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

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

Be it enacted by the Legislature of Louisiana:

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

§236. Definition of a school

A. For the purposes of this Chapter, a school is defined as an institution for the teaching of children, consisting of an adequate physical plant, whether owned or
leased, instructional staff members, and students. For such an institution to be
classified as a school, within the meaning of this Chapter, instructional staff
members shall meet the following requirements: if a public day school or a
nonpublic school which receives local, state, or federal funds or support, directly or
indirectly, they shall be certified in accordance with rules established by the State
Board of Elementary and Secondary Education; if a nonpublic school which receives
no local, state, or federal funds or support, directly or indirectly, they shall meet such
requirements as may be prescribed by the school or the church. In addition, except
as otherwise provided in Subsection B of this Section, any such institution, to be
classified as a school, shall operate a minimum session of not less than one hundred
eighty days. Solely for purposes of compulsory attendance in a nonpublic school, a
child who participates in a home study program approved by the State Board of
Elementary and Secondary Education shall be considered in attendance at a day
school; a home study program shall be approved if it offers a sustained curriculum
of a quality at least equal to that offered by public schools at the same grade level.

Solely for purposes of compulsory attendance in a nonpublic school, a child
shall be considered in attendance at a day school if the child is eligible to
participate in the Reading Education Savings Account Program pursuant to
R.S. 17:4037.4 and the child's parent has signed an agreement pursuant to R.S.
17:4037.4(A)(3).

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CHAPTER 43-C. READING EDUCATION SAVINGS ACCOUNT PROGRAM

§4037.1. Definitions

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

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

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

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

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

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

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

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

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

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

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

(b) Instructional or tutoring services.

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

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

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

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

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

A. The Reading Education Savings Account Program is hereby created.
B. The department shall administer the program, and shall be authorized to withhold up to five percent of funds allocated to each account annually for the purposes of program administration.

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

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

(2) Audits of the program and accounts.

(3) The authority of the department to:

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

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

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

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

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

§4037.3. Account funds

A. The department shall:

(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 formula, considering all student characteristics. The amount allocated to an
account shall be appropriately 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 method.

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

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

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

§4037.4. Student eligibility; initial and continuing

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

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

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

(3)(a) The student's parent signs an agreement promising all of the following:
(i) To provide an education for the participating student in at least the
subjects of English language arts, mathematics, social studies, and science.

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

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

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

(v) To comply with all program requirements.

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

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

C. A participating student shall not participate concurrently in any
education savings account program provided in this Title 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.

§4037.5. Schools and service providers; eligibility; participation

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

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

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

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

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

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

§4037.6. Student with exceptionalities

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

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

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

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

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

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

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

§4037.7. Testing

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

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

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

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

§4037.8. Reports

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

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

1. The total number of students participating in the program.

2. A list of all participating schools and service providers.

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

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

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

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

7. The results of a parental satisfaction survey.

8. The amount withheld by the department for administration of the program, including the amount retained by the department, the amount paid to vendors for the administration of the program, and the amount paid to vendors for managing the payment system.

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

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DIGEST
SB 203 Reengrossed 2022 Regular Session Hewitt

Present law provides for the definition of a school. Further provides that a child participating
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 that 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 an 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.

Senate Floor Amendments to engrossed bill

1. Makes technical changes.