taxpayer's donation to a school tuition

1 organization which was used to fund a scholarship after all of the requirements of
2 Paragraph (A)(2) of this Section have been satisfied.

3 (d) The Department of Education shall verify that each qualified student has
4 received scholarships not to exceed the lesser of actual tuition and fees at the
5 qualified school or eighty percent of the state average Minimum Foundation Program
6 per pupil funding amount for the previous year in the case of a qualified student
7 enrolled in kindergarten through eighth grade, or ninety percent of the state average
8 Minimum Foundation Program per pupil funding amount for the previous year in the
9 case of a qualified student enrolled in ninth through twelfth grade. If the total
10 amount of scholarships received by a qualified student has exceeded one of these
11 amounts, as applicable, the school tuition organization that had awarded the
12 scholarship that caused the student's total scholarship amount to exceed this amount
13 shall refund the state the difference.

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

19 (f) The Department of Education shall compile a public report which shall
20 be made available no later than March first of each year on the department's website
21 which lists the name of all qualified schools receiving scholarship recipients pursuant
22 to the provisions of this Section, the number of scholarship recipients attending each
23 qualified school, and the results of the state's accountability testing laws for students
24 in public school for scholarship recipients in each grade. The Department of
25 Education shall not include the name or any other identifying information for
26 individual students.

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

1 (b) The Department of Education shall ensure that the public of the state is
 2 aware of the availability of scholarships, with an emphasis on notifying parents of
 3 students in public schools that received a letter grade of "F" or "D", and shall provide
 4 for requirements for school tuition organizations to adequately advertise the
 5 availability of scholarships to the public, all as provided for in rules and regulations
 6 which shall be promulgated by the Department of Education in accordance with the
 7 Administrative Procedure Act.

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

12 Section 2. The provisions of this Act shall become effective beginning on January
 13 1, 2013, and shall be applicable to donations made to a school tuition organization which
 14 provides scholarships to qualified students to attend a qualified school for the 2013-2014
 15 school year and thereafter.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____