2022 Regular Session

HOUSE BILL NO. 133

BY REPRESENTATIVE HARRIS

LEGISLATION: Provides for technical corrections and revision of provisions of Title 17 of the Louisiana Revised Statutes

AN ACT

To amend and reenact R.S. 17:7(2)(d) and (f)(ii), (6)(a)(ii) and (b)(ii)(bb) and (ii), and (8), 7.2(C), 7.5(A), 10.7.1(E)(1) and (H)(4)(b), 24.1(B) and (D)(1), 24.9(B)(8), 25.1(A)(1) and (2), (B)(1) and (2), (C), and (E)(1), 64(A)(3), 105.1(D), 151.3(C)(3), 203(introductory paragraph), 221(A)(1)(b) and (B)(1)(b), 222(C)(1), 372(introductory paragraph), 391.2(introductory paragraph), 392.1(C)(3), 395(A), 396(introductory paragraph) and (1), 407.1(introductory paragraph), 407.33, 407.62(introductory paragraph), 407.82(introductory paragraph), 407.91(introductory paragraph), 409.2(introductory paragraph), 416(A)(1)(c)(iii)(ll), 419.2(D), 434(A), 441(introductory paragraph), 540(introductory paragraph), 1233(introductory paragraph), 1519.1(introductory paragraph), 1672, 1673, 1942, 1943(A) and (C), 1944(D), 1945.2(B), 1946(A), 1947(C), 1962(introductory paragraph) and (1), 1970.2(introductory paragraph), 1970.22(introductory paragraph), 1970.24(B)(1), 1972(introductory paragraph), 1982(introductory paragraph), 1987(C), 1989.2(introductory paragraph), 1990(B)(1)(b) and (C)(1)(a) and (2)(a)(i)(introductory paragraph) and (ii), 1991(A)(introductory paragraph), 2803(introductory paragraph) and (1), 2925(A)(6), 2942, 2990.2, 3002, 3005(G), 3047.6(A)(1)(c), 3047.7(C), 3050.11(C)(1)(b) and (e), 3052, 3082(introductory paragraph), 3092(introductory paragraph), 3100.2(introductory paragraph), 3102(introductory paragraph), 3129.9(A)(introductory paragraph),

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:7(2)(d) and (f)(ii), (6)(a)(ii) and (b)(i)(bb) and (ii), and (8), 7.2(C), 7.5(A), 10.7.1(E)(1) and (H)(4)(b), 24.1(B) and (D)(1), 24.9(B)(8), 25.1(A)(1) and (2), (B)(1) and (2), (C), and (E)(1), 64(A)(3), 105.1(D), 151.3(C)(3), 203(introductory paragraph), 221(A)(1)(b) and (B)(1)(b), 222(C)(1), 372(introductory paragraph), 391.2(introductory paragraph), 392.1(C)(3), 395(A), 396(introductory paragraph) and (1), 407.1(introductory paragraph), 407.33, 407.62(introductory paragraph), 407.82(introductory paragraph), 407.91(introductory paragraph), 409.2(introductory paragraph), 416(A)(1)(c)(ii)(ll), (B)(1)(a), (C)(1) and (2)(d)(ii), (H)(1), and (K), 419.2(D), 434(A), 441(introductory paragraph), 540(introductory paragraph), 1233(introductory paragraph), 1519.1(introductory paragraph), 1672, 1673, 1942, 1943(A) and (C), 1944(D), 1945.2(B), 1946(A), 1947(C), 1962(introductory paragraph) and (1), 1970.2(introductory paragraph), 1970.22(introductory paragraph), 1970.24(B)(1), 1972(introductory paragraph), 1982(introductory paragraph), 1987(C), 1989.2(introductory paragraph), 1990(B)(1)(b) and (C)(1)(a) and (2)(a)(i)(introductory paragraph) and (ii), 1991(A)(introductory paragraph), 2803(introductory paragraph) and (1), 2925(A)(6), 2942, 2990.2, 3002, 3005(G),
§7. Duties, functions, and responsibilities of board

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

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(2)

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(d) The State Board of Elementary and Secondary Education shall establish within the Department of Education, office of management and finance, a program of fiscal accountability for purposes of providing an audit, evaluation, and a computerization of the data submitted by local school systems and used in the determination of the cost of the Minimum Foundation Program minimum foundation program for public elementary and secondary education and in the equitable distribution of funds provided for the Minimum Foundation Program minimum foundation program for public elementary and secondary education. The board shall annually report, not later than March fifteenth, the findings of the audit and evaluation, with recommendations for improvement, to the committees on education of the House of Representatives and the Senate. The audit and evaluation shall consider the minimum performance standards established by the legislature, the State
Board of Elementary and Secondary Education, and the state Department of Education.

* * *

(f)

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(ii) Beginning with the 2009-2010 school year and continuing thereafter, the State Board of Elementary and Secondary Education shall offer guidance and technical assistance to each city, parish, or other local public school board in making strategic fiscal decisions that promote improved student achievement. Such guidance and technical assistance shall include but not be limited to the identification of best practices in school finance that promote efficiency, economies of scale, and the use of comparative data to improve spending and educational outcomes.

* * *

(6)(a)

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(ii) Additionally, whenever there is a qualification or condition established by law or board policy, or both, that a teacher holding a regular teacher certificate which is valid for three years must comply with, in order for the teacher to be issued a permanent regular teacher certificate, and it is not possible for a teacher at a nonpublic school to comply with such qualification or condition due to the teacher being employed at a nonpublic school, the board shall establish, effective for the 1998-1999 school year and thereafter, an alternative method or process by which the nonpublic school teacher may meet such qualification or condition. A teacher employed in a nonpublic school who meets the qualifications or conditions pursuant to the alternative method or process established pursuant to this Item shall be issued a permanent regular teacher certificate which shall be valid for all purposes in this state and under all the same conditions as if it had been issued to a teacher who complied with the qualifications or conditions as otherwise established by law or board policy. Prior to establishing an alternative method or process, the board shall
direct the nonpublic school commission to formulate, develop, and recommend to
the board the alternative method or process by which the nonpublic school teacher
may meet the qualification or condition and the method or process established by the
board shall be consistent with the recommendations of the nonpublic school
commission.

