

2005 DRAFTING REQUEST

Bill

Received: **03/04/2005**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Kitty Rhoades (608) 266-1526**

By/Representing: **Kevin Moore**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Education - handicapped ed.
Education - state superintendent**

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **Rep.Rhoades@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Autism scholarship program

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 03/31/2005	wjackson 04/05/2005		_____			S&L
/P1	pgrant 04/13/2005	wjackson 04/18/2005	pgreensl 04/05/2005	_____	sbasford 04/05/2005		S&L
/1			pgreensl 04/19/2005	_____	lnorthro 04/19/2005	mbarman 09/07/2005	

FE Sent For:

↳ At
Intro.

<END>

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/1			pgreensl 04/19/2005	_____	Inorthro 04/19/2005		

Handwritten notes: A large circle around the 'Jacketed' column header, and 'PU' and 'PG' written vertically next to the second and third rows.

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<END>

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/P1		1/12/05 4/18	pgreensl 04/05/2005	_____	sbasford 04/05/2005		

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/?	pgrant	pl wlj 4/5	4/6 p8	4/6 p8			

FE Sent For:

<END>

mtg w/ Kevin

Reg. 06-07
re: iqon

~~22~~ Rep. Phrases

pilot project
#?
#?

autistic diagnosed high level of autism

parents apply for children to attend
alternatives programs
pre-schoolers too

3-21 } see who

~~if in private school~~ only public school kids

can go to another sch. & pay tuition
or anywhere IEP says is ok

provider must be ~~approved~~ approved or something
cert. by DE or MA
(Kevin will provide info on this)
(or be a sch.)

must be licensed as sp. ed. teacher to provide services

parents reimbursed ~~up to \$K~~ up to ~~\$K~~ for costs per semester

if costs > \$1500, can use own resources above that

parents waive certain part of tort law, like maintenance mltg

can't do part time

identifying children with disabilities. Individuals with Asperger's may have many of the same social and behavioral characteristics of those with autism, but there is no clinically significant delay in language or cognitive development. More information on Autism Spectrum Disorders can be found in Appendix A.

Range of treatments. While no cure currently exists for any disorder on the autism spectrum, there are numerous treatments available specifically for children. In addition, children with autism often receive some of the same "related services" that are provided to other special needs children, such as occupational

therapy, physical therapy, speech therapy, and adaptive physical education to help them improve in specific areas of development.

The recommended types and intensity of treatment are dependent on both the nature and severity of each individual child's condition. Some of the more intensive treatments are very expensive to provide and can cost parents up to \$80,000 a year. More information on the types of treatments available for children with autism can be found in Appendix B. In addition, Appendix C has a selected bibliography referencing the resources used in compiling this report.

Ohio's Autism Scholarship Program

Although the Autism Scholarship Program was created in June 2003, time was needed to establish procedures for its operation. The Ohio Department of Education (ODE) made applications available to parents and providers in January 2004. However, it was not until March 2004 that students began receiving services that could be claimed for reimbursement, barely a year ago. As a pilot project, the program is scheduled to expire in June 2005. As mentioned, the intended purpose of the program is to offer a choice of special education providers to parents of autistic children.

Student eligibility

To be eligible for the Autism Scholarship Program, a child must:

- Be between the ages of 3 and 21;

- Be enrolled in his/her school district of residence in any grade from preschool through twelve;
- Be identified under the category of autism as defined by the Individuals with Disabilities Education Act (IDEA); and
- Have a current Multi-Factored Evaluation (MFE) and an agreed upon Individualized Education Program (IEP) written by the school district of residence.

In addition to these eligibility requirements, there can be no administrative or judicial mediations or proceedings pending with respect to the content of the child's IEP. Parents who wish to participate in the program must submit an application to ODE.

