

2022 Regular Session

SENATE BILL NO. 203

BY SENATOR HEWITT

FUNDS/FUNDING. Creates an education savings account for certain students reading below grade level. (gov sig)

1 AN ACT

2 To enact Chapter 43-C of Title 17 of the Louisiana Revised Statutes of 1950, to be

3 comprised of R.S. 17:4037.1 through 4037.8, relative to elementary and secondary

4 education; to create and provide for the administration of a program to provide state

5 funding for the education of students who are below grade level in reading and not

6 enrolled in public school; to provide for responsibilities; to provide definitions; to

7 provide relative to program funds; to provide relative to the eligibility of students,

8 schools, and service providers; to require annual testing of participating students; to

9 require certain annual reports; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 43-C of Title 17 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 17:4037.1 through 4037.8, is hereby enacted to read as follows:

13 **CHAPTER 43-C. READING EDUCATION SAVINGS ACCOUNT PROGRAM**

14 **§4037.1. Definitions**

15 **As used in this Chapter, unless otherwise clearly indicated, the following**
16 **terms have the following meanings:**

17 **(1) "Account" means an education account established pursuant to this**

1 **Chapter and composed of state funds deposited on behalf of a student eligible**
2 **to participate in the program.**

3 **(2) "Account funds" means the funds deposited into an account on behalf**
4 **of a participating student.**

5 **(3) "Curriculum" means a complete course of study for a particular**
6 **content area.**

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

8 **(5) "Parent" means a parent, legal guardian, custodian, or other person**
9 **or entity with legal authority to act on behalf of a student.**

10 **(6) "Participating school" means a nonpublic school participating in the**
11 **program pursuant to the provisions of this Chapter.**

12 **(7) "Participating student" means a student who is eligible to participate**
13 **in the program and for whom an account has been established pursuant to this**
14 **Chapter.**

15 **(8) "Program" means the program created by this Chapter.**

16 **(9) "Qualified education expenses" means any of the following:**

17 **(a) Tuition, fees, and textbooks required by a participating school or**
18 **service provider.**

19 **(b) Tutoring services provided by an educator with a valid Louisiana**
20 **teaching certificate.**

21 **(c) Curriculum, including supplemental materials required by the**
22 **curriculum.**

23 **(d) Technological devices used to meet the student's educational needs,**
24 **subject to approval by the department or a licensed physician.**

25 **(10) "Resident school system" means the public school system in which**
26 **the student would be enrolled based on his residence.**

27 **(11) "Service provider" means a person or an entity other than a**
28 **participating school that provides services that are covered as qualified**
29 **education expenses.**

1 **(12) "State board" means the State Board of Elementary and Secondary**
2 **Education.**

3 **§4037.2. Program creation and administration; powers and duties of the State**
4 **Board of Elementary and Secondary Education and state**
5 **Department of Education; rules**

6 **A. The Reading Education Savings Account Program is hereby created.**

7 **B. The department shall administer the program, and the state board**
8 **shall adopt rules and regulations for the administration of the program which**
9 **shall, at minimum, provide for the following:**

10 **(1) Determination of the eligibility of students, participating schools, and**
11 **service providers, including standards that schools and service providers shall**
12 **meet as conditions of participation in the program.**

13 **(2) Audits of the program and accounts.**

14 **(3) The authority of the department to:**

15 **(a) Deem any participating student ineligible for the program and to**
16 **refer a case involving the misuse of account funds to the attorney general for**
17 **investigation.**

18 **(b) Contract with a nonprofit organization for the administration of the**
19 **program or parts of the program.**

20 **§4037.3. Account funds**

21 **A. The department shall:**

22 **(1) Allocate to each account annually, from funds appropriated or**
23 **otherwise made available for the program, an amount equal to the state's**
24 **average per pupil allocation as provided in the minimum foundation program**
25 **formula, considering all student characteristics.**

26 **(2) Develop a system for parents to direct account funds to participating**
27 **schools and service providers by electronic funds transfer, automated clearing**
28 **house transfer, debit card, or another method. The department may contract**
29 **with a private financial management firm to manage the payment system.**

1 **B. Account funds shall be used only for qualified education expenses for**
2 **the participating student.**

3 **C. Unused funds in an account, up to an amount equal to not greater**
4 **than fifty percent of the total funds deposited into the account for the current**
5 **school year, shall be retained in the student's account for the following school**
6 **year.**

