

2024 Regular Session

SENATE BILL NO. 313

BY SENATOR EDMONDS

EDUCATION DEPARTMENT. Relative to Educational Saving Accounts for schools. (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 4037.7, 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 certain students with
6 exceptionalities who are not enrolled in public school; to provide relative to the
7 eligibility of students, schools, and service providers participating in the program;
8 to provide relative to program funds; to provide relative to the testing of students
9 participating in the program; to require the state Department of Education to submit
10 annual reports to the legislature relative to the program; to provide relative to rules;
11 to provide relative to definitions; to provide for an effective date; and to provide for
12 related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 17:236(A) is hereby amended and reenacted and Chapter 43-C of
15 Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:4037.1 through
16 4037.7, is hereby enacted to read as follows:

17 §236. Definition of a school

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

3 **(3) "Department" means the state Department of Education.**

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

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

8 **(6) "Participating student" means a student who has been determined**
9 **to be eligible to participate in the program and for whom an account has been**
10 **established pursuant to this Chapter.**

11 **(7) "Program" means the program created by this Chapter.**

12 **(8) "Qualified education expenses" means any of the following:**

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

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

16 **(c) Supplemental materials required by a course of study for a particular**
17 **content area.**

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

20 **(e) Therapeutic services a student would receive at school if enrolled in**
21 **a public school.**

22 **(f) Any other expenses incurred in the education of the student.**

23 **(9) "Resident school system" means the public school system in which**
24 **the student would be enrolled based on his residence.**

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

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

1 (12) "Student with an exceptionality" has the same meaning as that
2 provided by R.S. 17:1942 except that a student who meets that definition solely
3 because he is gifted or talented is not a student with an exceptionality for
4 purposes of this Chapter.

5 §4037.2. Program creation and administration; powers and duties of the State
6 Board of Elementary and Secondary Education and state
7 Department of Education; rules

8 The Education Scholarship Account Program is hereby created. The
9 department shall administer the program, and the state board shall adopt rules
10 and regulations for the administration of the program which shall, at minimum,
11 provide for the following:

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

15 (2) Audits of the program and accounts.

16 (3) The authority of the department to deem any participating student
17 ineligible for the program and to refer a case involving the misuse of account
18 funds to the attorney general for investigation.

19 (4) The authority of the department to contract with a vendor or
20 provider for the administration of the program or parts of the program.

21 (5) A requirement that the program shall begin enrolling participating
22 students not later than the beginning of the 2025-2026 school year.

23 §4037.3. Account funds

24 A. The department shall annually allocate to each account, from funds
25 appropriated or otherwise made available for the program, an amount equal to
26 the state's base per-pupil amount as provided in the minimum foundation
27 program formula, plus the special education weight as provided in the
28 minimum foundation program times the state's base per-pupil amount. The
29 department may withhold up to five percent of funds allocated for each account

1 annually for program administration. The amount allocated to an account shall
2 be appropriately prorated if a student transfers into the program after the
3 beginning of a school year.

4 B. The department shall develop a system for parents to direct account
5 funds to participating schools and service providers by electronic funds
6 transfer, automated clearing house transfer, or another system. The department
7 may contract with a vendor or provider to manage the payment system.

8 C.(1) Account funds shall be used only for qualified education expenses
9 for the participating student. Unused funds in an account shall be retained in
10 the student's account for the following school year.

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

16 (b) Notwithstanding any provision of Subparagraph (a) of this
17 Paragraph, if a participating student's account has been inactive for two
18 consecutive years and the legislature has failed to appropriate funds for the
19 program for those two years, the account of such participating student shall not
20 be closed because of inactivity.

21 §4037.4. Student eligibility; initial and continuing

22 A. A student is initially eligible for an account if he is enrolled in
23 kindergarten or was enrolled in a Louisiana public school during the previous
24 school year and meets all of the following criteria:

25 (1) He is a student with an exceptionality.