Provider qualifications and accountability

To participate in the Autism Scholarship Program, all private and nonpublic school providers must first be approved and registered by ODE. To qualify, a provider must:

- Commit in writing to follow all rules established by the State Board of Education for the program;
- Meet the minimum standards of their applicable professional organization;
- Maintain a location within the State of Ohio, unless internet-based;
- Have, or be willing to obtain, a current criminal records check for all individuals responsible for the care, custody, or control of participating students;
- Demonstrate fiscal soundness;
- Have at least one staff person with the appropriate credentials to provide the services that will be claimed for reimbursement. For example, if a provider is providing and claiming speech therapy, they would need a staff person with credentials as a speech and language pathologist;
- Meet all applicable state and local health and safety codes;
- Provide a statement to the participating parents and their school district of residence that describes how student progress will be measured and how parents will be informed of that progress; and

- Comply with state and federal laws regarding the delivery of services to children with disabilities.

There are 93 approved providers participating in the program as of the first quarter of the 2004-2005 school year. Providers attest to meeting these requirements through the completion of a written application and affidavit. ODE reviews the provider application on a case-by-case basis to ensure that there is at least one staff member who has the necessary credentials to provide the service(s) identified on each student's IEP.

Additionally, a registered provider agrees to on-site monitoring visits upon the request of ODE. To date, ODE has performed approximately 20 on-site monitoring visits.

As part of its on-going improvement in the administration of the program, ODE has modified the approval process for providers participating in the program. For the last part of the 2003-2004 school year, ODE required providers to sign the affidavit assuring that staff had the appropriate credentials for the services provided and called them upon receipt of their application to discuss their credentials. Starting in the 2004-2005 school year, the application was modified to include a page for providers to list their credentials (e.g., license, certificate, etc.).

Providers are accountable to parents through regular reports detailing the child's progress toward his/her annual goals and the extent to which progress is sufficient to achieve those goals by the end of the year.

Providers are also required to send the same progress reports to the child's school district of residence.

Refusal to provide progress reports may result in the provider's removal from the program. If a district informs ODE that a provider is *not* submitting regular progress reports, ODE contacts the provider to remind them of this requirement. To date, no provider has refused to comply after being contacted by ODE.

A list of all registered private and nonpublic school providers is available from ODE to any parent within the State of Ohio. Public schools are not required to register as an alternate provider. To date, however, no public school is participating in the pilot program.

School district responsibilities

Once a child's parent(s) is notified by ODE that he/she has been approved to participate in the Autism Scholarship Program, the school district of residence is relieved of the federal mandate to provide a Free Appropriate Public Education (FAPE) for that child. In other words, students participating in the Autism Scholarship Program do not attend or receive services from their school district of residence. It is the responsibility of the child's parent(s) to make sure his/her IEP is implemented and that the child's educational needs are met.

The school district of residence, however, maintains the responsibility for providing the initial multi-factored evaluation as well as all subsequent re-evaluations required under IDEA, generally done every three years. The district is also responsible for the child's annual IEP. It is, therefore, important for school districts to

receive accurate and timely progress reports from the child's provider(s) in order to fulfill these responsibilities.

Scholarship payments and funding for special needs students

ODE deducts the payment for the Autism Scholarship Program from state funding for the school district of residence and sends the payment to participating parents. The scholarship payment cannot exceed \$15,000 annually per student. Payments are made for only the services specified in the child's IEP. Such payments will not cover costs related to services provided to the child that are not specified in the IEP or for associated costs of obtaining services from the alternate provider.

To receive payment, a provider sends cost statements, signed by the child's parent, to ODE. Money is then transferred, up to four times during the school year, from the school district to the parent as reimbursement for services received from the provider. In some cases, parents pay the provider up-front and wait for reimbursement. In other cases, the provider waits for payment until the parent receives the scholarship amount from ODE. In the case of a student receiving services from another public district, ODE would make the payments directly to that district. To date, there are no school districts participating in this capacity.

