ENROLLED

2019 Regular Session

HOUSE BILL NO. 393

BY REPRESENTATIVES LEGER, BAGNERIS, GARY CARTER, COX, FRANKLIN, JIMMY HARRIS, JACKSON, MOORE, NORTON, PIERRE, SMITH, AND WHITE AND SENATOR CARTER

AN ACT

To amend and reenact R.S. 17:100.11 and to enact R.S. 17:100.12 and 3995(A)(1)(b)(iv), relative to school facilities and needs in certain school districts; to provide relative to funds dedicated to providing, preserving, and improving school facilities; to provide for the systemwide needs program and for the purposes, funding, and operation of such program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:100.11 is hereby amended and reenacted and R.S. 17:100.12 and 3995(A)(1)(b)(iv) are hereby enacted to read as follows:

§100.11. School facilities preservation; certain districts

A.(1) There is hereby established for each school district as defined in Subsection H of this Section a school facilities preservation program. The program shall be funded, structured, and operated as provided in this Section and policies adopted by the school board in accordance with this Section.

(2) Proceeds of the following taxes, hereafter referred to in this Section as "facility funds", shall be used to fund the school facilities preservation program:

(a) The proceeds of local sales taxes at a rate equivalent to the rate being used as of July 1, 2014, by the school board to pay school facility debt of thirteen-
hundredths percent. However, from these proceeds the school board shall fulfill the
obligation required by R.S. 17:3995(A)(1)(c) and shall continue to make payments
for school facility debt that existed on July 1, 2014, until the debt is fully paid. Upon
payment of such debt, all of the proceeds of the local sales tax dedicated by this
Subparagraph, except for the portion used to fulfill the obligation required by R.S.
17:3995(A)(1)(c), shall be used for purposes of this Section.

(b) The proceeds from property taxes dedicated to capital outlay and
authorized by voters after July 1, 2014, to support the purposes of this Section.

(3) The proceeds of property taxes dedicated by voters for payment of bonds
held by the school board and in existence as of July 1, 2014, shall not be considered
and not otherwise administered as facility funds under the provisions of this Section.
Additionally, the school board shall not refinance bonds that are outstanding on
July 1, 2014, nor shall it take any action that would delay the retirement of such
bonds. It is the intention of this Paragraph that such bonds be paid in full no later
than the dates specified by the payment schedule in existence on July 1, 2014.

B. Each year, the school board shall transfer to the Recovery School District
a proportion of facility funds equal to the proportion of students attending school on
campuses that are in the school district and that are controlled by the Recovery
School District to the total number of students attending school on campuses that are
in the school district and that are controlled by either the school board or the
Recovery School District, based on the February first total student enrollment counts.
The amounts, by source, of facility funds, revolving loan fund funds, capital
improvement fund funds, the amount retained by the school board, the amount
transferred to the Recovery School District, and the per campus student counts used
in calculations pursuant to this Subsection shall be included as a schedule to the
annual financial statements of the school board, audited by its certified public
accountant, and submitted to the state Department of Education, all in a manner
substantially similar to that provided in R.S. 17:1990(C)(2)(a)(iii)(dd).
C.(1) The operator of each school in the school district shall maintain a
school facility repair and replacement account for each campus; such accounts are
referred to in this Section as "school facility accounts".

(2)(a) Beginning with the year following the retirement of all bonds
referenced in Paragraph (A)(3) of this Section, the school board shall annually
deposit into each school facility account amounts as follows:
(i) Eight hundred dollars per student for a school that is in a facility that was
constructed prior to September 1, 2005, and that has not received a renovation
exceeding half the value of the facility's replacement cost since that date.
(ii) Five hundred dollars per student for a school that does not meet the
criteria established in Item (i) of this Subparagraph.
(b) If facility funds are not sufficient to deposit the amounts required by
Subparagraph (a) of this Paragraph, the school board shall deposit available funds
in school facility accounts in accordance with its policy.

