Regular Session, 2013

HOUSE BILL NO. 597

BY REPRESENTATIVE SEABAUGH

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

SCHOOLS/CHOICE: Provides for the Student Scholarships for Educational Excellence Program

AN ACT

To amend and reenact R.S. 17:158(A)(1) and Part I of Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:4011 through 4025, relative to school choice; to provide relative to the Student Scholarships for Educational Excellence Program; to provide relative to program eligibility and participation requirements for students and schools; to provide relative to selection and enrollment of eligible students; to provide relative to funding and payments to eligible schools including eligible nonpublic schools; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:158(A)(1) and Part I of Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:4011 through 4025, are hereby amended and reenacted to read as follows:

§158. School buses for transportation of students; employment of bus operators; alternative means of transportation; improvement of school bus turnarounds

A.(1) Except as provided by Subsection H of this Section and in accordance with the requirements of Subsection F of this Section, each city, parish, and other local public school board shall provide free transportation for any student attending a school of suitable grade approved by the State Board of Elementary and Secondary Education within the jurisdictional boundaries of the local board if the student

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resides more than one mile from such school. This requirement shall not apply to any student attending a nonpublic school pursuant to R.S. 17:4011 through 4025.

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PART I. STUDENT SCHOLARSHIPS FOR

EDUCATIONAL EXCELLENCE PROGRAM

§4011. Short title

This Chapter shall be known and may be cited as the "Student Scholarships for Educational Excellence Act".

§4012. Legislative findings

The legislature finds and declares that:

(1) It is in the public interest that all Louisiana schoolchildren receive the best education that its citizens can provide, and the state of Louisiana has the right, responsibility, duty, and obligation to accomplish the objective of quality education for all Louisiana children.

(2) Attendance of children at nonpublic schools constitutes compliance with the objectives of Louisiana's compulsory attendance law; nonpublic schools in Louisiana make a significant educational and economic contribution towards meeting the goal of a quality education for every Louisiana school child; and Louisiana has recognized and encouraged that contribution through providing textbooks and transportation to students attending approved nonpublic schools for many decades.

(3) Effective nonpublic schools exist in Louisiana's school systems.

(4) Nonpublic schools can offer a quality education to students and it is in the public interest to offer students in all systems the means of accessing the educational opportunities offered by nonpublic schools by providing them with scholarships to attend such schools.

(5) Academically acceptable public schools can serve as quality alternatives for students attending low-performing public schools.

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(6) It is the intent of this Chapter to create additional options for all children, including those with special needs or requiring special education services.

(7) Any delay in implementation of this Chapter would work to the detriment of children.

§4013. Definitions

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

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

(2) "Eligible student" means a student who resides in Louisiana, is a member of a family with a total income that does not exceed two hundred fifty percent of the current federal poverty guidelines as established by the federal office of management and budget, and who meets any one of the following criteria:

(a) Is entering kindergarten and has enrolled in the local school system in which the public school he would have otherwise attended is located or in a school under the jurisdiction of the Recovery School District. Each local school system or the Recovery School District shall conduct its annual kindergarten enrollment process and shall report such enrollment to the department prior to the program enrollment process.

(b) Was enrolled in a public school in Louisiana on October first and on February first of the most recent school year pursuant to the definition of student membership established by the state board for purposes of the minimum foundation program formula, and such school received a letter grade of "C", "D", or "F" or any variation thereof, for the most recent year pursuant to the school and district accountability system.

(c) Received a scholarship pursuant to this Chapter in the previous school year.

(3) "Participating school" means a nonpublic school that meets program requirements and seeks to enroll scholarship recipients pursuant to this Chapter or a public school that meets program requirements and seeks to enroll scholarship

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recipients pursuant to this Chapter subject to any court-ordered desegregation plan in effect for the school system in which the public school is located.

(4) "Program" means the Student Scholarships for Educational Excellence Program.