Funding of students with special needs. In its simplest form, Ohio's funding for school districts includes both a "base cost" amount for all students and a "weight" added for students with disabilities. A student with autism is given the highest possible weight.

When the weighted amount is added to the base cost, the *maximum* funding that can be generated by a student with autism is about \$27,000 for school year 2004-2005. However, there are no districts that actually receive this amount *from the state*, because both the base cost and the weighted special education amounts come from a combination of state and local sources. The portion that the state pays each district depends on the district's local property wealth.

For the wealthiest districts, little or no state funding is contributed to these amounts. On the other extreme, the state paid 89% for the poorest district in 2004-2005. Most of the 613 school districts receive a state contribution between these extremes. The state average is 49%. As a result, districts receive varying amounts of state funding for their students with autism, but none receives the maximum of \$27,000.

In the event that an autistic student generates more base cost and weighted state funding than the amount of the scholarship paid to the parent, the school district retains the balance. However, if the student does not generate enough base cost and weighted state funding for a district to cover the cost of the scholarship, the difference comes out of other state funds.

Funding adjustments. If a student enrolls in a school district solely for the purpose of participating in the Autism Scholarship Program *after* the official enrollment count in October, ODE manually adjusts that school district's average daily membership (ADM) to reflect that student. In this way, the district is credited with state funding for the student prior to the deduction for the scholarship payment.

In addition, school districts may count *preschool* students participating in the program in their regular enrollments, which credits the district with regular state funding for those students, rather than the unit funding that is normally provided for preschoolers.

Cost to the state. Because scholarship payments are deducted from the state funding of school districts, the program does not require any additional state dollars for students *previously* attending Ohio public schools. However, there is a cost to the state when "new" funding is required for students who were not enrolled in a school district or community school prior to participating in the program. Additional state funding is required for students:

- Previously enrolled in a private school;
- Home schooled; or
- New residents who move in from another state.

It is also important to note that no additional state funds or personnel were allocated for ODE's administration of the program.

Ohio Autism Task Force

In addition to the Autism Scholarship Program, Am. Sub. H.B. 95 also created the Ohio Autism Task Force. The Task Force addressed the growing incidence of autism in Ohio and developed recommendations for improving the delivery of autism services for adults and children. More information on the Task Force and a list of its recommendations can be found in Appendix D. Information on other states' efforts regarding special education scholarship legislation is in Appendix E.

WHAT IS THE AUTISM SCHOLARSHIP PROGRAM
Questions and Answers

What is the Autism Scholarship Program? In June of 2003, the Ohio General Assembly established HB.95 Section 41.33 the Pilot Project Special Education Scholarship Program (also known as the Autism Scholarship Program). The parent of each qualified special education child, who wishes to have his/her child participate in the Autism Scholarship Program, must complete and submit an application to the Ohio Department of Education, Office for Exceptional Children (ODE/OEC), in accordance with guidelines established by ODE/OEC. The program offers the parent(s) of eligible children with autism the opportunity to choose a different implementer of the child's individualized education program (IEP) other than the child's school district of residence. The scholarship shall be used only to pay for services outlined on the child's IEP.

What is the scholarship amount? Each scholarship shall be in an amount not to exceed the lesser of the fee charged for the child by the special education program or up to \$15,000 per school year, whichever is less. Scholarships will be distributed in periodic amounts.

Who is eligible to participate in the Autism Scholarship Program? Children or youth, in preschool through grade 12 (age 3 through age 21), who have been identified by their resident district as autistic, and for whom the district has developed an IEP agreed upon by the IEP team are eligible. Children must be enrolled in or eligible to enroll in the resident school district.

The preschool-age child must be identified through an evaluation process to determine if the child has a disability under the category of autism, as specified in IDEA. There must be documentation of a diagnosis of autism by a physician or psychologist, using criteria outlined in the most recent edition of the Diagnostic and Statistical Manual (DSM). The child must show deficits in communication and adaptive behavior; and there must be at least three observations of the child that document behavior consistent with autism conducted by a person knowledgeable and experienced with autism, but who is not a member of the child's family.

