

2022 Regular Session

SENATE BILL NO. 203

BY SENATOR HEWITT

FUNDS/FUNDING. Creates an education savings account for certain students reading below grade level. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:236(A) and to enact Chapter 43-C of Title 17 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 17:4037.1 through 4037.8, relative
4 to elementary and secondary education; to create and provide for the administration
5 of a program to provide state funding for the education of students who are below
6 grade level in reading and not enrolled in public school; to provide for
7 responsibilities; to provide definitions; to provide relative to program funds; to
8 provide relative to the eligibility of students, schools, and service providers; to
9 require annual testing of participating students; to require certain annual reports; and
10 to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:236(A) is hereby amended and reenacted and Chapter 43-C of
13 Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:4037.1 through
14 4037.8, is hereby enacted to read as follows:

15 §236. Definition of a school

16 A. For the purposes of this Chapter, a school is defined as an institution for
17 the teaching of children, consisting of an adequate physical plant, whether owned or

1 leased, instructional staff members, and students. For such an institution to be
 2 classified as a school, within the meaning of this Chapter, instructional staff
 3 members shall meet the following requirements: if a public day school or a
 4 nonpublic school which receives local, state, or federal funds or support, directly or
 5 indirectly, they shall be certified in accordance with rules established by the State
 6 Board of Elementary and Secondary Education; if a nonpublic school which receives
 7 no local, state, or federal funds or support, directly or indirectly, they shall meet such
 8 requirements as may be prescribed by the school or the church. In addition, except
 9 as otherwise provided in Subsection B of this Section, any such institution, to be
 10 classified as a school, shall operate a minimum session of not less than one hundred
 11 eighty days. Solely for purposes of compulsory attendance in a nonpublic school, a
 12 child who participates in a home study program approved by the State Board of
 13 Elementary and Secondary Education shall be considered in attendance at a day
 14 school; a home study program shall be approved if it offers a sustained curriculum
 15 of a quality at least equal to that offered by public schools at the same grade level.
 16 **Solely for purposes of compulsory attendance in a nonpublic school, a child**
 17 **shall be considered in attendance at a day school if the child is eligible to**
 18 **participate in the Reading Education Savings Account Program pursuant to**
 19 **R.S. 17:4037.4 and the child's parent has signed an agreement pursuant to R.S.**
 20 **17:4037.4(A)(3).**

21 * * *

22 **CHAPTER 43-C. READING EDUCATION SAVINGS ACCOUNT PROGRAM**

23 **§4037.1. Definitions**

24 **As used in this Chapter, unless otherwise clearly indicated, the following**
 25 **terms have the following meanings:**

26 **(1) "Account" means an education account established pursuant to this**
 27 **Chapter and composed of state funds deposited on behalf of a student eligible**
 28 **to participate in the program.**

29 **(2) "Account funds" means the funds deposited into an account on behalf**

1 of a participating student.

2 (3) "Curriculum" means a complete course of study for a particular
3 content area.

4 (4) "Department" means the state Department of Education.

5 (5) "Parent" means a parent, legal guardian, custodian, or other person
6 or entity with legal authority to act on behalf of a student.

7 (6) "Participating school" means a nonpublic school participating in the
8 program pursuant to the provisions of this Chapter.

9 (7) "Participating student" means a student who is eligible to participate
10 in the program and for whom an account has been established pursuant to this
11 Chapter.

12 (8) "Program" means the program created by this Chapter.

13 (9) "Qualified education expenses" means any of the following:

14 (a) Tuition, fees, and textbooks required by a participating school or
15 service provider.

16 (b) Instructional or tutoring services.

17 (c) Curriculum, including supplemental materials required by the
18 curriculum.

19 (d) Technological devices used to meet the student's educational needs,
20 subject to approval by the department or a licensed physician.

21 (10) "Service provider" means a person or an entity other than a
22 participating school that provides services that are covered as qualified
23 education expenses.

24 (11) "State board" means the State Board of Elementary and Secondary
25 Education.

26 §4037.2. Program creation and administration; powers and duties of the State
27 Board of Elementary and Secondary Education and state
28 Department of Education; rules

29 A. The Reading Education Savings Account Program is hereby created.

1 B. The department shall administer the program, and shall be
2 authorized to withhold up to five percent of funds allocated to each account
3 annually for the purposes of program administration.

