



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064 · PHONE: 225-342-5840 · FAX: 225-342-5843

December 11, 2018

MEMORANDUM

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Tony Davis
4th BESE District

Gary Jones
5th BESE District

Kathy Edmonston
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7th BESE District

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8th BESE District

Thomas Roque
Member-at-Large

Lurie Thomason
Member-at-Large

Doris Voitier
Member-at-Large

TO: Senator John A. Alario, Jr., Senate President
Representative Taylor F. Barras, Speaker of the House
Senator Dan "Blade" Morrish, Chair, Senate Committee on Education
Representative Nancy Landry, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director 
Board of Elementary and Secondary Education

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Pursuant to R.S. 49:968(D)(1)(b), the Board of Elementary and Secondary Education hereby submits to you this summary report and announces its plan to proceed with rulemaking by finalizing the November 20, 2018, Notice of Intent that was promulgated on pages 2029-2032 of the *Louisiana Register*.

The Board has received no comments or requests for a public hearing and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

The Board has made no change to the proposed Rule.

Subject to legislative oversight by either the House Committee on Education or Senate Committee on Education, the Board anticipates adopting the Notice of Intent as a final Rule in the February 20, 2019, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

Please contact Shannon Rawson at (225) 342-5841 if the Board may be of any assistance to you concerning this Rule.

SND:slr

Attachment (1)

- c: Jeanne Johnston, Senior Analyst, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Nancy Jolly, Senior Legislative Analyst, House Committee on Education
Ryan Gremillion, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

John C. White
State Superintendent

Forestry, 5825 Florida Blvd., Suite 6000, Baton Rouge, LA 70806. Public comments must be received no later than 4 p.m. on December 10, 2018. No preamble is available.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Forestry Productivity Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will increase expenditures for the Louisiana Department of Agriculture and Forestry (LDAF) from the statutorily dedicated Forestry Productivity Fund by up to 50% to individual, eligible landowners. The proposed rule change adjusts the cost-share rates paid through the Forestry Productivity Program (FPP) to eligible landowners for establishing or improving a crop of trees from 50% to 75%. Present rule limits the amount a landowner can collect through the FPP to \$15,000. Payments to landowners vary based on the actual expenditures on qualified forestry practices; therefore, the exact expenditure increase is indeterminable. LDAF anticipates annual revenue collections will be sufficient to fund the increased cost-share. Furthermore, the proposed rule change increases the minimum acreage required to qualify for participation in the program from 5 to 10, and makes additional technical and clarifying changes.

For informational purposes, the Forestry Productivity Fund derives its revenue from a portion of the severance tax on timber products, and expenditures from this fund are restricted to the FPP. The FPP began FY 18 with a balance of \$7.5 M and collected an additional \$2.8 M. In the same fiscal year, the FPP expended \$2.5 M and ended the year with a \$7.8 M balance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in increased payments to eligible landowners who currently receive less than the \$15,000 FPP cap. The average amount paid to a landowner through FPP is \$7,000. Based on this average, the proposed rule change could result in an additional \$3,500 (\$7,000 x 50% increase) paid to qualifying landowners. However, the amount paid to each landowner through this program varies by the actual expenditures incurred and is capped at a maximum of \$15,000 per year; therefore the aggregate increase is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have little to no effect on competition and employment. The proposed rule change raises the minimum number of contiguous acres owned to qualify for participation in the FPP from 5 acres to 10 acres. However, historically LDAF has not received any applications for the FPP from landowners owning less than 10 acres.

Dane Morgan
Assistant Commissioner
1811#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—English Language Proficiency—Measure of Progress (LAC 28:XI.405 and 409)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend *Bulletin 111—The Louisiana School, District, and State Accountability System*. The proposed amendments include a measure of progress to English language proficiency for English learners in the assessment index of the accountability formula.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§405. Calculating a K-8 Assessment Index [Formerly LAC 28:LXXXIII.405]

A. ...

B. Beginning no earlier than the 2019-2020 school year, the kindergarten through eighth grade assessment index will also include a measure of progress to English language proficiency for English learners. The improvement of every English learner eligible to participate in ELPT counts in equal weight to all other exams.

1. The 2018-2019 school year will be a designated learning year.

a. English language proficiency progress results will be calculated but not included in 2018-2019 school performance scores.

b. As required by the federal Every Student Succeeds Act (ESSA), performance on the English language proficiency progress measure will be used for the purpose of identifying schools requiring comprehensive intervention in 2018-2019.

c. The Accountability Commission will review learning year results no later than August 2019.