Children who are attending community schools or whose special education program is provided through a contract, compact, or bilateral agreement between the school district in which the child is entitled to attend school and another school district or public provider are not eligible to participate in the Autism Scholarship Program.

How do I apply for the Autism Scholarship Program? A parent must complete and submit an application to the ODE/OEC. If the application is approved, a letter of approval will be sent to the parent.

Where can I use the Autism Scholarship funds? The Autism Scholarship Program offers parents the opportunity to choose a different implementer of the child's IEP

other than the child's school district of residence. The choice of provider can be a school district other than the child's resident district; another eligible public entity [e.g., a county board of mental retardation and developmental disabilities (MR/DD)]; or a registered private provider who is registered/approved by ODE/OEC.

How do I become an approved Registered Private Provider? To become "registered", the private provider or self-employed individual must submit a completed application to ODE/OEC. If the application is approved, a letter of approval will be sent to the private provider or self-employed individual.

If you have questions, please contact the Office for Exceptional Children at the Ohio Department of Education. The phone number is 614-466-2650.

H.B. 95 – 125th Session

SECTION 41.33 . (A) As used in this section:

- (1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.
- (2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.
- (3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.
- (4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.
- (5) "Qualified special education child" is a child for whom all of the following conditions apply:
 - (a) The school district in which the child is entitled to attend school has identified the child as autistic;
 - (b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child;
 - (c) The child either:
 - (i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child;
 - (ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.
- (6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section.

(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2004 and 2005, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school or by another public

entity, to either of which under law the parent is required to pay tuition on behalf of the child, or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or fifteen thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of, or in addition to, the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be awarded to the parent of a child who attends a public special education program under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider or to the parent of a child who attends a community school established under Chapter 3314. of the Revised Code. A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) Notwithstanding anything to the contrary in the Revised Code, a child for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM and category six special education ADM of that school district as provided in division (C)(1) of this section. The scholarships deducted shall be considered as an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The Department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

*counted in
sd of
residence*

*deduct from
sd's and
amt of scholarships
awarded to his
members*

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by January 1, 2004.

(F) The Legislative Office of Education Oversight shall conduct a formative evaluation of the program established under this section and shall report its findings to the General Assembly not later than March 1, 2005. In conducting the evaluation, the Office shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report required under this section.

AUTISM SCHOLARSHIP PROGRAM

Section 67 of SB 189 As Enacted:

SECTION 67. That Section 41.33 of Am. Sub. H.B. 95 of the 125th General Assembly be amended to read as follows:

Sec. 41.33. (A) As used in this section:

- (1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.
- (2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.
- (3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.
- (4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.
- (5) "Qualified special education child" is a child for whom all of the following conditions apply:
 - (a) The school district in which the child is entitled to attend school has identified the child as autistic;
 - (b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child;
 - (c) The child either:
 - (i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child;
 - (ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.
- (6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section.

(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2004 and 2005, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of

that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school ~~or, by another public entity, to either of which under law the parent is required to pay tuition on behalf of the child,~~ or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or fifteen thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of, ~~or in addition to,~~ the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be awarded to ~~the parent of a child who attends~~ used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to the parent of a child who attends attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the State Board of Education shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child. A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) Notwithstanding anything to the contrary in the Revised Code, a child for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM and category six special education ADM of that school district as provided in division (C)(1) of this section. The scholarships deducted shall be considered as an approved special

education and related services expense for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The Department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by January 1, 2004.

(F) The Legislative Office of Education Oversight shall conduct a formative evaluation of the program established under this section and shall report its findings to the General Assembly not later than March 1, 2005. In conducting the evaluation, the Office shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report required under this section.