4 C. The state board shall adopt rules and regulations for the
5 administration of the program which shall, at minimum, provide for the
6 following:

7 (1) Determination of the eligibility of students, participating schools, and
8 service providers, including standards that schools and service providers shall
9 meet as conditions of participation in the program.

10 (2) Audits of the program and accounts.

11 (3) The authority of the department to:

12 (a) Deem any participating student ineligible for the program and to
13 refer a case involving the misuse of account funds to the attorney general for
14 investigation.

15 (b) Contract with a vendor for the administration of the program or
16 parts of the program.

17 (c) Contract with a vendor to manage the payment system provided for
18 in R.S. 17:4073.3(A)(2).

19 (d) Provide parents or legal guardians of eligible students printed or
20 online resources and materials regarding the importance of reading and how to
21 support their child in learning to read.

22 (4) Enrollment of participating students no later than the 2023-2024
23 school year.

24 §4037.3. Account funds

25 A. The department shall:

26 (1) Allocate to each account annually, from funds appropriated or
27 otherwise made available for the program, an amount equal to the state's
28 average per pupil allocation as provided in the minimum foundation program
29 formula, considering all student characteristics. The amount allocated to an

1 account shall be appropriately prorated if a student transfers into the program
2 after the beginning of a school year.

3 (2) Develop a system for parents to direct account funds to participating
4 schools and service providers by electronic funds transfer, automated clearing
5 house transfer, or another method.

6 B. Account funds shall be used only for qualified education expenses for
7 the participating student.

8 C. Unused funds in an account, up to an amount equal to not greater
9 than fifty percent of the total funds deposited into the account for the current
10 school year, shall be retained in the student's account for the following school
11 year.

12 D. The account shall be closed and the funds in the account shall be
13 returned to the state general fund, if the student is determined to be no longer
14 eligible, if an account has been inactive for two consecutive years, or if a parent
15 fails to comply with the provisions of this Chapter or state board rules
16 pertaining to the program.

17 §4037.4. Student eligibility; initial and continuing

18 A. A student is initially eligible for an account if he is currently enrolled
19 in or completed, during the prior school year, the second or third grade at a
20 Louisiana public school and meets all of the following:

21 (1) He is not reading on grade level, as determined by the results of a
22 literacy assessment provided during the second or third grade pursuant to R.S.
23 17:24.9, and has been tested for a learning disability and the results have been
24 provided to the parent of the student and to the school in which the student is
25 enrolled.

26 (2) The student's parent submits an application for an account to the
27 department in accordance with program timelines.

28 (3)(a) The student's parent signs an agreement promising all of the
29 following:

1 (i) To provide an education for the participating student in at least the
2 subjects of English language arts, mathematics, social studies, and science.

3 (ii) Not to enroll the student in a public school while participating in the
4 program.

5 (iii) To use account funds only for qualified education expenses of the
6 participating student.

7 (iv) To acknowledge receipt of and utilize any and all online resources
8 provided by the department to support their child's progress in reading.

9 (v) To comply with all program requirements.

10 (b) The signed agreement shall satisfy the compulsory school attendance
11 requirements of R.S. 17:221. However, the parent of a participating student
12 shall ensure the student is complying with the attendance requirements of the
13 participating school or service provider. Each participating student who fails
14 to comply with such attendance requirements shall be reported to the state
15 director of child welfare and attendance by the participating school or service
16 provider and shall be subject to the provisions of R.S. 17:233.

17 B. A participating student is eligible to continue to participate in the
18 program until he enrolls in a public school, he receives a high school diploma
19 or its equivalent, or his account is closed.

20 C. A participating student shall not participate concurrently in any
21 education savings account program provided in this Title and the Course
22 Choice Program, the Student Scholarships for Educational Excellence Program,
23 the School Choice Program for Certain Students with Exceptionalities, or the
24 Tuition Donation Credit Program.

25 §4037.5. Schools and service providers; eligibility; participation

26 A. To be eligible to participate in the program, a school shall meet all of
27 the following criteria:

28 (1) Be approved, provisionally approved, or probationally approved by
29 the state board pursuant to R.S. 17:11.

1 (2) Comply with the criteria set forth in *Brumfield, et al. v. Dodd, et al.*,
2 425 F. Supp. 528 (E.D. La. 1977).

3 (3) Satisfy any other eligibility criteria set by the state board in program
4 rules.