(3) Except as provided in Paragraph (7) of this Subsection, the school facility
accounts shall be segregated, and funds therein shall not be commingled with other
school funds. Funds in such an account shall be used only for the benefit of the
campus for which it was established. The school board shall adopt investment
policies governing school facility accounts. The provisions of R.S. 33:2955 and R.S.
49:321 are applicable to such accounts. Investment and interest earnings generated
on funds in a school facility account shall be credited to the account and shall not be
transferred to another account or used for purposes other than those allowable for
funds in the school facility account. A school facility account shall be audited
annually in accordance with monitoring policies developed by the school board,
which shall include verification that the proper amounts were deposited into the
school facility account and invested and used according to law and policy.

(4) The funds in the school facility account may be used only for the costs
of capital repairs, improvements, and replacement, including debt service and other
financing costs associated therewith. All expenditures shall be in accordance with
law and policies developed by the school board. The school board shall develop
policies defining an emergency and the protocol a school must follow in expending funds in the school facility account for emergency repairs. Expenditures for planned capital repairs, improvements, and replacements and finance costs associated with such expenditures shall be approved in advance by the charter school's board if the school is a charter school and the school board. Expenditures for planned capital repairs and replacements shall reflect the appropriate priorities as reflected in the school's long-term capital plan developed pursuant to Paragraph (5) of this Subsection.

(5) Prior to the retirement of all bonds referenced in Paragraph (A)(3) of this Section, the school facilities office, as provided for in Paragraph (D)(1) of this Section, shall develop for each campus, in consultation with the operator of the school, a long-term capital plan that meets the minimum requirements established by the school board. After the retirement of such bonds, the operator of the school is responsible for updating such plans, subject to requirements developed by the school board and the approval of the school facilities office. Such plans shall include but need not be limited to identifying key building components and when they will likely need to be repaired or replaced and the estimated cost of doing so.

(6) A school shall comply with all applicable school board policies regarding projects funded through its school facility account including but not limited to disadvantaged business enterprises policies.

(7) A charter operator may make a loan to a school facility account in accordance with school board policy and subject to school board approval. The loan shall be made only from excess fund balances or other funds not designated for instructional purposes from the school holding the school facility account or another school under the same operator. All such loans shall be interest-free. If the school tenant of a campus with an outstanding loan to the school facility account changes, the new school tenant must pay back the loan under the same terms as the prior tenant. If a school is lending money to the school facility account, the loan may be repaid with funds from the school facility account, just as if the school had borrowed money from the revolving loan fund, as provided for in Subsection F of this Section.
The school board shall develop policies to address repayment of the loan in the event the campus is no longer occupied by a school.

(8) If a school does not follow the legal and policy requirements for the school facility account, the school board may suspend or terminate a school's authority to use and control the funds in the school facility account. Prior to any such action, the school board shall give formal notice to the school and provide an opportunity for it to remedy the deficiency, all in accordance with policies governing such procedures.

(9) Funds in a school facility account are the property of the school board. A school facility account is campus-specific and remains with the campus should the school tenant of the campus change or should the school tenant no longer occupy the campus. However, if a campus is no longer to be used as a school, funds in the school facility account for that campus shall be used or redistributed in accordance with school board policies, which shall ensure that such funds are used for the benefit of campuses in the school district.

C.(1) D.(1) The school board and the Recovery School District shall each create a facilities office. From annual facility funds each receives, it shall use fifteen twenty dollars per pupil attending school at a campus it controls in the school district or whatever lesser amount is available after payments pursuant to Subsection C of this Section to fund the facilities office. The school board and the Recovery School District may adjust this per pupil amount on an annual basis by the lesser of the most recent annual increase in the Consumer Price Index published by the United States Department of Labor or in the minimum foundation program funds.