(5) "Scholarship" means the funds awarded to a parent or other legal guardian on behalf of an eligible student to attend a participating public or nonpublic school pursuant to this Chapter.

(6) "Scholarship recipient" means an eligible student who is awarded a scholarship pursuant to this Chapter.

§4014. Student Scholarships for Educational Excellence Program; creation

The Student Scholarships for Educational Excellence Program is hereby created and shall be administered by the department.

§4015. Program administration

In administering the program pursuant to this Chapter, the department shall:

(1) Determine student eligibility for scholarships.

(2) Receive notice of intent from schools seeking to participate in the program which shall include the number of available seats per grade and whether the school elects to offer an enrollment preference to a student based on the parish in which the student resides, and qualify such schools for participation in the program. For eligible public schools, the notice of intent shall be submitted by the principal of the school with the approval of the local superintendent. The local school board shall delegate the authority to participate in the program to the local superintendent.

(3)(a) Accept applications from parents or legal guardians of eligible students and award scholarships to eligible students. Each application shall indicate the parent or legal guardian's choice or choices of participating schools.

(b) In the event there are more eligible students who submit applications than there are available seats at participating schools for any grade, the department shall conduct a random selection process to award scholarships that provides each eligible student an equal opportunity for selection. Only after each student who attended or

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otherwise would be attending a public school that received a letter grade of "D" or "F" or any variation thereof has been placed at a participating school which the parent or legal guardian indicated as a choice on the eligible student's application shall a student who attended a public school that received a letter grade of "C" or any variation thereof be entered into the random selection process. At such time, each student who attended or otherwise would be attending a public school that received a letter grade of "C" or any variation thereof shall be provided an equal opportunity for selection into that particular participating school. However, the department may give preference to the following:

(i) Siblings of students already enrolled in the participating school.

(ii) Students enrolled in the Nonpublic School Early Childhood Development Program at the participating school.

(iii) Participating students transferring from an ineligible school pursuant to this Section.

(iv) Students residing in the parishes as indicated pursuant to the notice of intent, if applicable.

(c) For the purposes of the random selection process, twins, triplets, quadruplets, and other such multiple births shall constitute one individual.

(4) Notify parents or legal guardians of eligible students who applied for scholarships whether they have been awarded a scholarship and placed at a particular participating school. The scholarship recipient shall be placed through the random selection process and according to his indicated preferences as provided in Paragraph (3) of this Section. For the purposes of this Section, a unified enrollment system administered by the Recovery School District may be considered the random selection process. The department shall continue the random selection process until each seat is filled according to the time line established by the department.

(5) Remit scholarship payments to participating schools on behalf of a scholarship recipient.

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(6) Receive independent financial audits from participating nonpublic schools as required by R.S. 17:4022(3).

(7) Annually publish the following information for all schools participating in the program:

(a) The most recent aggregate average proficiency rates on state assessments for scholarship recipients enrolled at each participating school.

(b) A list of all public schools with a letter grade of "C", "D", or "F", or any variation thereof.

(c) The rate at which scholarship recipients finish the highest grade level offered at a participating school, by entering cohort.

(d) The retention rate for scholarship recipients.

(f) The percentage of parents or legal guardians of scholarship recipients who are satisfied with the participating school.

(8)(a) Place any participating school that fails to comply with the audit provisions pursuant to R.S. 17:4022(3) on probation for a period of one year during which such school shall not be permitted to enroll additional scholarship recipients.

(b) If such school is not in full compliance by the end of the one-year probationary period, the school shall be ineligible to participate in the program until such time as the department has determined that the school is in full compliance.

(c) The department shall assist any scholarship recipient attending a school that is ineligible to participate in the program in transferring to another participating school, provided such school has sufficient capacity at the appropriate grade level.

(9) On or before August 1, 2012, develop criteria for participation that includes an accountability system for participating students at participating schools. After August 1, 2012, the accountability system shall not be altered except by an act of the legislature.

