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HOUSE FLOOR AMENDMENTS

2022 Regular Session

Amendments proposed by Representative Freiberg to Reengrossed Senate Bill No. 203 by Senator Hewitt

1 AMENDMENT NO. 1

2 On page 1, after "reenact" delete the remainder of the line and delete line 2 and insert "R.S.
3 17:236(A) and 416.13(D)(3)(f)(i) and (v) and to enact Chapter 43-C of Title 17 of the
4 Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:4037.1 through 4037.8,
5 Chapter 43-D of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
6 17:4037.11 through 4037.18, and Chapter 43-E of Title 17 of the Louisiana Revised Statutes
7 of 1950, to be comprised of R.S. 17:4037.21 through 4037.28, relative"

8 AMENDMENT NO. 2

9 On page 1, line 6, after "school;" and before "to provide" insert "to create and provide for
10 the administration of a program to provide state funding for the education of certain other
11 students who are not enrolled in public school; to provide relative to parental options under
12 certain circumstances related to bullying in public schools; to create and provide for the
13 administration of a program to provide state funding for the education of certain students
14 who have been victims of bullying and who are not enrolled in public school;"

15 AMENDMENT NO. 3

16 On page 1, delete lines 12 through 14 and insert the following:

17 "Section 1. R.S. 17:236(A) and 416.13(D)(3)(f)(i) and (v) are hereby amended and
18 reenacted and Chapter 43-C of Title 17 of the Louisiana Revised Statutes of 1950,
19 comprised of R.S. 17:4037.1 through 4037.8, Chapter 43-D of Title 17 of the Louisiana
20 Revised Statutes of 1950, comprised of R.S. 17:4037.21 through 4037.28, and Chapter 43-E
21 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:4037.21 through
22 4037.28, are hereby enacted to read as follows:"

23 AMENDMENT NO. 4

24 On page 2, at the end of line 20, delete the period "." and insert "**or if the child is eligible**
25 **to participate in an education savings account program pursuant to R.S. 17:4037.14 or**
26 **R.S. 17:4037.24 and his parent has signed an agreement pursuant to R.S.**
27 **17:4037.14(A)(3) or R.S. 17:4037.24(A)(3).**"

28 AMENDMENT NO. 5

29 On page 2, between lines 21 and 22, insert the following:

30 "§416.13. Student code of conduct; requirement; bullying; prohibition;
31 notice; reporting; accountability
32 * * *
33 D. The State Board of Elementary and Secondary Education, in collaboration
34 with the state Department of Education, shall develop and adopt rules and
35 regulations to implement the provisions of this Section relative to the procedures and

1 processes to be used to report and investigate bullying and which shall include but
2 not be limited to:

3 * * *

4 (3) Investigation Procedure. The State Board of Elementary and Secondary
5 Education shall develop and adopt a procedure for the investigation of reports of
6 bullying of a student by another student. The procedure shall include the following:

7 * * *

8 (f) Parental Relief. (i) If a parent, legal guardian, teacher, or other school
9 official has made ~~four~~ two or more reports of separate instances of bullying, as
10 provided in Paragraph (2) of this Subsection, and either no investigation pursuant to
11 Paragraph (3) of this Subsection has occurred or no resolution that is acceptable
12 to the parent or legal guardian has been reached, the parent or legal guardian with
13 responsibility for decisions regarding the education of the victim about whom the
14 ~~report~~ or reports have been made may exercise an option to apply for an education
15 savings account as provided in Chapter 43-E of this Title or to have the student
16 enroll in or attend another school operated by the governing authority of the public
17 elementary or secondary school in which the student was enrolled on the dates when
18 at least ~~three~~ one of the reports ~~were~~ was submitted as provided in Items (ii)
19 through (v) of this Subparagraph. Any student who has been the victim of
20 bullying that involved sexual assault as defined in R.S. 46:2184 where the
21 perpetrator is a student at the victim's school may exercise an option after the
22 first such incident of sexual assault to apply for an education savings account
23 as provided in Chapter 43-E of this Title or to have the student enroll in or
24 attend another school operated by the governing authority of the public
25 elementary or secondary school in which the student was enrolled.