(b)(i)

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(bb) On and after September 15, 1981, any person certified to teach in
another state who applies for certification to teach in the public schools of Louisiana
shall be required to pass satisfactorily the examination which is administered in
accordance with the provisions of this Paragraph as a prerequisite to the granting of
such certification. However, a teacher certified in another state who meets all other
requirements for a Louisiana certificate granted to out-of-state graduates except for
the provisions of this Item shall be granted a three-year nonrenewable provisional
certificate to be used while the teacher completes the requirements set forth in
this Paragraph.

*   *   *

(ii) The state superintendent of education shall administer the
aforementioned policy of the board. In such administration of the policy, the
superintendent shall choose the appropriate testing instrument, shall conduct all
necessary research to validate the applicability of the instrument to teacher education
programs within the state of Louisiana, and shall conduct all necessary research to
determine the level at which the examination is satisfactorily completed. During the
conduct of the research and in the preparation of the testing instrument, the
superintendent shall meet with and consider the suggestions of individual classroom
teachers, representatives of teacher organizations, deans of education of the public
colleges and universities of the state, and representatives of each of the governing
boards for higher education.

*   *   *
(8) Except as otherwise provided by law, approve non-public schools in accordance with the provisions of R.S. 17:11 and any other applicable law.

§7.2. Approved teacher education programs

C. In adopting requirements for approval of teacher education programs pursuant to this Section the board shall provide that such requirements shall not be applicable to students enrolled in an approved teacher education program in Louisiana on the effective date of this Section, unless the board finds that any such requirement can be made applicable without undue hardship to the student. The board shall provide that requirements adopted pursuant to Paragraphs (4) and (5) of Subsection A of this Section shall not be applicable to students enrolled in an approved teacher education program in Louisiana on the effective date of such Paragraphs, unless the board finds that any such requirement can be made applicable without undue hardship to the student.

§7.5. Alternative educational programs of instruction; submission of plans; board approval; program monitoring

A. The state Department of Education, in collaboration with other appropriate state agencies, shall establish guidelines, with the approval of the State Board of Elementary and Secondary Education, for alternative educational programs of instruction for at-risk public middle and high school students in grades six through twelve. The state Department of Education shall provide for the definition of said at-risk students with the approval of the board.

§10.7.1. Return of certain schools from the Recovery School District to the transferring school system; timeline; conditions; funding
E. Notwithstanding any law to the contrary, in order to support and protect
the interests and rights of the children it serves, the local school board:

(1) Shall adopt a policy that establishes a process to determine the
district-level funding allocation to be effective beginning July 1, 2017, and as revised
in subsequent years as appropriate, based upon student characteristics or needs, as
determined by the local school board, to distribute the total amount of minimum
foundation program formula funds allocated to the local school board and to Type
1, 3, 3B, 4, and 5 charter schools that are located within the geographic
boundaries of the local school system.

* * *

H.

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(4) The local school superintendent shall submit the plan to the local school
board for approval by September 1, 2016. The plan shall include:

* * *

(b) An implementation **timeline** that shall include a detailed list of
tasks and benchmarks that are appropriately sequenced to efficiently facilitate the
transfer of such functions and related funding from the Recovery School District
with respect to the return of schools to the local school system.

* * *

§24.1. State Department of Education; in-service training programs

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B. The purpose of such program shall be to establish guidelines for in-
service teacher educational programs for all teachers in the public schools and to
provide technical assistance to local school systems in developing such programs.
The plans for these in-service programs shall be such as to provide effective and
sequential training in professional or subject matter areas appropriate to each level
of teaching. The **state** Department of Education shall prepare, with the advice of a
representative group of classroom teachers, suggested guidelines for the
administration and content of the in-service training programs of professional improvement. These guidelines shall be revised from time to time as the Superintendent of Education for Public Elementary and Secondary Education state superintendent of education considers necessary or desirable, and shall be made available to each parish or city school board. The department shall also have authority to approve or disapprove programs as provided in this Section. The purpose of the in-service educational programs developed and approved under the provisions of this Section shall be to improve the instructional skills of all teachers in the public schools, their ability to communicate with and foster learning among students of differing backgrounds, their knowledge of the subject matter they teach, and innovative techniques in teaching such subject matter.

*          *          *

D. The department shall establish guidelines for such in-service programs. Such guidelines shall include but not be limited to provisions for:

(1) Requirement for frequent conduct of programs and time of programs, including guidelines for programs within and outside of the minimum school session and regular school days. When such programs are conducted outside the minimum school session as defined by R.S. 17:225 or on a day other than regular school days, the teachers participating shall be compensated at a rate of no less than the average daily salary of a first-year first-year teacher with a bachelor's degree in that parish or city school system.

*          *          *

§24.9. Quality early literacy initiative; legislative findings; development; criteria; implementation; limitations

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B. The state Department of Education shall develop a comprehensive and evidence-based early literacy initiative for students in kindergarten through third grade. The department shall:

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(8) Report the data for each school, for each school system, and for the state as a whole, in the school progress profiles provided pursuant to R.S. 17:3911 and 3912.

*          *          *

§25.1. Minimum foundation program; date for payments

A. As used in this Section, the following words and phrases shall have the following meanings unless the context otherwise requires:

(1) "Department" means the state Department of Education acting through the superintendent or his designee.

(2) "Schedule notice" means a notice sent by the department by registered or certified mail to each affected parish and city school board describing a disbursement schedule for the amounts payable annually to the board under the Minimum Foundation Program minimum foundation program pursuant to this Section.

*          *          *

B.(1) The department shall transmit to each parish and city school board not later than the twenty-fifth day of each month, one-twelfth of the amount payable annually to the board under the Minimum Foundation Program minimum foundation program, unless the department mails a schedule notice to each parish and city school board on or before May first of each year which contains such information as is required to inform such boards that a disbursement schedule of the amount payable annually to the board under the Minimum Foundation Program minimum foundation program will be implemented pursuant to this Section. However, for fiscal year 1988-1989, the schedule notice shall be mailed on or before the end of the regular legislative session from a schedule provided by the Division of Administration, Appropriation's Control or the state treasurer.

