

SENATE BILL NO. 71

BY SENATORS FOIL, CLOUD, EDMONDS, MIGUEZ, SELDERS, STINE AND WOMACK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

To amend and reenact R.S. 17:4001 and R.S. 24:514(I), relative to the Louisiana Charter School Start-Up Loan Fund; to expand the authorized uses and purposes of the fund; to rename the fund; to provide for the administration, investment, and disposition of monies in the fund; to establish eligibility criteria; to authorize the division of administration to enter into contracts and agreements; to authorize the reimbursement of administrative expenses; to provide for requirements and limitations; to require certain loan agreements; to provide for the terms of loan agreements; to provide for the transfer of assets in certain circumstances; to provide for audit requirements; to require eligible charter schools to submit a supplemental reporting schedule; to provide for definitions; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:4001 is hereby amended and reenacted to read as follows:

§4001. Louisiana Charter School Start-Up **and Expansion** Loan Fund; creation; purpose; distribution

A.**(1)** The Louisiana Charter School Start-Up **and Expansion** Loan Fund, hereafter referred to as the "fund", is hereby created within the state treasury for the purposes of providing a source for funding ~~no-interest~~ loans to assist ~~both existing and new Type 1, Type 2, or Type 3 charter schools with initial start-up funding and for funding the administrative and legal cost associated with the charter school program~~ **eligible charter schools to expand existing operations and facilities or establish new operations and facilities with initial start-up funding, including**

1 funding for eligible costs associated with facility predevelopment, development,
2 and associated financing activities.

3 (2) For purposes of this Section, "eligible charter school" shall mean an
4 existing or new Louisiana public charter school authorized by either a local
5 school board or the State Board of Elementary and Secondary Education
6 pursuant to R.S. 17:3971 et seq. An affiliated supporting organization as defined
7 in Section 509(a)(3) of the Internal Revenue Code or a charter school's wholly
8 owned, nonprofit corporation real estate entity is eligible to apply for a loan or
9 facilitate the use of a loan for the benefit of an eligible charter school.

10 B. All monies appropriated to the fund and any grants, other donations, or
11 other sources of financial assistance directed to the fund shall be deposited into the
12 fund. Monies in the fund shall be subject to appropriation by the legislature and shall
13 be appropriated to the State Board of Elementary and Secondary Education division
14 of administration for allocation by the board as no-interest loans for the purposes
15 provided in Subsection D of this Section or for other educational purposes as
16 determined by the legislature. Expenses incurred by the division of administration
17 in administering the fund shall be reimbursable from the fund. All unexpended
18 and unencumbered monies remaining in such fund at the end of each fiscal year shall
19 remain in the fund. The monies in such fund shall be invested by the state treasurer
20 in accordance with state law, and interest earned on the investment of these monies
21 shall be credited to the fund, after compliance with the requirements of Article VII,
22 Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and
23 Redemption Fund.

24 C.(1) The state board division of administration shall administer the use of
25 the monies appropriated from the fund and may enter in contracts and other
26 agreements in connection with the operation of the fund. shall adopt rules in
27 accordance with the Administrative Procedure Act. The adopted rules shall specify
28 that state board approval of any Type 2 charter school proposal that includes within
29 its budget a request for loan funding which complies with the provisions of this
30 Section and details regarding how those loan funds are to be expended, shall

1 ~~constitute the approval of that loan amount. No additional loan application~~
2 ~~paperwork shall be required. No Type 1 or Type 3 charter school approved by its~~
3 ~~local school board shall be required to submit more than its approved charter~~
4 ~~proposal and a detailed budget identifying how any loan funds are to be expended~~
5 ~~and how such request complies with the provisions of this Section. The state board~~
6 ~~may reject any such request which does not comply with terms of this Section. Such~~
7 ~~rules shall also note that any loan funding may be used only to purchase tangible~~
8 ~~items such as equipment, technology, instructional materials, and facility acquisition,~~
9 ~~upgrade, and repairs. Such equipment or other items shall become the property of the~~
10 ~~state if the loan is not fully repaid by virtue of the school ceasing to operate during~~
11 ~~the three years of automatic loan repayment as noted in Paragraph (3) of this~~
12 ~~Subsection.~~