26 * * *

27 (v) At the end of any school year, the parent or legal guardian may make a
28 request to the governing authority of the school at which the student was enrolled
29 when at least ~~three~~ one of the reports ~~were~~ was filed to transfer the student back to
30 the school. The governing authority shall make a seat available at the school at
31 which the student was originally enrolled. No other schools shall qualify for transfer
32 under this Subparagraph.

33 * * *"

34 AMENDMENT NO. 6

35 On page 9, between lines 20 and 21, insert the following:

36 "CHAPTER 43-D. EDUCATION SAVINGS ACCOUNT PROGRAM -
37 MILITARY, FOSTER CARE, DENIED SCHOOL TRANSFERS

38 §4037.11. Definitions

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

41 (1) "Account" means an education account established pursuant to this
42 Chapter and composed of state funds deposited on behalf of a student eligible
43 to participate in the program.

44 (2) "Account funds" means the funds deposited into an account on
45 behalf of a participating student.

46 (3) "Department" means the state Department of Education.

47 (4) "Parent" means a parent, legal guardian, custodian, or other person
48 or entity with legal authority to act on behalf of a student.

49 (5) "Participating school" means a nonpublic school participating in the
50 program pursuant to the requirements of this Chapter.

51 (6) "Participating student" means a student who has been determined
52 to be eligible to participate in the program and for whom an account has been
53 established pursuant to this Chapter.

54 (7) "Program" means the program created by this Chapter.

55 (8) "Qualified education expenses" means any of the following:

1 (a) Tuition, fees, and textbooks required by a participating school or
 2 service provider.

3 (b) Tutoring services provided by an educator with a valid Louisiana
 4 teaching certificate.

5 (c) Supplemental materials required by a course of study for a
 6 particular content area.

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

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

11 (10) "Service provider" means a person or an entity other than a
 12 participating school that provides services that are covered as qualified
 13 education expenses.

14 (11) "State board" means the State Board of Elementary and Secondary
 15 Education.

16 **§4037.12. Program creation and administration; powers and duties of the State**
 17 **Board of Elementary and Secondary Education and state Department**
 18 **of Education; rules**

19 The Education Savings Account Program is hereby created. The
 20 department shall administer the program, and the state board shall adopt rules
 21 and regulations for the administration of the program which shall, at minimum,
 22 provide for the following:

23 (1) Determination of the eligibility of students, participating schools, and
 24 service providers, including standards that schools and service providers shall
 25 meet as conditions of participation in the program.

26 (2) Audits of the program and accounts.

27 (3) The authority of the department to deem any participating student
 28 ineligible for the program and to refer a case involving the misuse of account
 29 funds to the attorney general for investigation.

30 (4) The authority of the department to contract with a vendor for the
 31 administration of the program or parts of the program.

32 **§4037.13. Account funds**

33 A. The department shall allocate to each account annually, from funds
 34 appropriated or otherwise made available for the program, an amount equal to
 35 the state's average per-pupil allocation as provided in the minimum foundation
 36 program formula, considering all student characteristics. The amount allocated
 37 to an account shall be appropriately prorated if a student transfers into the
 38 program after the beginning of a school year.

39 B. The department shall develop a system for parents to direct account
 40 funds to participating schools and service providers by electronic funds
 41 transfer, automated clearing house transfer, or another system. The
 42 department may contract with a private financial management firm to manage
 43 the payment system.

44 C.(1) Account funds shall be used only for qualified education expenses
 45 for the participating student. Unused funds in an account, up to fifty percent
 46 of the total funds deposited into the account for the current school year, shall
 47 be retained in the student's account for the following school year.

48 (2) The account shall be closed and the funds in the account shall be
 49 returned to the state general fund if the student is determined to be no longer
 50 eligible, if an account has been inactive for two consecutive years, or if a parent
 51 fails to comply with the provisions of this Chapter or state board rules
 52 pertaining to the program.

53 **§4037.14. Student eligibility; initial and continuing**

54 A. A student is initially eligible for an account if he is eligible to enroll
 55 in kindergarten or was enrolled in a Louisiana public school during the
 56 previous school year and meets all of the following criteria:

57 (1) He meets at least one of the following criteria:

58 (a) He has a parent who is an active duty military service member.