§4016. Scholarship amounts; funding

A. The state board shall allocate annually from the minimum foundation program an amount per pupil to each participating school equal to the amount

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allocated per pupil to the local school system in which the scholarship recipient resides, considering all student characteristics. This amount shall be counted toward the equitable allocation of funds appropriated to parish and city school systems as provided in Article VIII, Section 13(B) of the Constitution of Louisiana. For a participating school that charges tuition, if the maximum amount of tuition plus incidental or supplementary fees that are charged to non-scholarship students enrolled in such school and any costs incurred in administering the tests required pursuant to R.S. 17:4023 is less than the amount allocated per pupil to the local school system in which the student resides, any remaining funds shall be returned to the state or to the local school system in which the scholarship recipient attended or otherwise would be attending public school for that year according to the pro rata share for the per pupil amount each year as determined by the minimum foundation program for the local school system in which the scholarship recipient attended or otherwise would be attending public school for that year.

B.(1) If a scholarship recipient enrolled in a participating nonpublic school would have been entitled to receive special education services in the public school he would otherwise be attending, his parent or legal guardian shall acknowledge in writing, as part of the enrollment process that the parent or legal guardian agrees to accept only such services as are available to all students enrolled in the nonpublic school.

(2) The parent or legal guardian may make a parental placement to receive special education and related services from a participating nonpublic school that has demonstrated the capacity to offer such services. In such case, the nonpublic school may charge a higher tuition for students receiving such services, the state board shall allocate annually from the minimum foundation program an amount per pupil to each participating nonpublic school equal to a special education tuition amount based on the cost of providing special education services identified for that student to the participating nonpublic school. This amount shall be in addition to the participating nonpublic school's maximum scholarship payment as described in Subsection A of

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this Section but the total of the payment and the special education tuition shall not exceed the amount allocated for that student to the local school system if the student otherwise would be attending public school.

(3)(a) A participating nonpublic school shall not discriminate against a child with special educational needs during the program admissions process. However, as a nonpublic school, 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 nonpublic school may partner with the local school system to provide special education services.

(b) Information regarding the services a participating school is able to and shall provide, the services the local school system is able to and shall provide, and the services the local school system currently provides to children with special needs who are enrolled in a nonpublic school shall be made available by the department to parents and legal guardians prior to the enrollment process.

(4) To be determined to have demonstrated capacity to offer special education services pursuant to Paragraph (2) of this Subsection, a participating nonpublic school shall meet all of the following criteria:

(a) Has existed and 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 and such provision of services shall be pursuant to an established program in place 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.

(b) In accordance with time lines as determined by the department, inform the department of the types of student exceptionalities as defined in R.S. 17:1942(B) that the school is able to serve.

C. Each scholarship recipient is a member of the local school system in which he attended or otherwise would be attending public school for that school

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year. Prior to the program enrollment process and in accordance with a time line specified by the department for this purpose, students entering kindergarten shall enroll in the membership of the local school system in which they otherwise would be attending public school for that school year. Each local school system shall conduct its annual kindergarten enrollment process in accordance with the department's time line and shall report such enrollment to the department prior to the program enrollment process.

§4017. Payment of scholarships

A. The department shall transfer scholarship payments to each participating school on behalf of the responsible city or parish school district. No locally levied school district tax revenues shall be transferred to any participating school located outside of the school district where the tax is levied or any participating nonpublic school within the district.

B. The amount to be paid for a scholarship shall be divided into four equal payments to be made to each participating school in September, December, February, and May of each school year. Payments shall be based on per pupil count dates as determined by the department. No refunds shall be made to the department or to the parent or legal guardian if the scholarship recipient withdraws from the program or is otherwise not enrolled prior to the next count date. The school in which the scholarship recipient is enrolled on the next count date shall receive the next payment.

§4018. Student eligibility

Scholarship recipients shall remain eligible to receive scholarships in each succeeding year that they remain enrolled in a participating school through grade twelve. Eligibility shall continue if a recipient transfers from one participating school to another participating school.