13 ~~(2) Loans shall be made only to Type 1, Type 2, and Type 3 charter schools~~
14 ~~and shall not exceed one hundred thousand dollars to pay for charter school start-up~~
15 ~~and early operating expenses.~~

16 **(2) The division of administration, in consultation with the State Board**
17 **of Elementary and Secondary Education, shall adopt rules in accordance with**
18 **the Administrative Procedure Act to implement the provisions of this Section.**

19 **The rules shall include but not be limited to the following:**

20 **(a) Charter school eligibility requirements.**

21 **(b) Processing procedures for loans and a loan application that includes**
22 **a per pupil funding calculation.**

23 **(c) Security and collateral requirement provisions.**

24 **(d) Terms of the loan agreement, including the manner of execution,**
25 **repayment schedule, redemption features, the maximum principal amount of**
26 **the obligation, the maximum interest rate to be incurred or borne by the**
27 **obligation, the maximum repayment term of the loan which shall not exceed the**
28 **term of the charter agreement, and default provisions.**

29 **(e) Provisions defining eligible costs to include predevelopment costs of**
30 **construction prior to construction, such as property or land acquisition,**

1 feasibility and site studies, design and engineering fees, legal costs, permitting,
2 review, and inspection fees, surveys, utility assessments, financing costs and
3 other eligible project costs as determined by the division of administration.

4 (f) Provisions defining development costs to include the costs of
5 construction, labor and materials, site acquisition, construction administration,
6 financing, equipment, demolition, infrastructure, required off-site
7 improvements, and other related costs as determined by the division of
8 administration.

9 (g) Provisions defining eligible renovations to include material additions
10 and renovations to existing buildings, general environmental abatement,
11 systems, code and life-safety upgrades, and other types of renovations as
12 determined by the division of administration.

13 D.(1) No loan shall be made without the approval of the division of
14 administration. Loans shall be executed through a loan agreement between the
15 division of administration and the eligible charter school and shall be used
16 solely for the following purposes:

17 (a) To pay for charter school start-up and early operating expenses.

18 (b) To purchase tangible items such as equipment, technology, and
19 instructional materials.

20 (c) Land acquisition and facility predevelopment and development costs,
21 including construction hard and soft costs.

22 (d) Facility acquisition, upgrade, repairs, and other eligible renovations.

23 (e) Any other purposes approved by the division of administration that
24 are related to the start-up, operation, expansion, or renovation of an eligible
25 charter school.

26 (2) In order for an eligible charter school to qualify for a loan pursuant
27 to the provisions of this Section, the eligible charter school shall comply with all
28 of the following:

29 (a) The eligible charter school shall demonstrate sufficient financial
30 resources and a detailed financial strategy for repayment of the loan.

1 **(b) The eligible charter school shall complete and submit the**
2 **supplemental reporting schedule as mandated in R.S. 24:514(I)(2) as part of its**
3 **annual financial reporting to the legislative auditor pursuant to R.S. 24:513 et**
4 **seq.**

5 **(3) An eligible charter school is limited to one loan from the fund, which**
6 **shall not exceed five million dollars per loan; however, once all of the principal,**
7 **interest, and any other obligations due under the loan agreement are paid in**
8 **full, the eligible charter school may apply for a new loan.**

9 **(4)** No money lent as provided in this Section may be used to pay prior debts
10 of the nonprofit corporation which formed the **eligible** charter school, any of the
11 natural persons principally involved in forming the **eligible** charter school, or any
12 former or current business or nonprofit venture of any such natural persons for any
13 purchase not related to the creation of the **eligible** charter school **or predevelopment**
14 **and development costs of the eligible charter school facility,** or to pay to members
15 of the immediate family of any such natural persons, or to make any investments.