2. For measuring progress on the ELPT assessment, the overall proficiency scores will be organized into the following levels:

- a. emerging—all domain scores are one or two;
- b. progressing 1—at least one domain score of three and the lowest domain score is one;
- c. progressing 2—at least one domain score of three and the lowest domain score is two;
- d. progressing 3—at least one domain score of three and the lowest domain score is three; and
- e. transitioning—all domain scores are four or five.

3. Each English learner expected trajectory to proficiency will be determined as follows.

a. The initial proficiency level for each English learner will be determined based on the ELPT assessment results from the school year in which the student was first enrolled in a Louisiana public school and participated in the ELPT assessment.

b. If a student exits the United States for one or more school years following the initial ELPT assessment and later reenrolls in Louisiana, the student will be considered a new student for the purpose of determining the initial proficiency level.

c. For students first identified in prekindergarten through fifth grade, use the initial ELPT proficiency level and number of years identified as defined in the table below.

Trajectory to English Language Proficiency: Students First Identified in Grades PK-5				
Initial ELPT Proficiency Level	Year 2	Year 3	Year 4	Year 5 and Beyond
	Emerging (E)	P1	P2	P3
Progressing 1 (P1)	P2	P3	T	T
Progressing 2 (P2)	P3	T	T	T
Progressing 3 (P3)	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A

d. For students first identified in sixth through twelfth grade, use the initial ELPT proficiency level and number of years identified as defined in the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades 6-12						
Initial ELPT Proficiency Level	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7 and Beyond
	Emerging (E)	P1	P2	P2	P3	P3
Progressing 1 (P1)	P2	P2	P3	P3	T	T
Progressing 2 (P2)	P2	P3	P3	T	T	T
Progressing 3 (P3)	P3	T	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A	N/A	N/A

e. An ELPT score exceeds the trajectory if the score is at least one level higher than expected and meets the trajectory if the score is the same level as expected based on the tables above.

4. The level of progress on the ELPT assessment will be included in the kindergarten through eighth grade assessment index for each English learner according to the following table.

ELPT Progress Assessment Index Points	
Outcome	ELP Index Points
ELPT level exceeds trajectory	150
ELPT level meets trajectory	100
ELPT level is at least one above the prior year	80
ELPT level is the same or lower than the prior year	0

C. ...

D. Weight each ELP index score by six.
E. Sum all weighted subject-test and ELP index scores.
F. Sum all weights applied to subject-test and ELP index scores from the tables in Subsections C and D of this Section.

G. Divide the sum from Subsection F of this Section by the total scores.

H. When eighth grade students only participate in the algebra I exam but not the grade-level math assessment, the algebra I test results will be used in the middle school assessment index (80 for basic, 100 for good/mastery, and 150 for excellent/advanced) and will be weighted by content as noted in the table above. Middle schools will also earn incentive points for all EOC or high school LEAP 2025 scores of good/mastery or excellent/advanced earned during the same year in which the test was administered.

1. Incentive points will be awarded as follows:

- excellent or advanced = 50; and
- good or mastery = 25.

I. The policy outlined in Subsection G of this Section will also apply to combination schools. The EOC or high school LEAP 2025 score will be used in middle school results for the year in which the assessment is taken, incentive points may be awarded, and the score will be banked for use in the high school score once the student arrives in ninth grade, as outlined in §409.A.3.

J. In the 2017-2018 school year, the science test will be administered as a field test only. When calculating the kindergarten through eighth grade assessment index for the 2017-2018 school year, either the 2015-2016 or 2016-2017 science assessment index, whichever yields the higher school performance score, will be used as the science component of the overall assessment index and will be weighted by the 2017-2018 social studies assessment index tested population in order to limit impact of population changes from prior years.

K. In the 2018-2019 school year, the science test will be operational again. When calculating the kindergarten through eighth grade assessment index, for the 2018-2019 school year, either the 2016-2017 or 2018-2019 science assessment index, whichever yields the higher school performance score, will be used as the science component of the overall assessment index and will be weighted by the 2018-2019 social studies assessment index tested population in order to limit impact of population changes from prior years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December 2012), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 42:2172 (December 2016), LR 44:448 (March 2018), LR 45:

§409. Calculating a 9-12 Assessment Index
[Formerly LAC 28:LXXXIII.409]

A. - A.4. ...

B. Beginning no earlier than the 2019-2020 school year, the ninth through twelfth grade assessment index will also include a measure of progress to English language

proficiency for English learners. English learner improvement on the English language proficiency exam counts in equal weight to all other exams.