1 **(b) His parent submitted an enrollment request for an interdistrict or**
 2 **intradistrict transfer pursuant to R.S. 17:4035.1 during the most recent transfer**
 3 **request period and such request was denied.**

4 **(c) Pursuant to foster care placement through the Department of**
 5 **Children and Family Services, he is residing with a prospective permanent**
 6 **placement or has achieved permanency through adoption or permanent**
 7 **guardianship.**

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

10 **(3) The student's parent signs an agreement promising all of the**
 11 **following:**

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

14 **(b) Not to enroll the student in a public school while participating in the**
 15 **program.**

16 **(c) To use account funds only for qualified education expenses of the**
 17 **participating student.**

18 **(d) To comply with all program requirements.**

19 **B.(1) The signed agreement pursuant to Paragraph (A)(3) of this Section**
 20 **satisfies the compulsory school attendance requirements of R.S. 17:221.**
 21 **However, the parent of a participating student shall ensure the student is**
 22 **complying with the attendance requirements of the participating school or**
 23 **service provider. Each participating student who fails to comply with such**
 24 **attendance requirements shall be reported to the state director of child welfare**
 25 **and attendance by the participating school or service provider and shall be**
 26 **subject to the provisions of R.S. 17:233.**

27 **(2) A participating student is eligible to continue to participate in the**
 28 **program until he enrolls in a public school, he receives a high school diploma**
 29 **or its equivalent, or his account is closed.**

30 **C. A participating student shall not participate in any of the following**
 31 **concurrently with this program: any other education savings account program**
 32 **provided in this Title, the Course Choice Program, the Student Scholarships**
 33 **for Educational Excellence Program, the School Choice Program for Certain**
 34 **Students with Exceptionalities, or the Tuition Donation Credit Program.**

35 **§4037.15. Schools and service providers; eligibility; participation**

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

38 **(1) It has been approved, provisionally approved, or probationally**
 39 **approved by the state board pursuant to R.S. 17:11.**

40 **(2) It is in compliance with the criteria set forth in Brumfield, et al. v.**
 41 **Dodd, et al., 425 F. Supp. 528 (E.D. La. 1977).**

42 **(3) It meets any other eligibility criteria set by the state board in**
 43 **program rules.**

44 **B. The state board shall provide eligibility criteria for service providers**
 45 **in program rules.**

46 **C. To be eligible to participate in the program, a school or service**
 47 **provider shall apply to the department to participate in the program and, if**
 48 **determined to be eligible, accept account funds for providing services covered**
 49 **as qualified education expenses.**

50 **D. If the department finds that a participating school or service provider**
 51 **has failed to maintain continuing eligibility criteria or has demonstrated gross**
 52 **or a persistent lack of academic competence, the department shall restrict the**
 53 **school's ability to serve additional students and may be terminated from the**
 54 **program. Such action shall be reported to the state board within three business**
 55 **days.**

56 **§4037.16. Student with exceptionalities**

57 **A. If a participating student enrolled in a participating school would**
 58 **have been entitled to receive special education services in the resident school**
 59 **system, his parent shall acknowledge in writing, as part of the program**

enrollment process, that the parent agrees to accept only such services as are available to all students enrolled in the participating school.

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

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

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

D. The department shall determine whether a participating school has a demonstrated capacity to offer special education services. A participating school that desires to offer special education services shall inform the department of the types of student exceptionalities as defined in R.S. 17:1942 that the school is able to serve. The department may authorize the school to provide such services only if the school has existed and provided educational services to students with exceptionalities as defined in R.S. 17:1942, excluding students deemed to be gifted or talented, for at least two years prior to participation in the program, and such provision of services is pursuant to an established program in place at the school that includes instruction by teachers holding appropriate certification in special education or other appropriate education or training as defined by the department and that is in accordance with a student's Individual Education Plan.

§4037.17. Testing

A. A participating school shall ensure that participating students are administered a nationally norm-referenced test or a statewide assessment and that the results of such examinations are provided to parents.

B. The department shall develop a process for the annual administration of assessments and the collection of results for participating students not enrolled full time in a participating school.

§4037.18. Reports

Not later than April thirtieth of each year, the department shall submit a written report to the House Committee on Education, the Senate Committee on Education, and the Joint Legislative Committee on the Budget regarding the implementation of the program. The report, at a minimum, shall include the following information:

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

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

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

(4) Aggregate test result data for participating students.