(2) Notice and implementation of a disbursement schedule pursuant to this Section shall by its terms in no way reduce the aggregate annual Minimum Foundation Program minimum foundation program funds payable to all parish and

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city school boards and the annual Minimum Foundation Program minimum fund payable to an individual parish or city school board in accordance with Article VIII, Section 13(B) of the Constitution of Louisiana.

C. The schedule notice shall set forth the fraction or percentage of annual Minimum Foundation Program minimum disbursements, if any, to be transmitted each month, the latest day on which the disbursements, if any, will be transmitted, which date shall not be later than the twenty-fifth day of any month during which disbursements are scheduled to be transmitted, and such other information as the department deems necessary or convenient.

* * *

E.(1) A disbursement schedule for which the schedule notice has been given shall not be effective during the fiscal year described therein unless and until an amount in addition to the aggregate Minimum Foundation Program minimum foundation program formula amount shall have been included in the general appropriations act for such fiscal year sufficient to reimburse each parish and city school board for the interest expense and costs, if any, incurred as a direct result of an alternative borrowing caused by the implementation of a disbursement schedule pursuant to this Section. The aggregate interest expense and costs, if any, projected to be incurred by parish and city school boards and included in the general appropriations act shall be projected and calculated by the department and such calculation shall be conclusive.

* * *

§64. Zachary Community School Board and school system; creation; membership; qualifications; apportionment; election; powers, duties, and functions; system operation

A.

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(3) No appropriation of state funds shall be provided to provide assistance or support with the initial establishment of the Zachary community school system.
Nothing in this Paragraph shall limit the participation of the Zachary community school system in the Minimum Foundation Program or any other appropriation applicable to other public school systems in the state.

§105.1. Transfer to schools in an adjoining school system; conditions; exceptions; funding

D. In the case of the transfer of any student pursuant to this Section, the adjoining school system shall notify the state Department of Education. The state Department of Education shall adjust the allocation of money through the Minimum Foundation Program formula or any other monies appropriated and allocated among school systems based in any way on the number of students enrolled so as to account for the transfer of the student.

§151.3. Kindergarten; establishment; entrance age; prerequisites

C.

(3) A child not able to meet the kindergarten attendance requirements as provided in Paragraph (1) of this Subsection due to illness or extraordinary, extenuating circumstances as determined by the city, parish, or other local public school board shall be required to satisfactorily pass an academic readiness screening administered by the city, parish, or other local public school board prior to the time of enrollment for in the first grade.

§203. Definitions

As used in this Subpart, the following terms have the following meanings: unless the context requires otherwise:

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§221. School attendance; compulsory ages; duty of parents; excessive absences; condition for driving privileges

A.(1)

* * *

(b) Beginning with the 2022-2023 school year, the parent or legal guardian of a child who resides in Louisiana and who is age five by September thirtieth of the calendar year in which the school year begins through eighteen shall send the child to a public or nonpublic school, as defined by R.S. 17:236, unless the child's parent or legal guardian opted to defer enrollment of his child in kindergarten pursuant to R.S. 17:151.3(D) or the child graduates from high school prior to his eighteenth birthday. A child below the age of five who legally enrolls in school shall also be subject to the provisions of this Subpart.

* * *

B.(1) A city, parish, or other local public school board shall grant admission or readmission to school to any person who meets all of the following criteria:

* * *

(b) Meets the eligibility requirements for school entrance pursuant to R.S. 17:221(A).

* * *

§222. School entrance; proof of age, race, and parentage required; exceptions

C.(1) Notwithstanding the provisions of Subsections A and B of this Section, the parish school boards in Jefferson and Orleans parishes may adopt, by rule, and enforce ages for entrance into first grade in the schools in their systems which vary from the provisions of this Section. All children admitted into school as a result of a rule adopted pursuant to this Subsection shall be counted in reports submitted for funding under the Minimum Foundation Program.
money allocated pursuant to such program shall be based on the report which includes such children.

§372. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them in this Section; following meanings except when the context clearly indicates a different meaning otherwise:

§391.2. Definitions

As used in this Part, the following words, terms, and phrases shall have the meaning ascribed to them in this Section; following meanings except when the context clearly indicates a different meaning otherwise:

§392.1. Screening and intervention; purpose; applicability; city and parish school system; duties

C. Screenings as required by this Section shall have one or more of the following results:

(3) Indication of need for assistance to ameliorate the effect of a possible at-risk factor.

§395. Statement of purpose

A. The purpose of this Part is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board pupil progression plans approved by the State Board of Elementary and Secondary Education. A program of remedial education shall be put into place by local parish and city parish school systems following regulations adopted by the state.
Department of Education and approved by the state board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction.

§396. Definitions

As used in this Part, the following words, terms, and phrases shall have the meaning ascribed to them in this Section, following meanings except when unless the context clearly indicates a different meaning otherwise:

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

§407.1. Definitions

As used in this Part, the following words, terms, and phrases shall have the meanings ascribed to them in this Section as follows:

§407.33. Definitions

A. As used in this Part, the following definitions shall apply terms have the following meanings unless the context clearly states indicates otherwise:

(1) "Camp" means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group which serves only children five years of age or older and operates only when school is not in session during the summer months or school holidays.

(2) "Child" means a person who has not reached age eighteen or otherwise been legally emancipated.

(3) "Child day care center" means any place or facility operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract.
with third parties, all hours during which a child is being transported shall be included in calculating the hours of operation. A child day care center that remains open for more than twelve and one-half hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay shall be known as a full-time child day care center. A child day care center that remains open after 9:00 p.m. shall meet the regulations established for nighttime care.

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

(5) "Early learning center" means any child day care center, Early Head Start Center, Head Start Center, or stand-alone prekindergarten program not attached to a school.

(6) "Head Start and Early Head Start Programs" mean the federally funded early childhood care and education programs that promote and teach school readiness to children ages birth to five from low-income families and provide services in the areas of education, social services for families, nutrition, family engagement, health and mental health, as well as providing the physical plant and instructional staff members for such purposes.