7 **D. The account shall be closed and the funds in the account shall be**
8 **returned to the state general fund, if the student is determined to be no longer**
9 **eligible, if an account has been inactive for two consecutive years, or if a parent**
10 **fails to comply with the provisions of this Chapter or state board rules**
11 **pertaining to the program.**

12 **E. Account funds do not constitute taxable income of the parent of the**
13 **participating student and shall not be claimed as a credit, deduction, exemption,**
14 **or rebate under Title 47 of the Louisiana Revised Statutes of 1950.**

15 **§4037.4. Student eligibility; initial and continuing**

16 **A. A student is initially eligible for an account if he is enrolled in a**
17 **Louisiana public school in the third grade and meets all of the following**
18 **criteria:**

19 **(1) He is not reading on grade level, as determined by the results of a**
20 **literacy assessment provided during the current school year pursuant to R.S.**
21 **17:24.9.**

22 **(2) The student's parent submits an application for an account to the**
23 **department in accordance with program timelines.**

24 **(3)(a) The student's parent signs an agreement promising all of the**
25 **following:**

26 **(i) To provide an education for the participating student in at least the**
27 **subjects of English language arts, mathematics, social studies, and science.**

28 **(ii) Not to enroll the student in a public school while participating in the**
29 **program.**

1 (iii) To use account funds only for qualified education expenses of the
2 participating student.

3 (iv) To comply with all program requirements.

4 (b) The signed agreement shall satisfy the compulsory school attendance
5 requirements of R.S. 17:221.

6 B. A participating student is eligible to continue to participate in the
7 program until he enrolls in a public school, he receives a high school diploma
8 or its equivalent, or his account is closed.

9 C. A participating student shall not participate concurrently in the
10 Course Choice Program, the Student Scholarships for Educational Excellence
11 Program, the School Choice Program for Certain Students with
12 Exceptionalities, or the Tuition Donation Credit Program.

13 §4037.5. Schools and service providers; eligibility; participation

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

16 (1) Be approved, provisionally approved, or probationally approved by
17 the state board pursuant to R.S. 17:11.

18 (2) Comply with the criteria set forth in *Brumfield, et al. v. Dodd, et al.*,
19 425 F. Supp. 528 (E.D. La. 1977).

20 (3) Satisfy any other eligibility criteria set by the state board in program
21 rules.

22 B. The state board shall provide eligibility criteria for service providers
23 in program rules.

24 C. To be eligible to participate in the program, a school or service
25 provider shall apply to the department to participate in the program and, if
26 determined to be eligible, accept account funds for providing services covered
27 as qualified education expenses.

28 §4037.6. Student with exceptionalities

29 A. If a participating student enrolled in a participating school would

1 have been entitled to receive special education services in the resident school
2 system, his parent shall acknowledge in writing, as part of the program
3 enrollment process that the parent agrees to accept only such services as are
4 available to all students enrolled in the participating school.

5 B. A parent may make a parental placement to receive special education
6 and related services from a participating school that has demonstrated the
7 capacity to offer such services.

8 C.(1) A participating school shall not discriminate against a child with
9 special educational needs during the program admissions process. However, a
10 participating school is required to offer only those services that it already
11 provides or such services as necessary to assist students with special needs that
12 it can provide with minor adjustments. A participating school may partner with
13 the resident school system to provide special education services.

14 (2) Information regarding the services a participating school provides
15 and the services the resident school system provides to children with special
16 needs who are enrolled in a participating school shall be made available by the
17 department to parents prior to the enrollment process.

18 D. To be determined to have demonstrated capacity to offer special
19 education services, a participating school shall meet all of the following criteria:

20 (1) Have provided educational services to students with exceptionalities
21 as defined in R.S. 17:1942, excluding students deemed to be gifted or talented,
22 for at least two years prior to participation in the program, through an
23 established program at the school that includes instruction by teachers holding
24 appropriate certification in special education or other appropriate education or
25 training as defined by the department and that is in accordance with a student's
26 Individual Education Plan.

27 (2) In accordance with timelines as determined by the department,
28 informs the department of the types of student exceptionalities that the school
29 is able to serve.

1 §4037.7. Testing

2 A. The department shall develop a process for the annual administration
3 of one of the following assessments to participating students:

4 (1) All examinations required pursuant to the school and district
5 accountability system at prescribed grade levels.

6 (2) A nationally norm-referenced test or a statewide assessment.

7 B. The department shall develop a process for the collection and
8 aggregate reporting of results and shall ensure that the results of such
9 assessments are provided to parents of participating students.

