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## DIGEST

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HB 98 Reengrossed

2023 Regular Session

Harris

**Abstract:** Creates and provides for the administration of a program for the purpose of providing state funding for qualified education expenses for students in grades kindergarten through 12 who are not enrolled in a public school and expands the ability of parents to enroll children in the public school of their choice by removing conditions relative to school performance.

### **Sunshine Scholarship Program; Creation and Administration**

Proposed law creates the Sunshine Scholarship Program, a universal education freedom account program for students not enrolled in public school and provides for program administration by the state Dept. of Education (DOE) in accordance with State Board of Elementary and Secondary Education (BESE) rules which shall, at minimum, 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 vendor or provider for the administration of the program or parts of the program.
- (4) A requirement that the program begin enrolling students by the beginning of the 2024-2025 school year.

### **Funds**

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 average state MFP per pupil allocation, which includes all applicable weighted funds based on student characteristics. Authorizes DOE to withhold up to 5% of funds allocated for each account annually for program administration. Requires that the amount allocated to an account be prorated if a student transfers into the program

after the beginning of a school year.

- (2) Develop a system for parents to direct account funds to participating schools and service providers by electronic funds transfer, automated clearing house transfer, or another system.

Proposed law further provides as follows:

- (1) Limits authorized use of funds to qualified education expenses.
- (2) Unused funds in an account 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) The account shall not be closed due to inactivity if the participating student's two year inactivity was due to the failure of the legislature to appropriate funds.
- (5) Account funds do not constitute taxable income and shall not be claimed as a credit, deduction, exemption, or rebate.
- (6) Schools and service providers shall not share funds paid from an account with a parent or student in any manner, including but not limited to a refund or rebate.

### **Eligibility; Students**

Proposed law provides that a student shall be initially eligible for an account if he is eligible to enroll in kindergarten or was enrolled in a La. public school during the previous school year and meets all of the following criteria:

- (1) The student's parent submits a timely application.

- (2) 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 to 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 provides for a phased-in expansion of eligibility for students regardless of whether they attended a public school in the previous school year.

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 eligible to participate concurrently in this 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, but the total amount applied toward the student shall not exceed the statewide average of the state and local per pupil amount as provided by the minimum foundation program formula.
- (3) Shall be considered in attendance at a day school for purposes of compulsory attendance; proposed law requires parents to ensure students comply with attendance requirements and requires schools and service providers to report students who fail to comply to the state director of child welfare and attendance.

### **Students with Exceptionalities**

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 as are available to all students enrolled in the participating school. Requires participating schools to meet certain criteria to be eligible to offer such services.

### **Eligibility; Schools and Service Providers**

Proposed law provides that a school shall meet all of the following criteria to be eligible to participate:

- (1) Be approved by BESE.

- (2) Comply with criteria set forth in federal nondiscrimination requirements.
- (3) Any other criteria set by BESE.

Proposed law requires BESE to set eligibility criteria for schools and service providers in a way that maximizes school and provider participation. Provides that to be eligible to participate in the program, both schools and service providers shall apply to DOE and, if determined to be eligible, accept program funds for providing services covered as qualified education expenses.

Proposed law provides for sanctions relative to admitting additional students and participation in the program if a school or service provider fails to meet continuing eligibility requirements.

Proposed law adds that nothing in proposed law shall be deemed to limit the independence or autonomy of any participating school or service provider.

### **Testing**

Proposed law requires:

- (1) DOE to develop a process for the annual administration of either of the following to participating students:
  - (a) Any examination required pursuant to the school and district accountability system at the prescribed grade level.
  - (b) A nationally norm-referenced test or a statewide assessment.
- (2) DOE to develop a process for the collection and aggregate reporting of results and ensure results are provided to parents.

### **Reporting**

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. Provides for required report content, including the results of a parental satisfaction survey and certain financial information relative to the program.

### **Public School Participation in the Sunshine Scholarship Program; BESE Study**

Proposed law requires BESE to study the feasibility and advisability of the full-time and part-time participation of students attending public schools, including both traditional public schools and charter schools, in the Sunshine Scholarship Program and submit a written report of findings and conclusions, including but not limited to any recommendations for related legislation, funding considerations, best practices from other states, and a potential timeline for implementation, to the House and Senate education committees not later than Dec. 31, 2023. Requires the state

superintendent or his designee to make a presentation on the report and any related matters he deems appropriate to the committees, meeting separately or jointly, not later than Jan. 31, 2024.

### **Public School Choice**

Present law allows parents to enroll children in the public school of their choice without regard to residence, school system geographic boundaries, or attendance zones if the following conditions are met:

- (1) The public school in which the student was most recently enrolled or would otherwise attend received a performance letter grade of "D" or "F" for the most recent school year.
- (2) The school in which the student seeks to enroll received a performance letter grade of "A", "B", or "C" for the most recent school year and has sufficient capacity at the appropriate grade level.

Proposed law retains the condition relative to sufficient capacity at the receiving school but removes all conditions pertaining to school letter grades. Proposed law adds that the receiving school also have sufficient projected capacity at the appropriate grade level.

Present law requires each public school governing authority to notify parents of students enrolled in a "D" or "F" school of the "A", "B", and "C" schools under its jurisdiction and the process for submitting students transfer requests. Proposed law requires each public school governing authority to notify the parents of all of its students of the letter grades of all schools under its jurisdiction and otherwise retains present law.

Proposed law requires BESE to adopt rules for the implementation of present law and proposed law and retains the following present law relative to public school choice:

- (1) That a student shall not be enrolled in a school if it would violate the order of a court of competent jurisdiction.
- (2) That parents may request that BESE review transfers that are denied.
- (3) That a school system shall not be required to provide transportation to any student enrolled in a public school that is located outside of the geographic boundaries of the school system in which the student resides if it would result in additional cost to the school system.
- (4) That a student enrolled in a public school shall be counted by the local public school system in which he is enrolled for purposes of the minimum foundation program and formula and any other available state or federal funding for which the student is eligible.
- (5) That each public school governing authority shall work collaboratively and cooperatively to ensure compliance.

- (6) That BESE shall report to the House and Senate education committees annually regarding both interdistrict and intradistrict transfers.
- (7) That present law shall not be construed to require a selective admissions school to enroll a student who does not meet admissions requirements.

Effective upon signature of governor or lapse of time for gubernatorial action except for repeal of provisions relative to BESE's study and superintendent's presentation, which are effective Feb. 1, 2024.

(Amends R.S. 17:236(A) and 4035.1(A) and (F)(2)(intro. para.) and (b); Adds R.S. 17:4035.1(I) and 4037.1-4037.9; Repeals R.S. 17:4035.1(C)(2) and 4037.9)

### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Add other expenses incurred in the education of the student to the list of qualified education expenses.
2. Revise the amount of the annual allocation to each account.
3. Allow all unspent funds, rather than up to 50% of the total funds deposited into the account for the current school year, to remain in the account.
4. Add that nothing in proposed law shall be deemed to limit the independence or autonomy of any participating school or service provider.
5. Remove certain criteria relative to the provision of special education services by participating nonpublic schools.
6. Specify that BESE study potential full-time and part-time participation of public school students in the proposed law scholarship program.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Provide for schools to have sufficient projected capacity for students at the appropriate grade level.
2. Provide that a participating student's account shall not be closed for inactivity when that two year inactivity is due to a lack of appropriated funds from the legislature.