16 ~~(3)(5)(a)~~ Loans to **qualifying eligible** charter schools shall be repaid ~~with no~~
17 ~~interest and may be made by the authority for terms of up to three years. in~~
18 **accordance with the terms of the loan agreement as approved by the division of**
19 **administration and the rules adopted pursuant to this Section. Nothing herein**
20 **shall limit the ability of a loan to be subordinated to a senior loan, to be paid off**
21 **prior to maturity, or to charge variable interest rates. All interest and principal**
22 **payments on loans shall be repaid and deposited back into the fund and made**
23 **available for additional loans.**

24 **(b)** Loan repayment ~~shall~~ **may** occur by having the state Department of
25 Education automatically reduce the last state payment or payments for each **eligible**
26 charter school ~~by one-third of the total loan amount during the initial three years of~~
27 ~~the loan term~~ **in accordance with the terms of the loan agreement.** The state
28 Department of Education ~~shall~~ **may** instead deposit those funds with the state
29 treasury in the Louisiana Charter School Start-up **and Expansion** Loan Fund.

30 ~~(4)(6)~~ The ~~state board~~ **division of administration** shall not knowingly

1 approve the loan portion of any ~~Type 2~~ eligible charter school's budget proposal if
2 the background checks required by the state board reveals that any person principal
3 to the charter school proposal has been convicted of any felony related to
4 misappropriation of funds or theft.

5 (7)(a) If the charter agreement of any eligible charter school is revoked
6 or the school ceases to operate during the term of the loan agreement and the
7 loan is not fully repaid, all cash assets, equipment, property, facilities or other
8 physical assets purchased or constructed with loan funds shall be transferred
9 in accordance with the loan agreement and the rules adopted by the division of
10 administration.

11 (b) The state may, by suit, action, mandamus, or other proceedings,
12 protect and enforce any rights to assets or security provided in connection with
13 a loan agreement authorized pursuant to this Section.

14 E. Eligible charter schools shall comply with applicable laws related to
15 public bids for the erection, construction, alteration, improvement, or repair of
16 a public facility or immovable property pursuant to R.S. 17:3996(B)(19).

17 F. The division of administration shall submit an annual report to the
18 legislature, on or before December thirty-first, relative to fund activities for the
19 prior fiscal year, including but not limited to the following:

20 (1) The number of loan applications filed in the preceding year.

21 (2) The number of loans executed in the preceding year, the amounts
22 loaned to each eligible charter school, and the total amount of loan funds
23 expended in accordance with the provisions of this Section.

24 (3) The collection rate of the loans.

25 (4) The balance of the fund at the time such report is submitted and the
26 viability of the fund at that time.

27 (5) An evaluation of financial accountability measures and the
28 effectiveness of the loan program.

29 Section 2. R.S. 24:514(I) is hereby amended and reenacted to read as follows:

30 §514. Sworn annual financial statements; actuarial valuations; examinations

* * *

I.(1) The annual financial statements of city, parish, and other local public school boards shall be accompanied by such schedules of performance and statistical data as may be developed by the legislative auditor and legislative staff, with assistance from the state Department of Education, and approved by the House Committee on Education and the Senate Committee on Education. Such performance and statistical data shall be the subject of assurances provided as part of the financial statement audits of local school boards to ensure that the information is complete and accurate. The assurances provided on such performance and statistical data shall be used for reporting to the legislature by the Department of Education. As an integral part of the legislative auditor's annual audit of the financial statements of the state of Louisiana, he shall review the Department of Education's compilation of the performance and statistical data, as reported by the local school boards, within the annual financial and statistical report of the department.

(2) The annual financial statements of eligible charter schools receiving loans as provided in R.S. 17:4001 shall be accompanied by a supplemental schedule developed by the legislative auditor, which shall include but not be limited to the following:

(a) Details on the approved loan, including total amounts of the loan, payments made, and outstanding balances.

(b) The amount expended on tangible items such as equipment, technology, and instructional materials.

(c) The amount expended on land acquisition and facility predevelopment and development costs, including construction hard and soft costs.

(d) The amount expended on facility acquisition, upgrade, repairs, and other eligible renovations.

(e) The amount expended for any other purposes approved by the division of administration that are related to the start-up, operation, expansion, or renovation of the eligible charter school.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____