

GREEN SHEET REDIGEST

HB 452

2022 Regular Session

Freiberg

**SCHOOLS/CHOICE: Creates and provides for a program to provide state funding for the education of certain students who have been victims of bullying and are not enrolled in public school.**

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DIGEST

**Bullying**

Present law provides specific protocols for reporting and investigating incidents of bullying in public schools. Grants a parent the option to have a student moved to another school if there have been at least four reports of separate instances of bullying and no investigation has occurred. Proposed law broadens the terms under which parents are granted this option as follows:

- (1) Lowers the threshold from four reports of bullying to two reports of bullying.
- (2) For a student who has been the victim of bullying in which the bullying involves sexual assault and the perpetrator attends the victim's school, lowers the threshold from four reports of bullying to one incident of sexual assault; defines sexual assault as defined in present law (R.S. 46:2184).
- (3) Provides that the lack of an acceptable resolution is a trigger for this option in addition to the lack of an investigation.

Proposed law, under the conditions provided in (1) through (3) above, provides the additional option of applying for an education savings account as provided in proposed law below.

**Education Savings Account (ESA) Program; creation and administration**

Proposed law creates the Education Savings Account (ESA) Program for certain students who have been victims of bullying 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 participating students by the beginning of the 2023-2024 school year.

**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 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 by electronic funds transfer, automated clearing house transfer, or another system.

Proposed law authorizes DOE to withhold up to 5% of funds allocated for each account annually for program administration.

Proposed law further provides as follows:

- (1) Limits authorized use of funds to qualified education expenses.
- (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.

### **Eligibility; students**

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

- (1) The student has been the victim of bullying, at least two separate reports have been made of separate instances of bullying, and either there has been no investigation or no resolution acceptable to the parents has been reached.
- (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 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.

### **Students with exceptionalities**

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 as are available to all students enrolled in the participating school. Requires participating schools to meet certain criteria to be eligible to offer such services.

### **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, provisionally approved, or probationally 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 service providers in a way that maximizes 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.

### **Testing**

Proposed law requires the department to develop a process for the annual administration of either of the following assessments to participating students:

- (1) Any examinations required pursuant to the school and district accountability system at the prescribed grade level.
- (2) A nationally norm-referenced test or statewide assessment.

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

### **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. Specifies content for report, including the results of a parental satisfaction survey.

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

(Amends R.S. 17:236(A) and 416.13(D)(3)(f)(I) and (v); adds R.S. 17:4037.1- 4037.8)

### Summary of Amendments Adopted by House

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

1. Add that an eligible student shall be considered in attendance at a day school for purposes of compulsory attendance.
2. Expand options for bullied students in instances involving sexual assault.
3. Remove requirement that the entity contracted with for program administration be a nonprofit organization.
4. Add that BESE rules shall include a requirement that the program begin enrolling students by the beginning of the 2023-2024 school year.

5. Change funding amount from the state's per-pupil amount allocated to the student's resident school system to the state's average per-pupil allocation.
6. Add that DOE may withhold funds allocated for program administration.
7. Delete use of a debit card from list of examples of funds transfer methods.
8. Relative to eligibility criteria for service providers, requires BESE to set these in a way that maximizes provider participation.
9. Add results of parental satisfaction survey to content required in annual DOE report.

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

1. Remove provision that specifies that funds in the account are not taxable income of the parent.
2. Remove prohibition that account funds not be claimed as a credit, deduction, exemption, or rebate under present law.

The House Floor Amendments to the reengrossed bill:

1. Add definition for "sexual assault" to provisions regarding bullying.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the re-engrossed bill

1. Provides for prorated allocation to an account if a student transfers midyear.
2. Provides relative to compulsory attendance and reporting of children who fail to meet attendance requirements.
3. Provides that children may only participate in one Education Savings Account.
4. 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.