10 §4037.8. Reports

11 A. Not later than April thirtieth of each year, the department shall
12 submit a written report to the House Committee on Education, the Senate
13 Committee on Education, and the Joint Legislative Committee on the Budget
14 regarding the implementation of the program.

15 B. The report, at a minimum, shall include the following information:

16 (1) The total number of students participating in the program.

17 (2) A list of all participating schools and service providers.

18 (3) The total student enrollment of each participating school, the number
19 of participating students enrolled in each school, and the percentage of the total
20 enrollment of each school represented by program participants.

21 (4) Aggregate test result data for participating students.

22 (5) Percentage of funds used for each type of qualified education expense.

23 (6) An analysis of the program's fiscal impact on the state and on local
24 public school systems.

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

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Serrett.

DIGEST

SB 203 Original 2022 Regular Session Hewitt

Proposed law creates the Reading Education Savings Account (RESA) Program. Provides for program administration by the state Dept. of Education (DOE) in accordance with State Board of Elementary and Secondary Education (BESE) rules which provide for:

- (1) Determination of eligibility of students, participating schools, and service providers.
- (2) Audits of the program and accounts.
- (3) DOE's authority to:
 - (a) Deem any participating student ineligible for the program and to refer cases of misuse of account funds to the attorney general for investigation.
 - (b) Contract with a nonprofit organization for program administration.

Proposed law requires DOE to:

- (1) Allocate to each account annually, from funds appropriated or otherwise made available for the program, an amount equal to the state's average per pupil allocation as provided in the minimum foundation program (MFP) formula, considering all student characteristics.
- (2) Develop a system for parents to direct account funds to participating schools and service providers.

Proposed law further provides that:

- (1) Account funds shall be used only for qualified education expenses for the participating student.
- (2) Unused funds in an account, up to 50% of the total funds deposited into the account for the current school year, shall remain in the account for the following school year.
- (3) The account shall be closed and the funds in the account shall be returned to the state general fund if a student is no longer eligible, if an account has been inactive for two consecutive years, or if a parent fails to comply with program requirements.
- (4) Account funds do not constitute taxable income and shall not be claimed as a credit, deduction, exemption, or rebate.

Proposed law provides that a student shall be initially eligible for an account if he is enrolled in a Louisiana public school in the third grade and meets all of the following criteria:

- (1) Is not reading on grade level, as determined by the results of current school year literacy assessments and update reports as provided in present law (R.S. 17:24.9).
- (2) Submits a timely application.
- (3) The student's parent signs an agreement promising all of the following:

- (a) To provide an education for the participating student in at least the subjects of English language arts, math, social studies, and science.
- (b) Not enroll the student in a public school while participating in the program.
- (c) To use account funds only for qualified education expenses of the participating student.
- (d) To comply with all program requirements.

Proposed law further provides that a participating student:

- (1) Is eligible until he enrolls in a public school, he receives a high school diploma or its equivalent, or his account is closed.
- (2) Is prohibited from participating concurrently in the RESA program and the Course Choice Program, the Student Scholarships for Educational Excellence Program, the School Choice Program for Certain Students with Exceptionalities, or the Tuition Donation Credit Program.

Proposed law provides that to be eligible to participate, a school shall:

- (1) Be approved, provisionally approved, or probationally approved by BESE.
- (2) Comply with federal nondiscrimination requirements.
- (3) Satisfy any other criteria set by BESE.

Proposed law requires BESE to adopt rules to set eligibility criteria for service providers. Further provides that to be eligible to participate in the program, a school or service provider shall apply to DOE and, if determined to be eligible, accept RESA funds for providing services covered as qualified education expenses.

Proposed law requires, if a student would have been entitled to special education services in his resident school system, his parent to acknowledge in writing that he agrees to accept only such services available in the participating school. Proposed law further requires participating schools to meet certain criteria to be eligible to offer such services.

Proposed law provides that a participating school shall not discriminate against a child with special educational needs during the admissions process, but that the participating school is only required to offer services it already provides or services it can provide with minor adjustments. Proposed law further requires DOE to provide information relative to special education services to parents prior to the enrollment process.

Proposed law requires the DOE to develop a process for the annual administration of assessments to participating students and to provide the results of such examinations to parents.

Proposed law requires DOE, by April 30th annually, to submit a report to the House and Senate education committees and the Jt. Legislative Committee on the Budget regarding program implementation.

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

(Adds R.S. 17:4037.1 - 4037.8)