(7) "License type" means the type of license applied for or held, which shall include Type I, Type II, and Type III.

(8) "Related" or "relative" means a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

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§407.62. Definitions

As used in this Part, the following definitions shall apply terms have the following meanings unless the context clearly states otherwise:

* * *
§407.82. Definitions.

As used in this Part, the following definitions shall apply terms have the following meanings:

*          *          *

§407.91. Definitions

As used in this Part, the following definitions shall apply terms have the following meanings:

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§409.2. Definitions

For the purposes of As used in this Subpart, the following terms have the following meanings:

*          *          *

§416. Discipline of students; suspension; expulsion

A.(1)

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(c)

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(iii) A student in kindergarten through grade five removed from a class pursuant to this Subparagraph shall not be permitted to return to the class for at least thirty minutes unless agreed to by the teacher initiating the disciplinary action. A student in grades six through twelve removed from a class pursuant to this Subparagraph shall not be permitted to return to the class during the same class period unless agreed to by the teacher initiating the disciplinary action. Additionally, the student shall not be readmitted to the class until the principal has implemented at least one of the following disciplinary measures:

*          *          *
(II) Requiring the completion of all assigned school work and homework that
would have been assigned and completed by the student during the period of out-of-
school suspension.

* * *

B.(1)(a) Any student after being suspended for committing any of the
offenses enumerated in this Section may be expelled, upon recommendation by the
principal of the public school in which said the student is enrolled, which
recommended expulsion shall be subject to the provisions of Subsection C of this
Section.

* * *

C.(1) Upon the recommendation by a principal for the expulsion of any
student as authorized by Subsection B of this Section or a school board's code of
conduct, a hearing shall be conducted by the superintendent or his designee within
fifteen school days to determine the facts of the case and make a finding of whether
or not the student is guilty of conduct warranting a recommendation of expulsion.
The school board must shall provide written notice of the hearing to the student and
his parent or legal guardian, and such notice shall advise the student and his parent
or legal guardian of their rights. Upon the conclusion of the hearing and upon a
finding that the student is guilty of conduct warranting expulsion, the superintendent
or his designee shall determine whether such student shall be expelled from the
school system or if other corrective or disciplinary action shall be taken. At the
hearing the principal or teacher concerned may be represented by any person
appointed by the superintendent. The concerned teacher shall be permitted to attend
such hearing and shall be permitted to present information the teacher believes
relevant. Until such hearing takes place the student shall remain suspended from the
school with access to classwork and the opportunity to earn academic credit. At such
hearing the student may be represented by any person of his choice. A student who
is expelled or suspended for longer than ten days shall be provided with academic
instruction at an alternative setting in accordance with R.S. 17:416.2.

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are additions.
(ii) Any student expelled pursuant to the provisions of this Subsection or Subsection B of this Section seeking readmission on a probationary basis prior to the end of the specified period of expulsion must also comply with the provisions of Subparagraph (B)(3)(d) of this Section.

H.(1) No student shall be disciplined in any manner by the governing authority of a public elementary or secondary school or by any public elementary or secondary school administrator, teacher, or other school employee for the use of force upon another person when it can be reasonably concluded that the use of such force more probably than not was committed solely for the purpose of preventing a forcible offense against the student or a forcible offense provided that the force used must be reasonable and apparently necessary to prevent such offense.

K. For the purposes of this Section, "virtual instruction" means instruction provided to a student through an electronic delivery medium including but not limited to electronic learning platforms that connect to a student in a remote location to classroom instruction. A city, parish, or other local public school board discipline policy shall clearly define the rules of conduct and expectations of students engaged in virtual instruction, shall provide for notice of such rules and expectations to the parents and guardians of students, shall include clearly defined consequences of conduct, shall be narrowly tailored to address compelling government interests, and shall take into consideration the students' and their families' rights to privacy and other constitutional rights while at home or in a location that is not school property. The provisions of this Section herein related to mandatory recommendation for
expulsion shall not be applied to virtual instruction received by a student in the
student's home.

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§419.2. Extra compensation for school support personnel

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D. In any year in which the Minimum Foundation Program minimum
foundation program formula adopted by the legislature contains the extra
compensation paid by the state for support personnel employed by city, parish, or
other local public school systems, extra compensation for such personnel as provided
in this Section shall not be in force and effect for such year and for any succeeding
year in which such formula remains in effect.

*          *          *
§434. Planning time for teachers; required

A. The State Board of Elementary and Secondary Education shall adopt
necessary rules and regulations requiring each city and parish school board to
provide a minimum of forty-five minutes daily uninterrupted planning time, or its
weekly equivalent for every teacher actively engaged in the instruction and
supervision of students in the public schools. Implementation of planning time as
required in this Section for teachers shall not result in a lengthened school day or a
reduction in student daily instructional time.

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§441. Definitions

For purposes of this Subpart, the following terms have the
following meanings:

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§540. Definitions

For the purposes of this Subpart, the following terms and phrases
are used as defined by this Section have the following meanings:

*          *          *
§1233. Definitions

As used in this Part, the following words, terms, and phrases shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

* * *

§1519.1. Definitions

As used in this Subpart, the following terms defined in this Section shall have the following meanings herein given to them, except where the context clearly indicates otherwise.

* * *

§1672. Definitions

As used in this Subpart, the following terms have the following meanings:

A. (1) The term "department" "Department" shall mean the State Department of Education.

B. (2) The term "approved "Approved institutions of higher education" shall mean Centenary College, Dillard University, St. Mary's Dominican College, Holy Cross College, Louisiana College, Loyola University, Tulane University, and Xavier University, all in Louisiana, and all other institutions of higher education in the state, public or private, approved by the department.

C. (3) The terms "scholarship" "Scholarship" or "scholarship program" shall mean a scholarship or the scholarship program authorized and established by the provisions of this Subpart.

§1673. Scholarship program to be administered by state Department of Education

The scholarship program established and authorized by this Subpart shall be administered by the state Department of Education.

* * *

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§1942. Definitions

A. For purposes of this Chapter, the definitions in the Individuals with Disabilities Education Improvement Act of 2004 are hereby adopted unless otherwise provided by this Chapter or duly adopted regulations or policies.