5 B. The state board shall provide eligibility criteria for service providers
6 in program rules.

7 C. To be eligible to participate in the program, a school or service
8 provider shall apply to the department to participate in the program and, if
9 determined to be eligible, accept account funds for providing services covered
10 as qualified education expenses.

11 D. If the department finds that a participating school or service provider
12 has failed to maintain continuing eligibility criteria or has demonstrated gross
13 or a persistent lack of academic competence, the department shall restrict the
14 school's ability to serve additional students and may be terminated from the
15 program. Such action shall be reported to the state board within three business
16 days.

17 §4037.6. Student with exceptionalities

18 A. If a participating student enrolled in a participating school would
19 have been entitled to receive special education services in the resident school
20 system, his parent shall acknowledge in writing, as part of the program
21 enrollment process that the parent agrees to accept only such services as are
22 available to all students enrolled in the participating school.

23 B. A parent may make a parental placement to receive special education
24 and related services from a participating school that has demonstrated the
25 capacity to offer such services.

26 C.(1) A participating school shall not discriminate against a child with
27 special educational needs during the program admissions process. However, a
28 participating school is required to offer only those services that it already
29 provides or such services as necessary to assist students with special needs that

1 it can provide with minor adjustments. A participating school may partner with
2 the resident school system to provide special education services.

3 (2) Information regarding the services a participating school provides
4 and the services the resident school system provides to children with special
5 needs who are enrolled in a participating school shall be made available by the
6 department to parents prior to the enrollment process.

7 D. To be determined to have demonstrated capacity to offer special
8 education services, a participating school shall meet all of the following criteria:

9 (1) Have provided educational services to students with exceptionalities
10 as defined in R.S. 17:1942, excluding students deemed to be gifted or talented,
11 for at least two years prior to participation in the program, through an
12 established program at the school that includes instruction by teachers holding
13 appropriate certification in special education or other appropriate education or
14 training as defined by the department and that is in accordance with a student's
15 Individual Education Plan.

16 (2) In accordance with timelines as determined by the department,
17 informs the department of the types of student exceptionalities that the school
18 is able to serve.

19 §4037.7. Testing

20 A. The department shall develop a process for the annual administration
21 of one of the following assessments to participating students:

22 (1) All examinations required pursuant to the school and district
23 accountability system at prescribed grade levels.

24 (2) A nationally norm-referenced test or a statewide assessment.

25 B. The department shall develop a process for the collection and
26 aggregate reporting of results and shall ensure that the results of such
27 assessments are provided to parents of participating students.

28 §4037.8. Reports

29 A. Not later than April thirtieth of each year, the department shall

1 submit a written report to the House Committee on Education, the Senate
 2 Committee on Education, and the Joint Legislative Committee on the Budget
 3 regarding the implementation of the program.

4 **B. The report, at a minimum, shall include the following information:**

5 **(1) The total number of students participating in the program.**

6 **(2) A list of all participating schools and service providers.**

7 **(3) The total student enrollment of each participating school, the number**
 8 **of participating students enrolled in each school, and the percentage of the total**
 9 **enrollment of each school represented by program participants.**

10 **(4) Aggregate test result data for participating students, including the**
 11 **performance in reading as compared to state and national norms provided for**
 12 **the test.**

13 **(5) Percentage of funds used for each type of qualified education expense.**

14 **(6) An analysis of the program's fiscal impact on the state and on local**
 15 **public school systems.**

16 **(7) The results of a parental satisfaction survey.**

17 **(8) The amount withheld by the department for administration of the**
 18 **program, including the amount retained by the department, the amount paid**
 19 **to vendors for the administration of the program and the amount paid to**
 20 **vendors for managing the payment system.**

21 Section 2. This Act shall become effective upon signature by the governor or, if not
 22 signed by the governor, upon expiration of the time for bills to become law without signature
 23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 25 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Cheryl Serrett.

in an approved home study program shall be counted in attendance at a school for the purposes of compulsory attendance laws.

Proposed law retains present law and adds that a child who is eligible for a Reading Education Savings Account Program (RESA) and whose parent has signed an agreement for the RESA shall be considered in attendance at a school for the purposes of compulsory attendance laws. Yet, requires the parent to ensure the student is complying with attendance requirements of the participating school or provider. Further requires the participating school or provider to report any child who fails to comply with the attendance requirements to the state director of child welfare and attendance.