~~§4019. District eligibility~~

~~A covered district that is eligible for inclusion in the program on June 25, 2008, shall be considered a covered district for the duration of the program.~~

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§4020. School participation; application

A. Participation in this program by a school is voluntary, and nothing in this Chapter shall be construed to authorize any additional regulation of participating schools beyond that specifically authorized by this Chapter.

B. Any school that wishes to participate in the program and enroll scholarship recipients annually shall notify the department of its intent to participate in the program by February first of the previous school year; except that for the 2012-2013 school year, a school that seeks to participate in the program shall notify the department of its intent to participate not later than June 30, 2012. The notice shall specify the number of seats the school will have available for scholarship recipients at each grade level and the maximum amount of tuition attributable to each available seat, as applicable.

§4021. School eligibility

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

(1) Be approved, provisionally approved, or probationally approved by the State Board of Elementary and Secondary Education pursuant to R.S. 17:11.

(2) Comply with the criteria set forth in Brumfield, et al. v. Dodd, et al. 425 F. Supp. 528.

(3) Enrollment of scholarship recipients in a participating school that has been approved, provisionally approved, or probationally approved for less than two years shall not exceed twenty percent of such school's total student enrollment.

B. To be eligible to participate in the program, a public school shall have received a letter grade of "A" or "B", or any variation thereof, for the most recent school year pursuant to the school and district accountability system.

C. Scholarship recipients enrolled in a participating school that fails to meet the eligibility criteria established in this Section may transfer to another participating school for the succeeding school year without loss of eligibility, and such recipients shall be given preference for enrollment at other participating schools.

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§4022. Participating schools; requirements

Each participating school shall:

(1) Use an open admissions process in enrolling scholarship recipients in the program and shall not require any additional eligibility criteria other than those specified in R.S. 17:4013(2).

(2) Within ten business days of the first day of school as determined by the participating school, notify the department of scholarship recipients enrolled.

(3) Submit to the department an independent financial audit of the school conducted by a certified public accountant who has been approved by the legislative auditor. Such audit shall be accompanied by the auditor's statement that the report is free of material misstatements and fairly presents the participating school's maximum tuition or actual cost of educating a student pursuant to R.S. 17:4016. The audit shall be limited in scope to those records necessary for the department to make scholarship payments to the participating school and shall be submitted to the legislative auditor for review and investigation of any irregularities or audit findings. The participating school shall return to the state any funds that the legislative auditor determines were expended in a manner inconsistent with state law or program regulations. The cost of such audit shall be paid by the department from funds appropriated by the legislature to implement the provisions of this Chapter.

(4) Accept the scholarship amounts provided to scholarship recipients as full payment of all educational costs, including incidental or supplementary fees that are charged to all enrolled students including but not limited to meals, field trips, and before- or after-school care.

(5) Allow scholarship recipients to remain enrolled in the school for the duration of the school year at no additional cost to the state or the recipients' parents or legal guardians if the school voluntarily withdraws from the program. However, a scholarship recipient may be expelled from the school according to the school's discipline policy and the school shall report such dismissal to the department within two business days of such dismissal. If funding is not available to continue the

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program, the participating school shall allow a scholarship recipient to remain enrolled in such school, provided such recipient meets the school's requirements for continued enrollment and his parent or legal guardian assumes responsibility for paying the tuition and fees charged to all students enrolled in the school.

(6) Prior to enrollment, inform the parent or legal guardian of a scholarship recipient of any and all rules, policies, and procedures of such school, including but not limited to academic policies, disciplinary rules, and procedures of the school. Enrollment of a scholarship recipient in a participating school constitutes acceptance of any such rules, policies, and procedures of such school.

§4023. Testing

A participating nonpublic school shall ensure that scholarship recipients are administered all examinations required pursuant to the school and district accountability system at the prescribed grade levels and that the results of such examinations are provided to parents or legal guardians.