B. As used in this Part, the following terms have the following meanings:

(1) A "student with an exceptionality", including a student with a disability, is any student who is evaluated according to state and federal regulation or policy and is deemed to have a mental disability, hearing loss (including deafness), multiple disabilities, deaf-blindness, speech or language impairment, visual impairment (including blindness), emotional disturbance, orthopedic impairment, other health impairment, specific learning disability, traumatic brain injury, autism, or is deemed to be gifted or talented, and as a result requires special education and related services. A student with an exceptionality may include, as determined by the local education agency, a student experiencing developmental delay ages three through eight.

(2) "Education service agency" means a regional public multiservice administrative agency authorized by state law to develop, manage, and provide services or programs to local education agencies and includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

(3) "Local education agency" means a public board of education or other public authority legally constituted within Louisiana for administrative control and direction of or to perform a service function for public elementary or secondary schools in a city, parish, or other local public school district or other political subdivision. The term includes an education service agency and special schools and school districts as that term is used in R.S. 17:1945 and any other public institution or agency having administrative control and direction of a public elementary or secondary school.
(4) "Resident" as it applies to a student with an exceptionality for purposes of this Chapter shall mean any one of the following:

(1) (a) The student is a resident within the geographical boundaries of the local education agency in which the student's parent or parents have their legal residence, unless the parent or parents have relinquished custody of the student. In such case, the student is a resident within the geographical boundaries of the local education agency in which the student's legal custodian or custodians have their legal residence.

(2) (b) If a student's parents are divorced, the student is a resident of the local education agency in which the student's domiciliary or custodial parent or parents have their legal residence.

(3) (c) If a student is in foster care, the student is a resident of the local education agency in which the parent or parents with whom the student lived immediately prior to being placed into foster care have their legal residence.

§1943. Administration and supervision

A. (1) Except as otherwise provided in Paragraph (2) of this Subsection, the provisions of this Chapter shall be administered at the state level by the state Department of Education, with the approval of the State Board of Elementary and Secondary Education, and on the city or parish level by local education agencies.

(2) The state Department of Education, with the approval of the State Board of Elementary and Secondary Education, shall provide only general supervision and monitoring when the provisions of this Chapter are administered through or in other state agencies.

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C. The state Department of Education shall establish pupil-teacher ratios and class sizes taking into account the chronological age of the student with an exceptionality, the severity of the disability, and the type of exceptionality.

§1944. Local education agency; responsibilities

*          *          *
D. Whenever adequate education results can best be obtained by providing cooperative special education and related services, the local education agencies shall establish and maintain such facilities and programs according to procedures established by the state Department of Education with the approval of the State Board of Elementary and Secondary Education. Adjacent and nearby local education agencies shall pool their resources for this purpose. The local education agency within whose boundaries the facility is located shall be designated as the coordinating fiscal agency.

§1945.2. Funding; inclusion in the minimum foundation program formula; other appropriated state funds

B. The Special School District shall be considered a public school and, as such, shall be included by the State Board of Elementary and Secondary Education in the formula required by Article VIII, Section 13 of the Constitution of Louisiana used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools. Funding shall be provided through appropriations made directly to the district from the state general fund and through funds appropriated for the minimum foundation program and allocated to the district by the state Department of Education.

§1946. Procedural safeguards

A. The state Department of Education, the Special School District, and the local education agencies shall establish and maintain regulations and procedures in accordance with this Section and the Individuals with Disabilities Education Improvement Act of 2004 to ensure that students with exceptionalities and their parents are provided procedural safeguards with respect to the provision of free appropriate public education by such agencies.
§1947. Funding

C. The state Department of Education and local education authorities may, under policies established by the State Board of Elementary and Secondary Education, enter into purchase of service agreements or contracts with other public or nonpublic agencies to provide special education and related services.

§1962. Definitions

As used in this Part, the following words, terms, and phrases shall have the meanings ascribed to them in this Section, following meanings except when unless the context clearly indicates a different meaning otherwise:

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

§1970.2. Definitions

As used in this Part, the following words, terms, and phrases shall have the meanings ascribed to them in this Section, following meanings except when unless the context clearly indicates a different meaning otherwise:

B.(1) The board of directors shall be composed of thirteen persons as follows:

(ii) Effective July 1, 2012, and thereafter, two members as follows:

(aa) (i) One member appointed by the Orleans Parish School Board. He may be replaced by resolution of the school board.

(bb) (ii) An employee of the state Department of Education appointed by the state superintendent of education.

(b)(i) Effective until June 30, 2010, two members appointed by the governor, neither of whom is serving as the vice president of the board on June 24, 2010, and at least one of whom shall be a member of a minority racial group in the state, whose terms shall expire on June 30, 2010.

(ii) Effective July 1, 2010, and thereafter, two members appointed by the governor, at least one of whom shall be a member of a minority racial group in the state.

(iii)(aa) Effective until June 30, 2012, one person appointed by the governor and serving as the vice president of the board upon June 24, 2010, whose term shall expire on June 30, 2012.

(bb) Effective July 1, 2012, and thereafter, one person appointed by the governor who shall be from outside the greater New Orleans region.

(c) (d) Six persons shall be appointed by the governor from among nominees as follows:

(i)(aa) Effective until June 30, 2010, one member from among nominees submitted by the mayor of the city of New Orleans and identified by him as a professional creative artist, whose term shall expire on June 30, 2010.

(bb) Effective July 1, 2010, and thereafter, one member from among nominees submitted either by the presidents of Dillard University, Xavier University, and Southern University at New Orleans, acting jointly either personally or by a person
designated from among their most senior university colleagues, or by one such
president or his designee for one term alternated with the other presidents or their
designees for subsequent terms, as decided by them jointly, whose term shall expire
on June 30, 2012:

(bb) Effective July 1, 2012, and thereafter, one One member from among
nominees submitted either by the presidents of Dillard University, Xavier University,
and Southern University at New Orleans, acting jointly either personally or by a
person designated from among their most senior university colleagues, or by one
such president or his designee for one term alternated with the other presidents or
their designees for subsequent terms, as decided by them jointly.