SECTION 68. That existing Section 41.33 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

SECTION 69. The amendment by this act of Section 41.33 of Am. Sub. H.B. 95 of the 125th General Assembly, and the items of which the amendment is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment of that section, and the items of which that amendment is composed, go into immediate effect when this act becomes law.

Office for Exceptional Children
25 South Front Street, 2nd Floor
Columbus, Ohio 43215
(614) 466-2650
Fax: (614) 387-0967
Mike Armstrong, Director



Center for
Students, Families, and Communities

FAX TRANSMISSION SHEET

DATE

3/15/05

TO

Peter Grant

FAX NUMBER

608-264-6948

FROM

PAUL SOGAN

MESSAGE

NUMBER OF PAGES (INCLUDING FAX TRANSMISSION SHEET):

7

RESPONSE REQUESTED: YES NO

Grant, Peter

From: Moore, Kevin
Sent: Thursday, March 31, 2005 1:10 PM
To: Grant, Peter
Subject: RE: Autism Draft

please feel free to call LFB. I think they count them because they are still obligated to do the IEP, but I am not an education expert by any stretch of the imagination.

-----Original Message-----

From: Grant, Peter
Sent: Thursday, March 31, 2005 1:09 PM
To: Moore, Kevin
Subject: RE: Autism Draft

Sorry, I've been meaning to contact you. I have a question about counting the pupils in membership for state aid purposes. It appears that in Ohio, a child for whom a scholarship is awarded is counted in the membership of the school district that he or she is entitled to attend. Then the Department of Education deducts the amount of the scholarship from the state aid that the school district is entitled to receive. I can't quite figure out why that makes sense, or what would make sense in Wisconsin. I've been meaning to call the LFB about it. Would that be OK?

-----Original Message-----

From: Moore, Kevin
Sent: Thursday, March 31, 2005 10:53 AM
To: Grant, Peter
Subject: Autism Draft

Peter,

Wanted to get an update on the Autism bill draft, and a timeline on when we might be able to see some language.

Thanks for your help.

Kevin Moore
Office of Rep. Kitty Rhoades
1-608-266-1526
1-888-529-0030 (Toll free)
1-608-282-3630 (fax)
www.legis.state.wi.us
www.wisconsin.gov

2005

Date (time) needed

Wed. April 6

LRB - 2372 / R

BILL

PG : WLj :

DN

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *inaction* to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to: *creating the Autism* . . .
scholarship program and granting . . .
rulemaking authority. . . .

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

- For the main heading, execute: create → anal: → title: → head
- For the subheading, execute: create → anal: → title: → sub
- For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

- For the text paragraph, execute: create → anal: → text

ff This is a preliminary draft. An analysis will be included in a later version.

FE-SL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

sec# CR. 115085 ✓

ⓑ 115085 Autism Scholarship Program (No ff)

ⓑ (1) ^{plain} In this section, ^{eligible} ^{autistic} child means a child with a disability

to whom all of the following apply:

¶ (a) The school district in which the child resides or that the child is attending has identified the child as autistic.

¶ (b) The school district ~~where~~ in which the child resides or that the child is attending has in effect for the child an individualized education program.

¶ (c) The child was enrolled in public school in the school year prior to or is eligible to enter public school in the school year in which a scholarship under this section is first sought for the child.

to the school year in which a scholarship under this section is first sought for the child.

SEC. 115.85 CR, 115.85
115.85 Autism scholarship program.

(1) To read section:
~~115.85 Autism scholarship program~~

(2) In the ^(=en) 2006-07 and ^(=en) 2007-08 school years, ~~the department shall~~ upon receipt of an application ~~from~~ the parent of ^{an} eligible autistic child; the department shall award a scholarship to the child. ⁽⁼⁾ The scholarship may be used only to pay tuition for the child to attend a special education program that implements the child's individualized education program ^{and} that is operated by a school district other than the school district that the child is attending or in which the child resides. ⁽⁼⁾

by another public entity; ^{or} or by a
~~private~~ private provider approved by the
department
~~state~~ under subo (4) ^o The
amount of the scholarship shall be $\frac{1}{2}$ ^{or}
the ^{actual} actual tuition ^{charged} charged by the special
educative program; whichever is less.