(5) The percentage of funds used for each type of qualified education expense.

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

(7) The results of a parental satisfaction survey.

(8) The amount withheld by the department for administration of the program, including the amount retained by the department, the amount paid to vendors for the administration of the program, and the amount paid to vendors for managing the payment system.

CHAPTER 43-E. EDUCATION SAVINGS ACCOUNT PROGRAM FOR CERTAIN STUDENTS WHO HAVE BEEN VICTIMS OF BULLYING

§4037.21. Definitions

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

3 (1) "Account" means an education account established pursuant to this
 4 Chapter and composed of state funds deposited on behalf of a student eligible
 5 to participate in the program.

6 (2) "Account funds" means the funds deposited into an account on
 7 behalf of a participating student.

8 (3) "Department" means the state Department of Education.

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

11 (5) "Participating school" means a nonpublic school participating in the
 12 program pursuant to the requirements of this Chapter.

13 (6) "Participating student" means a student who has been determined
 14 to be eligible to participate in the program and for whom an account has been
 15 established pursuant to this Chapter.

16 (7) "Program" means the program created by this Chapter.

17 (8) "Qualified education expenses" means any of the following:

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

20 (b) Instructional or tutoring services.

21 (c) Supplemental materials required by a course of study for a
 22 particular content area.

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

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

27 (10) "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.

30 (11) "State board" means the State Board of Elementary and Secondary
 31 Education.

32 §4037.22. Program creation and administration; powers and duties of the State
 33 Board of Elementary and Secondary Education and state Department
 34 of Education; rules

35 The Education Savings Account Program is hereby created. The
 36 department shall administer the program, and the state board shall adopt rules
 37 and regulations for the administration of the program which shall, at minimum,
 38 provide for the following:

39 (1) Determination of the eligibility of students, participating schools, and
 40 service providers, including standards that schools and service providers shall
 41 meet as conditions of participation in the program.

42 (2) Audits of the program and accounts.

43 (3) The authority of the department to deem any participating student
 44 ineligible for the program and to refer a case involving the misuse of account
 45 funds to the attorney general for investigation.

46 (4) The authority of the department to contract with a vendor or
 47 provider for the administration of the program or parts of the program.

48 (5) A requirement that the program shall begin enrolling participating
 49 students not later than the beginning of the 2023-2024 school year.

50 §4037.23. Account funds

51 A. The department shall allocate to each account annually, from funds
 52 appropriated or otherwise made available for the program, an amount equal to
 53 the state's average per-pupil allocation as provided in the minimum foundation
 54 program formula, considering all student characteristics. The amount allocated
 55 to an account shall be appropriately prorated if a student transfers into the
 56 program after the beginning of a school year. The department may withhold
 57 up to five percent of funds allocated for each account annually for program
 58 administration.

1 B. The department shall develop a system for parents to direct account
 2 funds to participating schools and service providers by electronic funds
 3 transfer, automated clearing house transfer, or another system. The
 4 department may contract with a private financial management firm to manage
 5 the payment system.

6 C.(1) Account funds shall be used only for qualified education expenses
 7 for the participating student. Unused funds in an account, up to fifty percent
 8 of the total funds deposited into the account for the current school year, shall
 9 be retained in the student's account for the following school year.

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

15 §4037.24. Student eligibility; initial and continuing

16 A. A student is initially eligible for an account if he is eligible to enroll
 17 in kindergarten or was enrolled in a Louisiana public school during the
 18 previous school year and meets all of the following criteria:

19 (1) He has been the victim of bullying under the conditions provided in
 20 R.S. 17:416.13(D)(3)(f)(i).

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

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

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

27 (b) Not to enroll the student in a public school while participating in the
 28 program.

29 (c) To use account funds only for qualified education expenses of the
 30 participating student.

31 (d) To comply with all program requirements.

32 B.(1) The signed agreement pursuant to Paragraph (A)(3) of this Section
 33 satisfies the compulsory school attendance requirements of R.S. 17:221.
 34 However, the parent of a participating student shall ensure the student is
 35 complying with the attendance requirements of the participating school or
 36 service provider. Each participating student who fails to comply with such
 37 attendance requirements shall be reported to the state director of child welfare
 38 and attendance by the participating school or service provider and shall be
 39 subject to the provisions of R.S. 17:233.