(2) To the extent that facility funds are available pursuant to Paragraph (1) of this Subsection, the facilities office shall perform the following functions:

(a) Inspect and monitor facilities to ensure that they are being maintained and that each campus is in compliance with maintenance and inspection requirements. If a school is not properly maintaining its campus as required in the lease agreement, the remedies available to the school board or Recovery School District as applicable are to may suspend or terminate use of the school facility
account funds as provided in Paragraph (F)(10) (C)(8) of this Section or to perform
necessary maintenance, repair, or replacement work and charge the school the costs
of such work plus a service fee. Prior to performing any such work, the school board
or Recovery School District shall give formal notice to the school and provide an
opportunity for it to remedy the deficiency, all in accordance with policies governing
such procedures.

(b) Manage building leases, handle emergency repairs, and administer the
revolving facility loan fund and prior to the retirement of the bonds referenced in
Paragraph (A)(3) of this Section, ensure the management of the revolving loan fund
and capital improvement fund, oversee and ensure the proper management of school
facility repair and replacement accounts, all as provided for by this Section, and
develop or approve long-term capital plans as provided for in Paragraph (C)(5) of
this Section.

(3) The facilities office may provide additional facility services to charter
schools, including emergency and capital repairs or replacements; made after the
retirement of the bonds referenced in Paragraph (A)(3) of this Section, procurement
services, and technical assistance, and charge fees for such services pursuant to a
written agreement with the school.

D: E.(1) Until all bonds referenced in Paragraph (A)(3) of this Section are
retired, the school board and the Recovery School District shall use facility funds
remaining after the allocation provided for in Subsection E D of this Section for
emergency repairs and replacements in accordance with policies each it adopts for
such purpose and for development of capital plans by the school facilities office as
provided for in Paragraph (C)(5) of this Section. No more than one million five
hundred thousand dollars of these funds shall be used to fund the development of
such capital plans.

(2) In the school year following the retirement of such bonds; and each year
thereafter, the school board and the Recovery School District shall transfer unused
funds received pursuant to this Subsection remaining facility funds to its respective
the revolving loan fund, as is provided for in Subsection E F of this Section, and to
the capital improvement fund as is provided for in Subsection G of this Section. In
the first year following retirement of the bonds, fifty million dollars or whatever
lesser amount of facility funds remains shall be deposited into the revolving loan
fund. If funds remain after this deposit of fifty million dollars, the school board shall
determine the distribution of any remaining funds to the revolving loan fund and the
capital improvement fund. In each subsequent year, the school board shall transfer
remaining facility funds according to the following allocation schedule:

(a) If less than a total of fifty million dollars has been transferred to the
revolving loan fund since its creation, all available funds shall be transferred into the
revolving loan fund until the total contributions to the revolving loan fund since its
creation equals fifty million dollars.

(b) If more than fifty million dollars but less than seventy-five million
dollars has been transferred to the revolving loan fund since its creation, then half of
all available funds shall be transferred into the revolving loan fund and half of all
available funds shall be transferred into the capital improvement fund.

(c) If more than seventy-five million dollars has been transferred to the
revolving loan fund since its creation, twenty-five percent of all available funds shall
be transferred into the revolving loan fund and seventy-five percent of such funds
shall be transferred into the capital improvement fund.

E.(1) F.(1) The school board and the Recovery School District shall each
establish a revolving loan fund and make loans from the fund to schools that are in
campuses controlled by each respectively and that are in the school district to finance
emergency or planned capital repairs and replacements, all in accordance with this
Subsection.

(2) Beginning with the year following the retirement of bonds referenced in
Paragraph (A)(3) of this Section and continuing for twenty years, the school board
and the Recovery School District shall annually deposit facility funds available, after
funds are allocated to the facilities office as provided in Subsection C of this Section
and in the amount established by this Paragraph or whatever lesser amount is
available, into its respective revolving loan fund. The annual amount to be deposited
by the school board or the Recovery School District shall be the sum of all per


campus contributions. A per campus contribution shall be one hundred fifty dollars

per student attending school at that campus or seventeen percent of the per-campus

share of facility funds, whichever is greater, if the school is in a facility that was

constructed prior to September 1, 2005, and that has not received a renovation

exceeding half the value of the facility’s replacement cost since that date, or three

hundred dollars per student attending school at that campus or thirty-five percent of

the per-campus share of facility funds, whichever is greater, for all other schools.