§4024. Reports

The department annually shall report to the Senate Committee on Education, the House Committee on Education, and the Joint Legislative Committee on the Budget regarding the implementation of the program, including the number of eligible students receiving scholarships, a list of participating schools and the number of scholarship recipients each such school enrolled, and aggregate test result data for the scholarship recipients enrolled in each participating school.

§4025. Rules; severability

A. The State Board of Elementary and Secondary Education shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Chapter.

B. If any provision of this Chapter or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this Chapter are hereby declared severable.

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C. The severability provision hereof shall be broadly construed so as to give effect to each and every possible provision or application of this Chapter which is not specifically held invalid, unlawful, or unconstitutional.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Seabaugh HB No. 597

Abstract: Provides for the Student Scholarships for Educational Excellence (vouchers) Program.

Present law provides for the Student Scholarships for Educational Excellence Program. Provides that eligible students are those residing in La. from families with a total income not exceeding 250% of the current federal poverty guidelines and who are entering kindergarten, were enrolled in a La. public school that had a letter grade of C, D, or F, or received a scholarship the previous school year. Provides that eligible participating schools are public and nonpublic schools throughout La. that meet program requirements.

Provides that the state Dept. of Education will conduct the random selection process and authorizes enrollment preferences to students enrolled in the Nonpublic School Early Childhood Development Program at the participating school, students transferring from an ineligible school, and students residing in parishes as may be specified by eligible participating schools. Provides that after students from "D" and "F" public schools are placed in participating schools, students from "C" schools shall be entered into the random selection process. Requires parents to indicate their choices of participating schools and requires that scholarship recipients be placed according to the indicated preferences. Provides that a participating nonpublic school has to have been approved for more than two years in order to admit scholarship recipients as more than 20% of total enrollment.

Requires minimum foundation program (MFP) funds be allocated to each participating school in an amount equal to the per-pupil amount allocated to the local school system where the participating student resides. Provides that the amount be counted toward the equitable allocation of funds appropriated to local school systems as provided in present constitution (Art. 8, §13). For participating schools that charge tuition, requires that under certain circumstances, any remaining funds be returned to the state or to the local public school system according to the pro rata share for the annual per-pupil amount as determined by the MFP. Provides that scholarship recipients be considered public school students for MFP funding purposes.

Permits parents of special education students receiving scholarships to make a parental placement to receive special education services from a nonpublic school that has demonstrated capacity to offer the services. Allows participating nonpublic schools to charge higher tuition for special education students. Requires MFP funds be allocated to each participating school in a per-pupil amount equal to a special education tuition amount which is in addition to the nonpublic school's maximum scholarship payment. Prohibits the total of the payment and the special education tuition from exceeding the amount allocated for that student to the local school system.

Requires the department to develop an accountability system for participating students at participating schools and prohibits any change to such system except by an Act of the legislature. Further requires the department to annually publish certain student test result

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data, a list of public schools with certain letter grades, cohort graduation rates, retention rates, and parental satisfaction rates for participating schools as applicable. Provides that local school boards shall delegate authority to participate in the program to the local superintendent. Requires participating nonpublic schools to provide parents with the results of the state examinations required to be administered to scholarship recipients. Exempts scholarship recipients attending participating nonpublic schools from present law that requires local school boards to provide free transportation to students who reside more than one mile from school.

Permits scholarship recipients to remain eligible to receive scholarships in each succeeding year that they remain enrolled in a participating school through grade 12. Allows for enrollment preferences to siblings of scholarship recipients. Requires participating nonpublic schools to ensure that scholarship recipients are administered all examinations required pursuant to the state's school and district accountability program. Provides for administration of the program by the state Dept. of Education in accordance with rules and regulations adopted by the State Board of Elementary and Secondary Education (BESE). Requires the department annually to report to the House and Senate education committees and the Joint Legislative Committee on the Budget on the implementation of the program including specified information.

Proposed law retains present law.

(Amends R.S. 17:158(A)(1) and 4011 - 4025)

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