40 (2) A participating student is eligible to continue to participate in the
 41 program until he enrolls in a public school, he receives a high school diploma
 42 or its equivalent, or his account is closed.

43 C. A participating student shall not participate in any of the following
 44 concurrently with this program: any other education savings account program
 45 provided in this Title, the Course Choice Program, the Student Scholarships for
 46 Educational Excellence Program, the School Choice Program for Certain
 47 Students with Exceptionalities, or the Tuition Donation Credit Program.

48 §4037.25. Schools and service providers; eligibility; participation

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

51 (1) It has been approved, provisionally approved, or probationally
 52 approved by the state board pursuant to R.S. 17:11.

53 (2) It is in compliance with the criteria set forth in Brumfield, et al. v.
 54 Dodd, et al., 425 F. Supp. 528 (E.D. La. 1977).

55 (3) It meets any other eligibility criteria set by the state board in
 56 program rules.

57 B. The state board shall provide eligibility criteria for service providers
 58 in program rules in a way that maximizes provider participation.

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

5 D. If the department finds that a participating school or service provider
 6 has failed to maintain continuing eligibility criteria or has demonstrated gross
 7 or a persistent lack of academic competence, the department shall restrict the
 8 school's ability to serve additional students and may be terminated from the
 9 program. Such action shall be reported to the state board within three business
 10 days.

11 §4037.26. Student with exceptionalities

12 A. If a participating student enrolled in a participating school would
 13 have been entitled to receive special education services in the resident school
 14 system, his parent shall acknowledge in writing, as part of the program
 15 enrollment process, that the parent agrees to accept only such services as are
 16 available to all students enrolled in the participating school.

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

20 C.(1) A participating school shall not discriminate against a child with
 21 special educational needs during the program admissions process. However, a
 22 participating school is required to offer only those services that it already
 23 provides or such services as necessary to assist students with special needs that
 24 it can provide with minor adjustments. A participating school may partner
 25 with the local school system to provide special education services.

26 (2) Information regarding the services a participating school can
 27 provide and the services the resident school system can provide to children with
 28 special needs who are enrolled in a participating school shall be made available
 29 by the department to parents prior to the enrollment process.

30 D. The department shall determine whether a participating school has
 31 a demonstrated capacity to offer special education services. A participating
 32 school that desires to offer special education services shall inform the
 33 department of the types of student exceptionalities as defined in R.S. 17:1942
 34 that the school is able to serve. The department may authorize the school to
 35 provide such services only if the school has existed and provided educational
 36 services to students with exceptionalities as defined in R.S. 17:1942, excluding
 37 students deemed to be gifted or talented, for at least two years prior to
 38 participation in the program, and such provision of services is pursuant to an
 39 established program in place at the school that includes instruction by teachers
 40 holding appropriate certification in special education or other appropriate
 41 education or training as defined by the department and that is in accordance
 42 with a student's Individual Education Plan.

43 §4037.27. Testing

44 A. The department shall develop a process for the annual administration
 45 of either of the following to participating students:

46 (1) Any examination required pursuant to the school and district
 47 accountability system at the prescribed grade level.

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

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

52 §4037.28. Reports

53 Not later than April thirtieth of each year, the department shall submit
 54 a written report to the House Committee on Education, the Senate Committee
 55 on Education, and the Joint Legislative Committee on the Budget regarding the
 56 implementation of the program. The report, at a minimum, shall include the
 57 following information:

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

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

- 1 **(3) The total student enrollment of each participating school, the**
- 2 **number of participating students enrolled in each school, and the percentage of**
- 3 **the total enrollment of each school represented by program participants.**
- 4 **(4) Aggregate test result data for participating students.**
- 5 **(5) The percentage of funds used for each type of qualified education**
- 6 **expense.**
- 7 **(6) An analysis of the program's fiscal impact on the state and on local**
- 8 **public school systems.**
- 9 **(7) The results of a parental satisfaction survey.**
- 10 **(8) The amount withheld by the department for administration of the**
- 11 **program, including the amount retained by the department, the amount paid**
- 12 **to vendors for the administration of the program, and the amount paid to**
- 13 **vendors for managing the payment system."**