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

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

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

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

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

7 **(d) To comply with all program requirements.**

8 **B.(1) The signed agreement pursuant to Paragraph (A)(3) of this Section**
9 **satisfies the compulsory school attendance requirements of R.S. 17:221.**
10 **However, the parent of a participating student shall ensure the student is**
11 **complying with the attendance requirements of the participating school or**
12 **service provider. Each participating student who fails to comply with such**
13 **attendance requirements shall be reported to the state director of child welfare**
14 **and attendance by the participating school or service provider and shall be**
15 **subject to the provisions of R.S. 17:233.**

16 **(2) A participating student is eligible to continue to participate in the**
17 **program until he enrolls in a public school; he receives a high school diploma**
18 **or its equivalent or reaches the age of twenty-one, whichever occurs first; or his**
19 **account is closed.**

20 **(3) A participating student is eligible to participate in the program**
21 **through in-person education, virtual education, or a hybrid approach that**
22 **combines both methods.**

23 **C. A participating student shall not participate in any of the following**
24 **concurrently with this program: the Course Choice Program, the Student**
25 **Scholarships for Educational Excellence Program, the School Choice Program**
26 **for Certain Students with Exceptionalities, or the Tuition Donation Credit**
27 **Program.**

28 **§4037.5. Schools and service providers; eligibility; participation**

29 **A. To be eligible to participate in the program, a school shall meet all of**

1 the following criteria:

2 (1) It has been approved by the state board pursuant to R.S. 17:11.

3 (2) It is in compliance with the criteria set forth in Brumfield, et al. v.
4 Dodd, et al., 425 F. Supp. 528 (E.D. La. 1977).

5 (3) It meets any other eligibility criteria set by the state board in
6 program rules.

7 B. The state board shall provide eligibility criteria for both schools and
8 service providers in program rules in a way that maximizes school and provider
9 participation.

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

14 D. If the department finds that a participating school or service provider
15 has failed to maintain continuing eligibility criteria or has demonstrated gross
16 or a persistent lack of academic competence, the department shall restrict its
17 ability to serve additional students and may terminate its participation in the
18 program. The department shall report any such action to the state board within
19 three business days.

20 E.(1) Nothing in this Chapter shall be deemed to limit the independence
21 or autonomy of any participating school or service provider or to make the
22 actions of a participating school or service provider the actions of the state
23 government.

24 (2) Participating schools and service providers shall be given maximum
25 freedom to provide for the educational needs of participating students without
26 governmental control.

27 (3) Nothing in this Chapter shall be construed to expand the regulatory
28 authority of the state, its officers, or any school district to impose any additional
29 regulation of participating schools or service providers beyond those necessary

1 to enforce the requirements of the program.

2 (4) A participating school or service provider that accepts funds
3 pursuant to this Chapter is not an agent of the state or federal government.

4 (5) No participating school or service provider shall be required to alter
5 its creed, practices, admissions policy, or curriculum in order to accept account
6 funds.

7 §4037.6. Testing

8 A. The department shall develop a process for the annual administration
9 of either of the following to participating students:

10 (1) Any examination required pursuant to the school and district
11 accountability system at the prescribed grade level.

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

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

16 §4037.7. Reports

17 Not later than April thirtieth of each year, the department shall submit
18 a written report to the House Committee on Education, the Senate Committee
19 on Education, and the Joint Legislative Committee on the Budget regarding the
20 implementation of the program. The report, at a minimum, shall include the
21 following information:

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

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

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

27 (4) Aggregate test result data for participating students.

28 (5) The percentage of funds used for each type of qualified education
29 expense.

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

3 **(7) Results of a parental satisfaction survey.**

4 **(8) The amount withheld by the department for administration of the**
5 **program, including the amount retained by the department, the amount paid**
6 **to vendors for the administration of the program, and the amount paid to**
7 **vendors for managing the payment system.**

8 Section 2. This Act shall become effective upon signature by the governor or, if not
9 signed by the governor, upon expiration of the time for bills to become law without signature
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
12 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 Michael Bell.

DIGEST

SB 313 Original

2024 Regular Session

Edmonds

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 2025-2026 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.

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.

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.

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.

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 the governor or lapse of time for gubernatorial action.

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