~~(3) The department shall reduce~~

Section #. 118.51 (16) (b) of the statutes is amended to read:

118.51 (16) (b) 1. If the number determined in par. (a) 1. is greater than the number determined in par. (a) 2. for a school district, the department shall increase that school district's state aid payment under s. 121.08 by an amount equal to the difference multiplied by the amount determined under par. (a) 3.

2. If the number determined in par. (a) 1. is less than the number determined in par. (a) 2. for a school district, the department shall ^{annually} decrease ^{each} that school district's state aid payment under s. 121.08 by an amount equal to the difference multiplied by the amount determined under par. (a) 3. If the state aid payment under s. 121.08 is insufficient to cover the reduction, the department shall decrease other state aid payments made by the department to the school district by the remaining amount.

If the state aid payment under s. 121.08 and other state aid payments made by the department to the school district are insufficient to cover the reduction, the department shall use the moneys appropriated under s. 20.255 (2) (cg) to pay the balance to school districts under subd. 1.

History: 1997 a. 27, 41, 164; 1999 a. 117, 118; 2001 a. 16, 104; 2003 a. 55.

the aggregate amount of scholarships awarded under this section to pupils included in the school district's membership under s. 121.05 (1) (a) 4

⌈ (3) (a)

~~Section #. 118.51 (16) (d) of the statutes is amended to read:~~

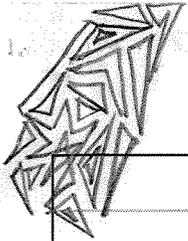
~~118.51 (16) (d)~~ ^{¶ (b)} The department shall ensure that the aid ~~adjustment~~ ^{reduction} under par. ~~(b)~~ ^{(a) ✓} does not affect the amount determined to be received by a school district as state aid under s. 121.08 for any other purpose.

~~History: 1997 a. 27, 41, 164; 1999 a. 117, 118; 2001 a. 16, 104; 2003 a. 55.~~

¶ (B) (4) The department shall ~~promulgate rules by order~~
establish standards for the approval of
private providers for the purpose of sub (2) ☉

The department may not approve a private
provider unless the person providing special
education ^{or} related services ~~is appropriately~~
~~licensed~~ holds the appropriate license issued by
the department ☉

¶ (B) (5) The department shall promulgate rules to
implement and administer this section, including
procedures and ^{deadlines} deadlines for scholarship applications and
payment schedules for scholarship, and
standards for the approval of private providers
under sub (4) ☉



SEC. # CR; 121005(1)(a) 40

¶ 121005(1)(a) 40 Pupils attending a special
education program operated by
another school district;

another public entity; or a private provider as
a result of receiving a scholarship under

§ 115.850

(End) ↓

residing in the school district who are

DN

If you may wish to have the Legislative
Fiscal Bureau ^{or DPI} review this draft. In
addition, please note the following:

¶ 10 The Ohio law provides that pupils receiving
scholarships are entitled to transportation. I did
not include this, but it is an area that ~~states~~
may need

~~the~~ clarification. Who should be responsible for
transporting the pupil to and from school?

¶ 20 Under the draft, a scholarship pupil
is counted for state aid purposes in the
school district in which he or she resides, and
that school district's state aid is reduced
by the amount of the scholarship. This is patterned after the
Ohio law.

~~However~~ Because state aid is paid on
prior year data, however, there may be timing issues.

