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.

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.
(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.
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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.

(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.

(2) Comply with the criteria set forth in Brumfield, et al. v. Dodd, et al.,

(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
§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, informs 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. The state Department of Education shall use funds appropriated for the
purposes of this Act to design and implement an education savings account program
inclusive of all eligible populations contained in any other education savings account bills
enacted during the 2022 Regular Session of the Legislature.

Section 3. 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.

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."