(iii)(aa) Effective until June 30, 2012, two members from among nominees
submitted by the New Orleans Center for the Creative Arts Institute, whose terms
shall expire on June 30, 2012:

(bb) Effective July 1, 2012, and thereafter, two Two members from among
nominees submitted by the New Orleans Center for Creative Arts Institute.

(iv)(aa) Effective until June 30, 2010, two members from among nominees
submitted by the parents association or the faculty or the alumni association of the
New Orleans Center for Creative Arts as decided by such organizations, whose terms
shall expire on June 30, 2010:

(bb) Effective July 1, 2010, and thereafter, two Two members as follows:

(I) (aa) One member from among nominees submitted by the center faculty
and employed as at least a half-time faculty member.

(II) (bb) One member who is an alumnus or alumna of the center selected
from among nominees submitted by the president/chief executive officer of the
center.

(e) (e) The member of the Louisiana House of Representatives in whose
election district the center's main campus is located or his designee.

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are additions.
The member of the Louisiana Senate in whose election district the center's main campus is located or his designee.

* * *

§1972. Definitions

As used in this Part, the following words, terms, and phrases shall have the meanings ascribed to them in this Section, following meanings except when the context clearly indicates a different meaning otherwise:

* * *

§1982. Definitions

As used in this Part, the following words, terms, and phrases shall have the meanings ascribed to them in this Section as follows:

* * *

§1987. School district for certain correctional centers for youth

* * *

C. The state shall annually appropriate sufficient monies to fund any school in the district created in this Part in an amount equal to not less than the per pupil amount allocated pursuant to the Minimum Foundation Program minimum foundation program formula to the city or parish school district in which each such correctional center for youth is located. The appropriation shall be made to the administering agency for the district which may be expended by the agency for the provision of educational services in the same manner as such money may be expended by intermediate educational units in providing educational services to students subject to the limitations in Paragraph (A)(2) of this Section.

* * *

§1989.2. Definitions

As used in this Part, the following words, terms, and phrases shall have the meanings ascribed to them in this Section, following meanings except where the context clearly indicates a different meaning otherwise:

* * *
§1990. Recovery School District; creation; governance; operation

B.(1)

(b) The expenditure of funds shall be subject to the requirements of the

approved Minimum Foundation Program minimum foundation program formula that
apply to a city, parish, or other local public school system and shall be subject to
audit in the same manner.

C.(1)(a) The state shall annually appropriate sufficient monies to fund any
school in the school district created in this Part in an amount equal to but not less
than the school's student membership count times one hundred percent of the state
share per student as provided in the Minimum Foundation Program minimum
foundation program approved formula for the city, parish, or other local public
school system in which each school placed under the jurisdiction of the district is
located as contained in the Minimum Foundation Program minimum foundation
program budget letter approved by the State Board of Elementary and Secondary
Education. The appropriation shall be made to the administering agency for the
district and may be expended by the agency for the provision of services to students
in the district.

(2)(a)(i) In addition to the appropriation required in Paragraph (1) of this
Subsection, any city, parish, or other local public school board which had jurisdiction
of a school prior to its transfer to this district annually shall allocate and transfer to
the school district an amount of money equal to the number of students enrolled in
such a school times the local per pupil amount received by the school system from
all of the following sources as provided in the Minimum Foundation Program
minimum foundation program approved formula, excluding any portion which has
been specifically dedicated by the legislature or by voter approval to capital outlay

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or debt service or which was actually expended by the school board for facilities
acquisition and construction as reported to the state Department of Education:

(ii)(aa) Such allocation and transfer shall be accomplished by a reduction in
the amount of state funds otherwise to be allocated to the city, parish, or other local
public school system as contained in the Minimum Foundation Program minimum
foundation program budget letter approved by the State Board of Elementary and
Secondary Education equal to the amount provided in this Paragraph which
reduction shall be allocated to the school district.

(bb) In the case that there are insufficient funds available to provide the total
due the school district under this Paragraph if all state funds are reduced and
allocated to the school district, the prior system shall transfer a sufficient amount of
money remaining from the sources provided in Item (i) of this Subparagraph to the
school district. In the case that the prior system's local revenues are insufficient to
allow for the allocation to the school district and to allow the prior system to
maintain a minimum balance of ten percent of state Minimum Foundation Program
minimum foundation program funding and ten percent of the local revenues listed
in Item (i) of this Subparagraph, local revenues otherwise required to be allocated
to the school district shall be reduced to an amount necessary to allow the prior
system to maintain such balances. Such maintained minimum balances shall be
applied firstly to the prior system's retiree health insurance costs and secondly to the
prior system's board administrative costs.

§1991. Definitions

A. As used in this Part, unless otherwise clearly indicated, the following
terms have the following meanings ascribed below unless the context clearly
indicates otherwise:

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.
§2351. Definitions

As used in this Part, the following terms have the following meanings:

* * *

§2803. Definitions

As used in this Chapter, the following terms have the following meanings:

(1) "Cooperative" means a corporation organized under this Chapter and a corporation which becomes subject to this Chapter in the manner hereinafter provided in this Chapter.

* * *

§2925. Individual graduation plans

A.

* * *

(6) Upon completion of the review, the plan shall be signed by the student, his parent or other legal guardian, and the school counselor.

* * *

§2942. Definitions

As used in this Chapter, the following terms have the following meanings:

A. (1) "Courses" means one of the following:

(a) Academic courses that the successful completion of which would result in earned credit that may be transferred to a public postsecondary education institution and applied toward an undergraduate degree.

(b) Career and technical education courses aligned with the career major option, pursuant to R.S. 17:183.1 et seq., that may be transferred for credit to a public postsecondary education institution and applied toward a credential from such institution.
§2990.2. Definitions

As used herein in this Chapter, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "child" "Child", "children", or "student" means any child or children between the ages of six and fifteen whose attendance at a public or private day school is required by Louisiana Revised Statutes R.S. 17:221 who attends a nonpublic school and all such children beyond the age of fifteen up to the age of eighteen actually enrolled in a nonpublic school as defined herein.