The “replacement cost” of a facility that was constructed prior to September 1, 2005,

means the replacement cost of the facility as of July 1, 2014:

(3) The school board and the Recovery School District shall each establish

policies governing the following: eligible repairs and replacements, how schools are

to handle emergency repairs, approval of loan applications, maintenance of a

minimum balance in the loan fund, priorities for granting loans, and any other aspect

of administering the loan fund and loans made from it.

(4) (3) A school shall be eligible for a loan only if the balance in its school

facility account is below seventy-five thousand dollars. However, if a school will

use funds from the school facility account to fund a portion of a repair or

replacement project, it may receive a loan for that project if its budgeted

expenditures for the project will result in a balance in its school facility account

below seventy-five thousand dollars.

(5) (4) A loan application from a charter school shall be approved by the

charter school’s board prior to submission to the school board or the Recovery

School District, whichever entity controls the campus, for approval.

(6) (5) Loans shall be interest-free; however, the school board and the

Recovery School District may charge a loan origination fee not exceeding five

percent of the value of the loan or thirty thousand dollars per loan, whichever is less.

(7) (6) Schools shall repay loans in accordance with the terms of the loan

agreement from funds to be deposited to its school facility account, as provided for

in Subsection F C of this Section.
(§) (7) No school may use proceeds of a loan for operating expenses, maintenance, or insurance costs.

(§) (8) If a school vacates a campus for which a loan is outstanding and another school becomes the tenant in that campus, the new school shall assume the debt. The school board shall develop policies to address repayment of a loan in the event the campus is no longer occupied by a school.

F.(1) The operator of each school in the school district shall establish and maintain a school facility repair and replacement account for each campus; such accounts are referred to in this Section as "school facility accounts".

(2) Beginning with the year following the retirement of all bonds referenced in Paragraph (A)(3) of this Section, the school board and the Recovery School District shall annually deposit into each school facility account the per-campus share of facility funds less any portion of such funds deposited, in accordance with Subsection E of this Section, into the revolving loan fund.

(3) Except as provided in Paragraph (9) of this Subsection, the school facility accounts shall be segregated, and funds therein shall not be commingled with other school funds. Funds in such an account shall be used only for the benefit of the campus for which it was established. The school board and Recovery School District shall each adopt investment policies governing school facility accounts. The provisions of R.S. 33:2955 and R.S. 49:321 are applicable to such accounts. Investment and interest earnings generated on funds in a school facility account shall be credited to the account and shall not be transferred to another account or used for purposes other than those allowable for funds in the school facility account. A school facility account shall be audited annually in accordance with monitoring policies developed by the school board and the Recovery School District, which shall include verification that the proper amounts were deposited into the school facility account and invested and used according to law and policy.

(4) The funds in the school facility account may be used only for emergency or planned capital repairs and replacements as outlined in law and in policies developed by the school board and the Recovery School District.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(5) Each school shall develop, for each campus, a long-term capital plan that meets minimum requirements established by the school board or Recovery School District as applicable. Such plans shall include but need not be limited to identifying key building components and when they will likely need to be repaired or replaced and the estimated cost of doing so.

(6) Nonemergency expenditures from the school facility account shall be approved in advance by the charter school’s board if the school is a charter school, and the school board or Recovery School District, as applicable, and shall reflect the appropriate priorities as reflected in the school’s long-term capital plan developed pursuant to Paragraph (5) of this Subsection.

(7) The school board and the Recovery School District shall each develop policies defining an emergency and the protocol a school must follow in expending funds in the school facility account for emergency repairs.

(8) A school shall comply with all applicable school board or Recovery School District policies regarding projects funded through its school facility account including but not limited to disadvantaged business enterprises policies.