Proposed law creates the Reading Education Savings Account Program. Provides for program administration by the state Dept. of Education (DOE) in accordance with State Board of Elementary and Secondary Education (BESE) rules which provide for:

- (1) Determination of eligibility of students, participating schools, and service providers.
- (2) Audits of the program and accounts.
- (3) DOE's authority to:
 - (a) Deem any participating student ineligible for the program and to refer cases of misuse of account funds to the attorney general for investigation.
 - (b) Contract with a vendor for program administration.
 - (c) Allows DOE to retain five percent of the funds for administrative purposes.

Proposed law requires DOE to:

- (1) Allocate to each account annually, from funds appropriated or otherwise made available for the program, an amount equal to the state's average per pupil allocation as provided in the minimum foundation program (MFP) formula, considering all student characteristics.
- (2) Develop a system for parents to direct account funds to participating schools and service providers.
- (3) Provide parents of eligible students printed or online resources and materials regarding the importance of reading and how to support their child in learning to read.

Proposed law further provides that:

- (1) Account funds shall be used only for qualified education expenses for the participating student.
- (2) Unused funds in an account, up to 50% of the total funds deposited into the account for the current school year, shall remain in the account for the following school year.
- (3) The account shall be closed and the funds in the account shall be returned to the state general fund if a student is no longer eligible, if an account has been inactive for two consecutive years, or if a parent fails to comply with program requirements.

Proposed law provides that a student shall be initially eligible for an account if he is enrolled in a Louisiana public school in the second or third grade, or just completed those grades the prior school year, and meets all of the following criteria:

- (1) Is not reading on grade level, as determined by the results of literacy assessments provided in the second or third grade and has been tested for a learning disability and the results given to his parent.
- (2) Submits a timely application.
- (3) The student's parent signs an agreement promising all of the following:
 - (a) To provide an education for the participating student in at least the subjects of English language arts, math, social studies, and science.
 - (b) Not enroll the student in a public school while participating in the program.
 - (c) To use account funds only for qualified education expenses of the participating student.
 - (d) To comply with all program requirements.
 - (e) To acknowledge receipt of and utilize any and all online resources provided by the department.

Proposed law further provides that a participating student:

- (1) Is eligible until he enrolls in a public school, he receives a high school diploma or its equivalent, or his account is closed.
- (2) Is prohibited from participating concurrently in the RESA program and the Course Choice Program, the Student Scholarships for Educational Excellence Program, the School Choice Program for Certain Students with Exceptionalities, or the Tuition Donation Credit Program.

Proposed law provides that to be eligible to participate, a school shall:

- (1) Be approved, provisionally approved, or probationally approved by BESE.
- (2) Comply with federal nondiscrimination requirements.
- (3) Satisfy any other criteria set by BESE.

Proposed law requires BESE to adopt rules to set eligibility criteria for service providers. Further provides that to be eligible to participate in the program, a school or service provider shall apply to DOE and, if determined to be eligible, accept RESA funds for providing services covered as qualified education expenses. Provides for a school or provider that fails to maintain eligibility criteria or a gross or persistent lack of academic competence to be restricted from serving additional students and may be terminated from the program.

Proposed law requires, if a student would have been entitled to special education services in his resident school system, his parent to acknowledge in writing that he agrees to accept only such services available in the participating school. Proposed law further requires participating schools to meet certain criteria to be eligible to offer such services.

Proposed law provides that a participating school shall not discriminate against a child with special educational needs during the admissions process, but that the participating school is only required to offer services it already provides or services it can provide with minor adjustments. Proposed law further requires DOE to provide information relative to special education services to parents prior to the enrollment process.

Proposed law requires the DOE to develop a process for the annual administration of

assessments to participating students and to provide the results of such examinations to parents.

Proposed law requires DOE, by April 30th annually, to submit a report to the House and Senate education committees and the Joint Legislative Committee on the Budget regarding program implementation.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17: 236(A); adds R.S. 17:4037.1-4037.8)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Provides relative to compulsory attendance of students participating in RESA.
2. Authorizes the LDOE to withhold up to five percent of funds allocated for administrative purposes.
3. Provides for LDOE to provide material and resources to the parent.
4. Provides for date participating students shall begin to be enrolled in the program.
5. Provides for prorated allocation if a student transfers midyear.
6. Provides relative to the method for fund transfer to a provider.
7. Expands eligibility to second grade students not reading at grade level.
8. Provides for action against a school or provider that fails to maintain eligibility or demonstrates gross or persistent lack of academic competence.
9. Adds information to be included in the annual report.