



BY SENATOR HEWITT AND REPRESENTATIVES AMEDEE, BEAULLIEU, CARRIER, DEVILLIER, DUBUISSON, ECHOLS, FREIBERG, GAROFALO, HARRIS, HODGES, MACK, MCKNIGHT, ROMERO, SCHEXNAYDER, STEFANSKI, THOMAS AND THOMPSON

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  
18 leased, instructional staff members, and students. For such an institution to be  
19 classified as a school, within the meaning of this Chapter, instructional staff  
20 members shall meet the following requirements: if a public day school or a  
21 nonpublic school which receives local, state, or federal funds or support, directly or  
22 indirectly, they shall be certified in accordance with rules established by the State  
23 Board of Elementary and Secondary Education; if a nonpublic school which receives  
24 no local, state, or federal funds or support, directly or indirectly, they shall meet such

1 requirements as may be prescribed by the school or the church. In addition, except  
 2 as otherwise provided in Subsection B of this Section, any such institution, to be  
 3 classified as a school, shall operate a minimum session of not less than one hundred  
 4 eighty days. Solely for purposes of compulsory attendance in a nonpublic school, a  
 5 child who participates in a home study program approved by the State Board of  
 6 Elementary and Secondary Education shall be considered in attendance at a day  
 7 school; a home study program shall be approved if it offers a sustained curriculum  
 8 of a quality at least equal to that offered by public schools at the same grade level.  
 9 **Solely for purposes of compulsory attendance in a nonpublic school, a child**  
 10 **shall be considered in attendance at a day school if the child is eligible to**  
 11 **participate in the Reading Education Savings Account Program pursuant to**  
 12 **R.S. 17:4037.4 and the child's parent has signed an agreement pursuant to R.S.**  
 13 **17:4037.4(A)(3).**

14 \* \* \*

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

16 **§4037.1. Definitions**

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

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

22 **(2) "Account funds" means the funds deposited into an account on behalf**  
 23 **of a participating student.**

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

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

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

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

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

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

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

6                   **(a) Tuition, fees, and textbooks required by a participating school or**  
 7                   **service provider.**

8                   **(b) Instructional or tutoring services.**

9                   **(c) Curriculum, including supplemental materials required by the**  
 10                   **curriculum.**

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

13                   **(10) "Service provider" means a person or an entity other than a**  
 14                   **participating school that provides services that are covered as qualified**  
 15                   **education expenses.**

16                   **(11) "State board" means the State Board of Elementary and Secondary**  
 17                   **Education.**

18                   **§4037.2. Program creation and administration; powers and duties of the State**  
 19                   **Board of Elementary and Secondary Education and state**  
 20                   **Department of Education; rules**

21                   **A. The Reading Education Savings Account Program is hereby created.**

22                   **B. The department shall administer the program, and shall be**  
 23                   **authorized to withhold up to five percent of funds allocated to each account**  
 24                   **annually for the purposes of program administration.**

25                   **C. The state board shall adopt rules and regulations for the**  
 26                   **administration of the program that shall, at minimum, provide for the**  
 27                   **following:**

28                   **(1) Determination of the eligibility of students, participating schools, and**  
 29                   **service providers, including standards that schools and service providers shall**  
 30                   **meet as conditions of participation in the program.**

1                   **(2) Audits of the program and accounts.**

2                   **(3) The authority of the department to:**

3                   **(a) Deem any participating student ineligible for the program and to**  
4 **refer a case involving the misuse of account funds to the attorney general for**  
5 **investigation.**

6                   **(b) Contract with a vendor for the administration of the program or**  
7 **parts of the program.**

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

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

13                   **(4) Enrollment of participating students no later than the 2023-2024**  
14 **school year.**

15 **§4037.3. Account funds**

16                   **A. The department shall:**

17                   **(1) Allocate to each account annually, from funds appropriated or**  
18 **otherwise made available for the program, an amount equal to the state's**  
19 **average per pupil allocation as provided in the minimum foundation program**  
20 **formula, considering all student characteristics. The amount allocated to an**  
21 **account shall be appropriately prorated if a student transfers into the program**  
22 **after the beginning of a school year.**

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

26                   **B. Account funds shall be used only for qualified education expenses for**  
27 **the participating student.**

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

1           year.

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

7           §4037.4. Student eligibility; initial and continuing

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

11                   (1) The student is not reading on grade level, as determined by the  
12                   results of a literacy assessment provided during the second or third grade  
13                   pursuant to R.S. 17:24.9.

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

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

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

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

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

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

26                   (v) To comply with all program requirements.

27                   (b) The signed agreement shall satisfy the compulsory school attendance  
28                   requirements of R.S. 17:221. However, the parent of a participating student  
29                   shall ensure the student is complying with the attendance requirements of the  
30                   participating school or service provider. Each participating student who fails

1 to comply with such attendance requirements shall be reported to the state  
2 director of child welfare and attendance by the participating school or service  
3 provider and shall be subject to the provisions of R.S. 17:233.