(9) A charter operator may make a loan to a school facility account. The loan shall be made only from excess fund balances or other funds not designated for instructional purposes from the school holding the school facility account or another school under the same operator. All such loans shall be interest-free. If the school tenant of a campus with an outstanding loan to the school facility account changes, the new school tenant must pay back the loan under the same terms as the prior tenant. If a school is lending money to the school facility account, the loan can be repaid with funds from the school facility account, just as if the school had borrowed money from the revolving loan fund, as provided for in Subsection E of this Section.

(10) If a school does not follow the legal and policy requirements for the school facility account, the remedy available to the school board or Recovery School District as applicable is to suspend or terminate a school’s authority to use and control the funds in the school facility account. Prior to any such action, the school board or Recovery School District shall give formal notice to the school and provide...
an opportunity for it to remedy the deficiency, all in accordance with policies
governing such procedures.

(11) Funds in a school facility account are the property of the school board
or the Recovery School District, whichever entity controls the campus. A school
facility account is campus-specific and remains with the campus should the school
tenant of the campus change or should the school tenant no longer occupy the
campus.

G.(1) The school board shall establish a capital improvement fund and make
grants from the fund to schools that are in campuses in the school district to finance
preservation, improvements, capital repairs, construction, and replacement of
facilities that were constructed prior to September 1, 2005, and that have not
received a renovation exceeding half the value of the facility's replacement cost since
that date, all in accordance with this Subsection.

(2) The school board shall adopt policies governing the administration of the
fund, including the expenditure of money in the capital improvement fund, criteria
for determining when grants are made from the fund, and regular reports to the
school board on fund activity.

(3) The school board shall establish policies defining the maximum grant for
a single project.

H.(1) Neither the school board nor the Recovery School District shall
not charge rent or any other fee to a charter school in the school district for the
occupancy, use, or repair of a campus it controls other than as authorized by this
Section. The Recovery School District or the school board may, however, require
a charter school to pay for maintenance, insurance, utilities, and other costs related
to the operation and upkeep of a campus, as outlined in the lease agreement for
occupancy of the campus. Except as provided in this Paragraph, this Section does
not authorize a school board or the Recovery School District to require a charter
school to expend funds on emergency or planned capital repairs or replacements in
excess of funds available for such purposes pursuant to this Section.
(2) The school board and the Recovery School District shall annually prepare and issue a public report that includes all of the following: the amount of funds in its respective revolving facility loan fund and all loans made therefrom, the amount of funds in the capital improvement fund and all grants made therefrom, the amount of facility funds distributed to each campus by the Recovery School District or the school board, the amount allocated to fund the respective facility office of each, and the cost and type of each emergency repair made by the facilities office if applicable. The Recovery School District shall submit its report to the State Board of Elementary and Secondary Education.

(3) This Section shall not be construed as a limitation on any authority or responsibility of a school board to seek or to expend funds on facility repairs, replacements, and improvements as otherwise provided by law including but not limited to the provisions of R.S. 17:59, 17:81, and 17:98.

For purposes of this Section, the following terms shall have the meaning ascribed:

(1) "Campus" means a school building owned by the school board and controlled by either the school board or the Recovery School District and all facilities otherwise part of the school, recognized as part of the facilities, and typically available to the school, its students, faculty, and staff. A single campus may include more than one neighboring school building. Generally, a single campus includes all facilities sharing a single legal address. In some cases, more than one school may occupy a single campus, and in other cases, a single school may occupy more than one campus.

(2) "Per campus share of facility funds" means an amount calculated annually by dividing the annual amount of facility funds of the school board or Recovery School District, less amounts allocated to the respective facilities office, by the total number of students attending school on campuses controlled by the school board or the Recovery School District as applicable multiplied by the number of students attending school at the particular campus as of the most recent February first total student enrollment counts.
"School" means any public school with a unique site code assigned by the department.