1. The 2018-2019 school year will be a designated learning year.

a. English language proficiency progress results will be calculated but not be included in 2018-2019 school performance scores.

b. As required by the federal Every Student Succeeds Act (ESSA), performance on the English language proficiency progress measure may be used for the purposes of identifying schools requiring comprehensive intervention in 2018-2019.

c. The Accountability Commission will review learning year results no later than August 2019.

2. For measuring progress on the ELPT assessment, the overall proficiency score will be divided into the following levels:

- a. emerging: all domain scores are one or two;
- b. progressing 1: at least one domain score of three and the lowest domain score is one;
- c. progressing 2: at least one domain score of three and the lowest domain score is two;
- d. progressing 3: at least one domain score of three and the lowest domain score is three; and
- e. transitioning: all domain scores are four or five.

3. Each English learner expected trajectory to proficiency will be determined as follows.

a. The initial proficiency level for each English learner will be determined based on the ELPT assessment results from the school year in which the student was first enrolled in a Louisiana public school and identified as an English learner in 2017-2018, whichever is most recent.

b. For students first identified in prekindergarten through fifth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades PK-5				
Initial ELPT Proficiency Level	Year 2	Year 3	Year 4	Year 5 and Beyond
Emerging (E)	P1	P2	P3	T
Progressing 1 (P1)	P2	P3	T	T
Progressing 2 (P2)	P3	T	T	T
Progressing 3 (P3)	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A

c. For students first identified in six through twelfth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades 6-12						
Initial ELPT Proficiency Level	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7 and Beyond
Emerging (E)	P1	P2	P2	P3	P3	T
Progressing 1 (P1)	P2	P2	P3	P3	T	T
Progressing 2 (P2)	P2	P3	P3	T	T	T
Progressing 3 (P3)	P3	T	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A	N/A	N/A

d. An ELPT score exceeds the trajectory if the score is at least one level higher than expected and meets the

trajectory if the score is the same level as expected based on the tables above.

3. The level of progress on the ELPT assessment shall be included in the kindergarten through eighth grade assessment index for each English learner according to the following table.

ELPT Progress Assessment Index Points	
Outcome	ELP Index Points
ELPT level exceeds trajectory	150
ELPT level meets trajectory	100
ELPT level is at least one above the prior year	80
ELPT level is the same or lower than the prior year	0

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), amended LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:2357 (September 2012), LR 38:3106 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 40:1314 (July 2014), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 44:448 (March 2018), LR 45:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits?
No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), December 10, 2018 to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand-delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System—English Language Proficiency—Measure of Progress

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be indeterminable costs for local school districts as a result of the proposed revisions which provide for a measure of progress to English language proficiency for English learners in the assessment index of the accountability formula. Per the state accountability system, potential implications for schools which are labeled comprehensive intervention required include increased resource needs for evidence based intervention and improvement programs. There may be increased costs for the Department of Education (LDE) as such labels require increased involvement by the department for schools which do not make progress on improvement plans. These costs are indeterminable at this time and will depend upon the type and extent of intervention and supports provided.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Schools may be eligible for grants awarded by the LDE for improvement programs and initiatives.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
1811#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District—Budget Reporting (LAC 28:CXLV.1103 and 1105)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend *Bulletin 129—The Recovery School District* in order align Recovery School District (RSD) budget reporting with other budget reviews and approvals conducted by BESE.

**Title 28
EDUCATION**

Part CXLV. Bulletin 129—The Recovery School District Chapter 11. Fiscal Management

§1103. Annual Budget

- A. ...
- B. The RSD direct-operated and charter-operated schools shall budget on a fiscal year basis, July 1 through June 30.
- C. The revenues/receipts and expenditures disbursements in the RSD budget shall be listed and classified in such manner and substance as prescribed by the Division of Administration (DOA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:10.5(A)(1), 17:10.7(A)(1), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:310 (January 2011), amended LR 42:553 (April 2016), LR 45:

§1105. Budget Planning, Preparation, and Schedules

- A. The RSD shall annually present the budget proposal to BESE for approval prior to submission to the DOA and a report on the status of the budget following the approval by the legislature.
- B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), 17:10.7(A)(1), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:553 (April 2016), LR 45:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a