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

7 C. A participating student shall not participate concurrently in any  
8 education savings account program provided in this Title and the Course  
9 Choice Program, the Student Scholarships for Educational Excellence Program,  
10 the School Choice Program for Certain Students with Exceptionalities, or the  
11 Tuition Donation Credit Program.

12 §4037.5. Schools and service providers; eligibility; participation

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

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

17 (2) Comply with the criteria set forth in *Brumfield, et al. v. Dodd, et al.*,  
18 425 F. Supp. 528 (E.D. La. 1977).

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

21 B. The state board shall provide eligibility criteria for service providers  
22 in program rules.

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

27 D. If the department finds that a participating school or service provider  
28 has failed to maintain continuing eligibility criteria or has demonstrated gross  
29 or a persistent lack of academic competence, the department shall restrict the  
30 school's ability to serve additional students and may be terminated from the

1 program. Such action shall be reported to the state board within three business  
2 days.

3 §4037.6. Student with exceptionalities

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

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

12 C.(1) A participating school shall not discriminate against a child with  
13 special educational needs during the program admissions process. However, a  
14 participating school is required to offer only those services that it already  
15 provides or such services as necessary to assist students with special needs that  
16 it can provide with minor adjustments. A participating school may partner with  
17 the resident school system to provide special education services.

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

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

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

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

4 §4037.7. Testing

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

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

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

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

13 §4037.8. Reports

14                  A. Not later than April thirtieth of each year, the department shall  
15 submit a written report to the House Committee on Education, the Senate  
16 Committee on Education, and the Joint Legislative Committee on the Budget  
17 regarding the implementation of the program.

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

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

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

21                  (3) The total student enrollment of each participating school, the number  
22 of participating students enrolled in each school, and the percentage of the total  
23 enrollment of each school represented by program participants.

24                  (4) Aggregate test result data for participating students, including the  
25 performance in reading as compared to state and national norms provided for  
26 the test.

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

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

30                  (7) The results of a parental satisfaction survey.



1                   (8) The amount withheld by the department for administration of the  
 2                   program, including the amount retained by the department, the amount paid  
 3                   to vendors for the administration of the program, and the amount paid to  
 4                   vendors for managing the payment system.

5                   Section 2. The state Department of Education shall use funds appropriated for the  
 6                   purposes of this Act to design and implement an education savings account program  
 7                   inclusive of all eligible populations contained in any other education savings account bills  
 8                   enacted during the 2022 Regular Session of the Legislature.

9                   Section 3. This Act shall become effective upon signature by the governor or, if not  
 10                  signed by the governor, upon expiration of the time for bills to become law without signature  
 11                  by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 12                  vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 13                  effective on the day following such approval.

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

**VETO MESSAGE**

"Please be advised that I have vetoed Senate Bill 203 of the 2022 Regular Session.

This bill purports to create an "education savings account" for students not reading at grade level. This label itself is a misnomer, as the bill does not establish any accounts for parents to save money for education, but instead would potentially divert Minimum Foundation Program (MFP) funds for students to attend non-public schools. While I do not question the intentions of the author in that she is attempting to provide opportunities for students reading below grade level, I cannot support this bill.

First, and perhaps most importantly, this bill would potentially divert needed funds from public education without any consideration for need or income levels. As passed, this bill would allow the children of wealthy parents to attend private schools subsidized by taxpayer dollars. Further, as drafted, and dependent upon rules yet to be promulgated by the Department of Education, these funds may also be considered to be school expense

deductions that would provide for a significant loss in state tax revenues. Thus, depending on how the rules are drafted, wealthy parents would possibly be allowed to deduct these expenses from their tax liability even though the funds were provided by the taxpayers.

Second, there is no real accountability provided to parents and the public for these non-public schools that will now be subsidized with taxpayer dollars. This has remained an issue with the existing voucher program, which also provides for taxpayer subsidization for non-public schools, some of which are the worst performing schools in the state. If the taxpayers are required to redirect funds to non-public schools, the public should be able to expect accountability and performance from those schools. Further, because students in non-public schools are not required to take the same assessments as students in public schools, there is no true measure that accurately compares school performance between public and non-public schools.

Third, the bill does not clearly provide for the students who may qualify for this program. As an example, the bill provides for a student to be eligible if the student is "not reading on grade level." However, this imprecise definition would technically allow for a student reading above grade level to be eligible. While this may have not been intended, this bill does have this effect.

These are just some of the concerns I have with this bill, so I cannot assure my support if these issues are able to be resolved in another bill next year. I have long been opposed to the diversion of MFP dollars to non-public schools. I believe we should do everything we can as a state to support public education, and this bill does not meet that standard."