(2) "parent" "Parent" or "low income parent" means the parent, tutor or other person residing within the state of Louisiana having control or charge of any child herein defined whose total annual income for the previous year did not exceed $7,500.00 or, who meets the requirements of R.S. 17:2990.3(2).

(3) "nonpublic" "Nonpublic school" means any nonprofit elementary or secondary school within the state of Louisiana or which may hereafter be established within the state of Louisiana, offering education to the children of this state in any grades from grades one through twelve, wherein a pupil may fulfill the requirements of the Compulsory School Attendance Law and is in compliance with the Civil Rights Acts of 1964.

(4) "total" "Total annual income" means the total amount actually earned in the tax year as reflected in the federal or state income tax return. If both parents earn income, both shall be considered in determining the total.

§3002. Definition of terms

A. The terms "school counselor", "counseling director", and "practice of school counseling" for the purposes of As used in this Chapter, the following terms...
shall have the meanings respectively ascribed to them in this Section following:

B. (1) "Counseling director" is a member of the school faculty who functions as a school counselor but has the following additional responsibilities in the school system:

(a) The director aids teachers by gathering and interpreting facts which will enable the student to take advantage of the educational opportunities available and to maximize personal growth and development.

(b) The director fosters a greater understanding between teachers and parents of the emotional, social, and academic problems of the individual student as well as the potentialities and limitations of the student.

C. (1) "Practice of school counseling" means the rendering, offering to render, or supervising those who render to individuals or groups of pupils within the elementary, secondary, and postsecondary schools, services involving the application of counseling procedures for learning how to solve problems and make decisions.

(a) In the practice of counseling:

(i) The counselor serves as an advocate for children within the adult structure of the school and community and has as his or her prime responsibility, services to and for the pupil, and

(ii) The counselor does not include among his or her responsibilities the administration of disciplinary action, substitute teaching, or administrative clerical duties.

(c) A school counselor shall devote not less than two-thirds of each academic school year to the practice of school counseling.

D. (3) "School counselor" is a member of the school faculty who by training and background is qualified to engage in educational and vocational counseling and advisement. The purpose of a school counselor is to help students to arrive at their
full potential through a process involving direct contact between the counselor and
a student, parents, teachers, school administrators, under or others.

§3005. Elementary school counselors; availability; guidelines; requirements;
counseling services; work time; exceptions; reporting; funding

G. The provisions of this Section shall become effective upon the provision
of funds for this purpose in the Minimum Foundation Program.

§3047.6. Coordination with other agencies

A.(1) The office of student financial assistance shall establish a working
group composed of an appointee from each of the following:

(c) The Louisiana state Department of Education.

§3047.7. Reporting system; implementation; requirements; applicability;
participation by eligible institutions

C. The administering agency shall, with the cooperation and assistance of the
state's public two-year institutions of postsecondary education institutions and
proprietary schools, annually query each first-time award recipient to determine the
extent receiving the award influenced the recipient's decision to enroll in
postsecondary education.

§3050.11. Health Care Employment Reinvestment Opportunity (H.E.R.O.) Fund

C.(1) Subject to legislative appropriation and the approval of the Board of
Regents, the Louisiana Health Works Commission is hereby authorized and directed
to determine how monies in the fund are allocated and expended through a multi-year plan, solely and exclusively for the following purposes and in the following priorities:

* * *

(b) Support the nursing and allied health professions by providing incentives that financially support student financial stipends and tuition forgiveness contingent upon employment in Louisiana healthcare facilities or nursing or allied health schools.

(c) Provide incentives for nursing and allied healthcare professionals to practice in Louisiana with an emphasis on medically underserved areas of the state.

* * *

§3052. Definitions

As used in this Chapter, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(2) "Authority" shall mean the Health Education Authority of Louisiana, and when used in connection with action authorized to be taken by the authority, shall mean the authority acting by and through its board of trustees.

(3) "Board" shall mean the board of trustees of the Health Education Authority of Louisiana.

(4) "Executive director" shall mean the executive director of the Health Education Authority of Louisiana.

(4) "Participating institutions" shall mean those institutions which apply to and are designated by the authority, other than primary institutions, and consisting of public or private hospitals and medical or health corporations, or institutions which deliver medical or health services or provide facilities within the primary service area.
"Primary institutions" shall mean University Medical Center at New Orleans, Louisiana State University and Agricultural and Mechanical College, and Tulane University of Louisiana.

"Primary service area" means communities in Louisiana where graduate medical education is offered.

"Project" shall mean any specific facility, work or improvement undertaken or to be financed by the authority under the provisions of the Act.

As used in this Chapter, the following terms have the following meanings:

For the purposes of As used in this Chapter, the following words, terms, and phrases shall have the following meanings unless the context clearly requires otherwise:

For the purposes of As used in this Chapter the following definitions shall apply terms have the following meanings:
§3129.9. Affordable textbooks and open educational resources

A. Definitions. As used in Subsection B of this Section, the following terms have the following meanings:

§3140.1. Definitions

For the purposes of this Chapter, the following terms have the following meanings:

§3162. Statewide Articulation and Transfer Council; creation; purpose; membership; duties and responsibilities

C. The council shall, with appropriate faculty consultation:

(8) Develop policies to align articulation and transfer policies established by educational education institutions including but not limited to admissions criteria, student counseling, and grade forgiveness.

§3165.2. College credit for military service; spouses of veterans

B. Each public postsecondary education institution shall assist veterans of the United States Armed Forces and their spouses in pursuing their educational goals by providing expedited transcript analysis, prior learning assessment, portfolio analysis, advising, and testing. Upon the disclosure of military status on the application for enrollment or at the request of an entering student who is a veteran or the spouse of a veteran, each public postsecondary education institution shall evaluate any transcript of prior earned postsecondary academic or workforce credit and accept the transfer of any credit earned from a regionally accredited postsecondary education institution, or military education, training, or experience.
provided that the credit aligns with the course and program requirements of the receiving institution.