"School board" means the elected school board that governs schools in a school district.

"School district" means all schools within the geographic jurisdiction of a local school board within which schools have been transferred to the Recovery School District pursuant to R.S. 17:10.7.

Prior to July 1, 2017, the provisions of this Section shall be implemented in accordance with a plan or agreement between the school board and the Recovery School District.

Beginning on July 1, 2017, the provisions of this Section shall be implemented in accordance with the plan approved pursuant to R.S. 17:10.7.1.

§100.12. Systemwide needs program

A. There is hereby established for each school district as defined in R.S. 17:100.11(I) a systemwide needs program. The program shall be funded, structured, and operated as provided in this Section and polices adopted by the school board.

The purpose of the program is to direct initiatives that will result in districtwide improvements in areas that can be more efficiently and effectively addressed at the system level than at the school level.

B. The school district shall create a special fund for the purpose of dedicating money to the program. The district shall annually deposit into the fund one hundred twenty dollars per student in the district less the district's expenditures that year for costs identified in RS 17:1990(C)(2)(a)(iii)(aa)(I) through (IV).

C. The superintendent shall:

1. Develop and propose plans for improvement in particular areas of focus. The superintendent shall propose an improvement plan to use the systemwide needs fund to support one or more areas of focus for no less than three years and shall propose new areas of focus and improvement plans for school board approval not more frequently than once every three years. The superintendent shall develop such
plans and proposed areas of focus in collaboration with school leaders in the school
district as more specifically provided by school board policy.

(2) Include related performance objectives and a proposed level of funding
in any plan for improvement in an area of focus.

(3) Submit such plans to the school board for approval; such approval
requires a majority vote of the entire membership of the board. The superintendent
shall demonstrate, to the satisfaction of the school board, that an area of focus will
impact at least fifty percent of the public school students or fifty percent of the public
schools over the course of the funding cycle for the area of focus.

(4) Consider how the expenditures from the fund could be coordinated with
other funds in order to increase the effectiveness of the program.

(5) Annually report to the school board on the performance objectives and
the expenditure of funds for the program.

D. The school board may approve a plan and proposed areas of focus and
appropriate expenditures from the fund therefor.

E. (1) The superintendent shall implement an approved plan by awarding
funds through a competitive process according to policies developed by the school
board. Funds may be expended directly by the district but shall not be used to pay,
directly or indirectly, for school district or school board personnel, staff, or operating
expenditures. Funds awarded to schools may be used only for the following
purposes:

   (a) Procuring materials, services, or other supports from district-approved
organizations or vendors.

   (b) Providing services for students systemwide that is aligned with one or
more board-approved areas of focus.

(2) An applicant for funds shall demonstrate how the proposed good or
service will contribute to the achievement of the goals and objectives of the approved
plan.
(3) An applicant for funds shall demonstrate that at least twenty-five percent of the funds it will expend to achieve its proposal are from sources other than this program.

(4) Funding applications shall be approved according to school board policy. No expenditure shall be made from the fund except as provided in this Subsection. No expenditure of funds shall be made in excess of the amount approved by the school board for a particular area of focus.

§3995. Charter school funding

A.(1) For the purpose of funding, a Type 1, Type 3, Type 3B not acting as its own local education agency, and Type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement. Type 2 charter schools and a Type 3B charter school acting as its own local education agency shall receive a per pupil amount each year authorized by the state board each year as provided in the approved minimum foundation program formula. The per pupil amount provided to a Type 1, 2, 3, 3B, or 4 charter school shall be computed annually and shall be equal to the per pupil amount provided through the minimum foundation program formula, determined by the allocation weights in the formula based upon student characteristics or needs, received by the school district in which the student resides from the following sources based on the district's membership count used in the minimum foundation program formula:

* * *

(b)

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(iv) For the purposes of this Subparagraph, local revenues of a school board also shall exclude the amount deposited into the fund created by R.S. 17:100.12(B).

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

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