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## DIGEST

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HB 9 Reengrossed

2023 Regular Session

Butler

**Abstract:** Creates and provides for the administration of a program for the purpose of providing state funding for qualified education expenses for students with exceptionalities in grades kindergarten through 12 who are not enrolled in a public school.

### **Education Scholarship Account (ESA) Program; Creation and Administration**

Proposed law creates the Education Scholarship Account (ESA) Program and provides for program administration by the state Dept. of Education (DOE) in accordance with State Board of Elementary and Secondary Education (BESE) rules which shall, at minimum, 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 or provider for the administration of the program or parts of the program.
- (4) A requirement that the program begin enrolling students by the beginning of the 2024-2025 school year.

Proposed law provides that an eligible student may participate in the program through in-person education, virtual education, or a hybrid approach that combines both methods.

## **Funds**

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 base per-pupil amount as provided in the minimum foundation program (MFP) formula, plus the special education weight as provided in the MFP times the state's base per pupil amount. Authorizes DOE to withhold up to 5% of funds allocated for each account annually for program administration. Requires that the amount allocated to an account be prorated if a student transfers into the program after the beginning of a school year.
- (2) Develop a system for parents to direct account funds to participating schools and service providers by electronic funds transfer, automated clearing house transfer, or another system.

Proposed law further provides as follows:

- (1) Limits authorized use of funds to qualified education expenses.
- (2) Unused funds in an account 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. Further provides an exception that if the legislature has not appropriated funds for the program for two consecutive years, a participating student's account will not be closed due to inactivity.
- (4) Account funds do not constitute taxable income and shall not be claimed as a credit, deduction, exemption, or rebate.

## **Eligibility; Students**

Proposed law provides that a student shall be initially eligible for an account if he is enrolled in kindergarten or was enrolled in a La. public school during the previous school year and meets all of the following criteria:

- (1) He is a student with an exceptionality as defined in present law – mental disability, hearing loss (including deafness), multiple disabilities, deaf-blindness, speech or language impairment, visual impairment (including blindness), emotional disturbance, orthopedic impairment, other health impairment, specific learning disability, traumatic brain injury, autism, or is deemed to be gifted or talented, and as a result requires special education and related services; a student with an exceptionality may include a student aged three through eight experiencing developmental delay. Proposed law provides that a student who is solely deemed to be gifted and talented is not eligible.

- (2) The student's parent 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 to 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.

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 reaches the age of 21, whichever occurs first; or his account is closed.
- (2) Is prohibited from participating concurrently in the ESA 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.
- (3) Shall be considered in attendance at a day school for purposes of compulsory attendance; proposed law requires parents to ensure students comply with attendance requirements and requires schools and service providers to report students who fail to comply to the state director of child welfare and attendance.

### **Eligibility; Schools and Service Providers**

Proposed law provides that a school shall meet all of the following criteria to be eligible to participate:

- (1) Be approved by BESE.
- (2) Comply with criteria set forth in federal nondiscrimination requirements.
- (3) Any other criteria set by BESE.

Proposed law requires BESE to set eligibility criteria for schools and service providers in a way that maximizes school and provider participation. Provides that to be eligible to participate in the program, both schools and service providers shall apply to DOE and, if determined to be eligible, accept ESA funds for providing services covered as qualified education expenses.

Proposed law provides for sanctions relative to admitting additional students and participation in the

program if a school or service provider fails to meet continuing eligibility requirements.

Proposed law provides that nothing in proposed law shall be deemed to limit the independence or autonomy of any participating school or service provider.

### **Testing**

Proposed law requires:

- (1) DOE to develop a process for the annual administration of either of the following to participating students:
  - (a) Any examination required pursuant to the school and district accountability system at the prescribed grade level.
  - (b) A nationally norm-referenced test or a statewide assessment.
- (2) DOE to develop a process for the collection and aggregate reporting of results and ensure results are provided to parents.

### **Reporting**

Proposed law requires DOE, by April 30th annually, to submit a report to the House and Senate education committees and the Jt. Legislative Committee on the Budget regarding program implementation. Provides for required report content, including the results of a parental satisfaction survey and certain financial information relative to the program.

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

(Amends R.S. 17:236(A); Adds R.S. 17:4037.1-4037.7)

### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Remove household income from the list of student eligibility criteria.
2. Add that nothing in proposed law shall be deemed to limit the independence or autonomy of any participating school or service provider.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Change initial school year start for the program from 2023-2024 to 2024-2025.

2. Add other expenses incurred in the education of the student to the definition of "qualified education expenses".
3. Change the amount that will be deposited into a participating student's account each year.
4. Remove cap on amount of unspent funds that may remain in the account from one school year to the next.
5. Provide that a participating student's account will not be closed due to inactivity if the legislature has failed to appropriate funds for the program for two consecutive years.
6. Provide that a participating student is eligible to participate in the program through in-person education, virtual education, or a hybrid approach that combines in-person and virtual.
7. Make technical changes.