§3202. Definitions

Unless the context otherwise clearly indicates, As used in this Chapter, the following words or terms shall have the meaning hereinafter ascribed to each following meaning unless the context clearly indicates otherwise:

§3394.2. Definitions

As used in this Part, the following words and terms shall have the following meanings; unless the context clearly indicates otherwise:

§3399.12. Definitions

For the purposes of As used in this Part, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

§3399.15. Campus security policy

A. The Board of Regents shall establish uniform policies and best practices to implement measures to address the reporting of power-based violence on institution campuses, the prevention of such violence, communication between institutions regarding incidents of power-based violence, and the provision of medical and mental health care needed for these alleged victims.

§3399.21. Definitions

As used in this Part, the following terms shall be defined as follows have the following meanings:

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
§3399.31. Definitions

For the purposes of this Part, the following words, terms, and phrases shall have the following meanings, unless the context clearly indicates otherwise:

§3602. Definitions

As used in this Chapter, unless otherwise clearly indicated, these the following terms have the following meanings unless the context clearly indicates otherwise:

§3702. Definitions

As used in this Chapter, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

§3772. Definitions

In this Chapter, these words shall the following terms have the following meanings; unless the context clearly requires indicates otherwise:

(2) "Department" means the State Department of Education.

§3801. Louisiana Education Quality Trust Fund, hereinafter referred to in this Part as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund"

D. The monies appropriated by the legislature and disbursed from the Support Fund shall not displace, replace, or supplant appropriations from the general fund for the purposes of implementing the Minimum Foundation Program minimum foundation program or displace, replace, or supplant funding for higher education. For higher education, this Subsection shall mean that no appropriation for any fiscal year from the Support Fund shall be made for any higher education purpose for
which a general fund appropriation was made the previous year unless the total
appropriations for that fiscal year from the state general fund for higher education
exceed general fund appropriations for higher education for the previous year. This
Subsection shall in no way limit general fund appropriations in excess of the
minimum amounts herein established.

§3822. Definitions

As used in this Chapter, the following words and phrases shall terms have the
following meanings provided in this Section, unless the context clearly requires
indicates otherwise:

§3831. Definitions

As used in this Chapter, the following words and phrases shall terms have the
following meanings provided in this Section, unless the context clearly requires
indicates otherwise:

§3873. Definitions

Unless the context clearly requires otherwise, As used in this Chapter, the
following words or phrases shall terms have the following meanings unless the
context clearly indicates otherwise:

§3882. Definitions

For the purposes of As used in this Part, the following definitions shall apply
terms have the following meanings:

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.
§3973. Definitions

As used in this Chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this Section except when following meanings unless the context clearly indicates a different meaning otherwise:

§4002.3. Definitions

As used in this Part, unless otherwise clearly indicated, the following terms mean have the following meanings unless the context clearly indicates otherwise:

§4013. Definitions

As used in this Part, unless otherwise clearly indicated, the following terms mean have the following meanings unless the context clearly indicates otherwise:

§4036.1. Learning pods

D. Students assigned to a learning pod shall be:

(1) Counted among the enrollment of the public school governing authority for purposes of full funding through the Minimum Foundation Program minimum foundation program formula.

§4041. Definitions

As used in this Chapter, unless otherwise clearly indicated, the following terms mean have the following meanings unless the context clearly indicates otherwise:

Section 2. R.S. 17:7(2)(b) and (32), 7.5(B), 10.7.1(H)(6), 24.4(F)(5), 393, 407.23(C)(3), and 1970.24(E)(1)(o)(ii) are hereby repealed in their entirety.
Section 3. The provisions of this Act are intended to be technical in nature, and the
Louisiana State Law Institute is hereby authorized to update any citation references in
Louisiana Law to conform with the changes made by this Act.

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)]

Proposed law makes technical corrections to various education laws in Title 17, including the repeal of obsolete laws.

(Amends R.S. 17:7(2)(d) and (f)(ii), (6)(a)(ii) and (b)(i)(bb) and (ii), and (8), 7.2(C), 7.5(A),
10.7.1(E)(1) and (H)(4)(b), 24.1(B) and (D)(1), 24.9(B)(8), 25.1(A)(1) and (2), (B)(1) and
(2), (C), and (E)(1), 64(A)(3), 105.1(D), 151.3(C)(3), 203(intro. para.), 221(A)(1)(b) and
para.) and (1), 407.1(intro. para.), 407.33, 407.62(intro. para.), 407.82(intro. para.),
407.91(intro. para.), 409.2(intro. para.), 416(A)(1)(c)(iii)(II), (B)(1)(a), (C)(1) and (2)(d)(ii),
(H)(1), and (K), 419.2(D), 434(A), 441(intro. para.), 540(intro. para.), 1233(intro. para.),
1519.1(intro. para.), 1672, 1673, 1942, 1943(A) and (C), 1944(D), 1945.2(B), 1946(A),
1972(intro. para.), 1982(intro. para.), 1987(C), 1989.2(intro. para.), 1990(B)(1)(b) and (C)(1)(a) and (2)(a)(i) and (ii), 1991(A)(intro. para.), 2803(intro. para.) and (1), 2925(A)(6),
2942, 2990.2, 3002, 3005(G), 3047.6(A)(1)(c), 3047.7(C),
3050.11(C)(1)(b) and (c), 3052, 3082(intro. para.), 3092(intro. para.), 3100.2(intro. para.),
3102(intro. para.), 3129.9(A)(intro. para.), 3140.1(intro. para.), 3162(C)(8), 3165.2(B),
3202(intro. para.), 3394.2(intro. para.), 3399.12(intro. para.), 3399.21(intro.
para.), 3399.31(intro. para.), 3600(intro. para.), 3702(intro. para.), 3772(intro. para.) and (2),
3801(D), 3822(intro. para.), 3831(intro. para.), 3873(intro. para.), 3882(intro. para.),
3973(intro. para.), 4002.3(intro. para.), 4013(intro. para.), 4036.1(D)(1), and 4041(intro.
para.); Adds R.S. 17:2351(intro. para.); Repeals R.S. 17:7(2)(b) and (32), 7.5(B),
10.7.1(H)(6), 24.4(F)(5), 393, 407.23(C)(3), and 1970.24(E)(1)(o)(ii))