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OPINION NUMBER 98-251

**96 SCHOOLS & SCHOOL DISTRICTS - Fiscal
Management, Department Securities & Taxation**

La. Cont. Art. VIII, §13(B)

Honorable Randy L. Ewing, President
Louisiana State Senate
P. O. Box 94183
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Because the Superintendent of Education and the President of BESE have assured you that the adjustments requested by BESE are purely technical in nature and serve only to conform and state correctly the intent of the formula adopted by BESE, the Legislature would have the authority to make technical corrections in this particular situation.

Dear Senator Ewing:

This office is in receipt of your recent request for an opinion in which you present the following question for review:

Does the Legislature have the authority to make adjustments to the legislative instrument used to approve the State Board of Elementary and Secondary Education adopted minimum foundation program formula in order to conform the formula in the instrument with the formula adopted by the Board?

May the legislature rely on the attached letter signed by the Superintendent and the Board President as authority from the board to make such changes?

From the documents which you provided to this office, it is my understanding that the Board of Elementary and Secondary Education adopted a formula for the Minimum Foundation Program in accordance with Art. VIII, Sec. 13(B) of the Louisiana Constitution of 1974. This formula was introduced on June 2, 1998 as House Concurrent Resolution No. 104. However, prior to Resolution No. 104's being reviewed by the House Education Committee, BESE discovered that there were several technical errors or omissions in the document which had been provided to the House Education Committee. Because of this discovery, the Superintendent of Education and the BESE President requested specific technical revisions in House Concurrent Resolution No. 104 in order that the Resolution would correctly conform with the document BESE originally adopted.

Art. VIII, §13(B) states in pertinent part:

The State Board of Elementary and Secondary Education or its successor shall develop and adopt a formula which shall be used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems. Such formula shall provide for a contribution by every city and parish school system. Prior to approval of the formula by the legislature, the legislature may return the formula adopted by the board to the board and may recommend to the board an amended formula for consideration by the board and submission to the legislature for approval.

It is clear from Art. VIII, §13(B) that the State Board of Elementary and Secondary Education has the constitutional authority to adopt a formula for the legislature's approval. Although the Legislature may return the formula adopted by the Board, the Legislature may only recommend to the Board an amended formula for consideration by the Board and for resubmission to the Legislature for approval.

To allow the BESE requested changes appears to this office to protect the Board's constitutional authority to adopt a formula for the legislature's approval. In this factual situation, in order to preserve the actual formula adopted by BESE the Legislature would have the authority to make these technical changes. The changes are requested by BESE in order to bring the formula into conformity with the formula BESE originally adopted. Because the Superintendent of Education and the President of BESE have assured you that the adjustments requested by BESE are purely technical in nature and serve only to conform and state correctly the intent of the formula adopted by BESE, the Legislature would have the authority to make technical corrections in this particular situation.

I trust the foregoing has been helpful and has answered your concerns. If you have any other questions, please do not hesitate to contact us.

Yours very truly,

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