

2015 Regular Session

SENATE BILL NO. 249

BY SENATOR WARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS. Creates the School Choice Loan Fund. (gov sig)

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AN ACT

To enact Part III of Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:4033, relative to school choice; to create and provide for the School Choice Loan Fund; to provide for qualifications and criteria for eligibility for such loans; to provide for the adoption of rules to govern the issuance, use, and repayment of such loans; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part III of Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:4033, is hereby enacted to read as follows:

**PART III. SCHOOL CHOICE LOAN FUND**

**§4033. School Choice Loan Fund; creation; purpose; eligibility; criteria; rules**

**A. The School Choice Loan Fund, hereafter referred to as the "fund", is hereby created within the state treasury for the purpose of providing a source for funding low-interest loans to assist schools with funding to start a new school or expand an existing school.**

**B. All monies appropriated to the fund and any grants, other donations, or other sources of financial assistance directed to the fund shall be deposited**

1 into the fund. Monies in the fund shall be subject to appropriation by the  
2 legislature and shall be appropriated to the State Board of Elementary and  
3 Secondary Education for allocation by the board as low-interest loans for the  
4 purposes provided in this Section. All unexpended and unencumbered monies  
5 remaining in the fund at the end of each fiscal year shall remain in the fund.  
6 The monies in the fund shall be invested by the state treasurer in accordance  
7 with state law, and interest earned on the investment of these monies shall be  
8 credited to the fund, after compliance with the requirements of Article VII,  
9 Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and  
10 Redemption Fund.

11 C.(1) The State Board of Elementary and Secondary Education shall  
12 administer the use of the monies appropriated from the fund and, with the  
13 guidance of the Louisiana Office of Financial Institutions, shall adopt rules  
14 governing a loan application and approval process in accordance with the  
15 Administrative Procedure Act. The adopted rules shall include, at a minimum,  
16 policies regarding credit, collateral, closing, interest rate, terms, repayment, and  
17 the collection process. The rules shall ensure that unless appropriate collateral  
18 has been secured, any loan funds received may only be used to purchase  
19 equipment or other items which shall become the property of the state if the  
20 loan is not fully repaid. The rules shall provide that the state board shall be  
21 given superior lien status above any other lien or privilege held against the  
22 collateral, or shall provide collateral with no other lien or privilege held against  
23 it, and shall provide that all loans shall have a maximum loan-to-value ratio of  
24 eighty percent. The rules shall provide that a loan applicant shall provide all  
25 financial documentation required by the state board to prove the financial  
26 soundness of the applicant, including cash flow projections, current and future  
27 projected liabilities, and financial statements. The rules shall also provide that  
28 loan funding may only be used for program-related administrative and legal  
29 costs and to purchase tangible items such as equipment, technology,

1 instructional materials, and facility acquisition, construction, renovation, and  
 2 repairs. Such equipment, property, or other items shall become the property of  
 3 the state if the loan is not fully repaid. The state board may reject any request  
 4 for loan funding which does not comply with the terms of this Part.

5 (2) Loans shall not exceed one hundred thousand dollars and shall be  
 6 used only to pay for school start-up or expansion expenses as provided in this  
 7 Part and state board rule. No money loaned as provided in this Part may be  
 8 used to pay prior debts of the organization, corporation, or other legal entity  
 9 which owns, operates, or has any other legal authority over the school, any of  
 10 the natural persons principally involved in the administration or operation of  
 11 the school, or any former or current business or nonprofit venture of any  
 12 natural persons for any purchase not related to the school, or to pay to members  
 13 of the immediate family of any natural persons, or to make any investments.

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

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The original instrument was prepared by Jeanne Johnston. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alan Miller.

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DIGEST

SB 249 Engrossed                      2015 Regular Session                      Ward

Proposed law creates the School Choice Loan Fund as follows:

- (1) Creates the School Choice Loan Fund (fund) to provide low-interest loans to assist qualified schools with funding to start a new school or expand an existing school.
- (2) Requires that all monies appropriated to the fund and any grants, other donations, or other sources of financial assistance directed to the fund be deposited into the fund. Monies in the fund are subject to appropriation by the legislature to the State Board of Elementary and Secondary Education (BESE) for allocation as low-interest loans for the purposes as provided in proposed law. All unexpended and unencumbered monies remain in the fund at the end of each fiscal year. Monies in the fund are to be invested by the state treasurer, and interest earned shall be credited to the fund, after compliance/with constitutional requirements, relative to the Bond Security and Redemption Fund.

- (3) Requires BESE to administer the use of the monies appropriated from the fund and adopt rules governing a loan application and approval process, with guidance from OFI, in accordance with the Administrative Procedure Act. Specifies that the rules adopted include policies regarding credit, collateral, closing, interest rate, terms, repayment, and the collection process. The rules must include the following provisions that:
- (a) Ensure that, unless appropriate collateral has been secured, loan funds may only be used to purchase equipment or other items which shall become the property of the state if the loan is not fully repaid.
  - (b) Require that BESE be given superior lien status above any other lien or privilege held against the collateral, or shall provide collateral with no other lien or privilege held against it, and shall provide that all loans shall have a maximum loan-to-value ratio of 80%.
  - (c) Require that a loan applicant provide all financial documentation required by BESE to prove the financial soundness of the applicant, including cash flow projections, current and future projected liabilities, and financial statements.
  - (c) Require that loan funding only be used for program-related administrative and legal costs and to purchase tangible items such as equipment, technology, instructional materials, and facility acquisition, construction, renovation, and repairs.
  - (d) Require that any equipment, property, or other items purchased with loan funds become the property of the state if the loan is not fully repaid.
- (4) Authorizes BESE to reject any request for loan funding which does not comply with proposed law.
- (5) Provides that loans shall not exceed \$100,000 and shall be used only to pay for school start-up or expansion expenses as provided by proposed law and state board rule.
- (6) Loan funds may not be used to pay prior debts of the organization, corporation or other legal entity which owns, operates, or has any other legal authority over the school, any of the natural persons principally involved in the administration or operation of the school, or any former or current business or nonprofit venture of any such natural persons for any purchase not related to the school, or to pay to members of the immediate family of any such natural persons, or to make any investments.

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

(Adds R.S. 17:4033)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Removes all references to nonpublic schools.
2. Adds requirement that BESE seek guidance from OFI when adopting rules that govern the loan application and approval process.
3. Adds requirement that BESE be given superior lien status against the collateral.

4. Adds requirement that loans have a minimum loan-to-value ratio of 80%.
5. Adds requirement that the loan applicant provide all financial documentation to BESE to prove financial soundness.