~~I think the LFB or DP might~~
(No 11) For a pupil who receives a scholarship in his or her first year of school, the state would reduce the school district's aid in that ^{school} year and ~~not~~ pay the state aid to ~~that~~ district ~~for~~ for that pupil in the following school year. ~~The LFB or DP might~~

§ 30 We may need to add emergency rulemaking authority ~~to enable~~ ^{to enable} (DP) ~~to~~ promulgate the necessary rules before the 2006-07 school year. ^(sen)

§ 40 Do you want to add an ^{evaluative} evaluative study to the program? ←

PK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2372/P1dn
PG:wlj:pg

April 5, 2005

You may wish to have the Legislative Fiscal Bureau or DPI review this draft. In addition, please note the following:

1. The Ohio law provides that pupils receiving scholarships are entitled to transportation. I did not include this, but it is an area that may need clarification. Who should be responsible for transporting the pupil to and from school?
2. Under the draft, a scholarship pupil is counted for state aid purposes in the school district in which her or she resides, and the school district's state aid is reduced by the amount of the scholarship. This patterned after the Ohio law. Because state aid is paid on prior year data, however, there may be timing issues. For a pupil who receives a scholarship in his or her first year of school, the state would reduce the school district's aid in that school year and pay state aid to the district for that pupil in the following school year.
3. We may need to add emergency rule-making authority to enable DPI to promulgate the necessary rules before the 2006-07 school year.
4. Do you want to add an evaluative study to the program?

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

Kevin / Rhoda
- 2372

TR 4/12/05

① trap : pay for every trap
(reimb. cost)

② - ok for now

③ add emerg. rule

④ LAB do audit - financial & performance
(after 1 year)

submit for gov. & leg. (JFC
ed. des)
by 12/31/07

⑤ limit to 200 kids ~~16-07~~

~~⑥~~ ~~at cost of 07-08~~



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2372/PT 1

PG:wlj:pg ✓

↑
STMS

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SOON

regen

1 AN ACT to create 115.85 and 121.05 (1) (a) 4. of the statutes; relating to: creating
2 the Autism Scholarship Program and granting rule-making authority.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

(attached) ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 115.85 of the statutes is created to read:

4 **115.85 Autism Scholarship Program.** (1) In this section, "eligible autistic
5 child" means a child with a disability to whom all the following apply:

6 (a) The school district in which the child resides or that the child is attending
7 has identified the child as autistic.

8 (b) The school district in which the child resides or that the child is attending
9 has in effect for the child an individualized education program.

1 (c) The child was enrolled in public school in the school year prior to the school
 2 year in which a scholarship under this section is first sought for the child, or the child
 3 is eligible to enter public school in the school year in which a scholarship under this
 4 section is first sought for the child.

5 (5) ^{(4) Not} (2) ^{(a) Except as provided in para (b)^} In the 2006-07 and 2007-08 school years, upon receipt of an application
 6 from the parent of an eligible autistic child, the department shall award a
 7 scholarship to the child. The scholarship may be used only to pay tuition for the child
 8 to attend a special education program that implements the child's individualized
 9 education program and that is operated by a school district other than the school
 10 district that the child is attending or in which the child resides, by another public
 11 entity, or by a private provider approved by the department under sub. ~~(2)~~ ⁽³⁾ The
 12 amount of the scholarship shall be \$15,000 or the actual tuition charged by the
 13 special education program, whichever is less.

2-13 →

move
p. 3

14 (4) ~~(a)~~ (a) The department annually shall decrease each school district's state aid
 15 payment under s. 121.08 by an amount equal to the aggregate amount of
 16 scholarships awarded under this section to pupils included in the school district's
 17 membership under s. 121.05 (1) (a) 4. If the state aid payment under s. 121.08 is
 18 insufficient to cover the reduction, the department shall decrease other state aid
 19 payments made by the department to the school district by the remaining amount.

20 (b) The department shall ensure that the aid reduction under par. (a) does not
 21 affect the amount determined to be received by a school district as state aid under
 22 s. 121.08 for any other purpose.

23 (3) ~~(3)~~ The department shall establish standards for the approval of private
 24 providers for the purpose of sub. (2). The department may not approve a private

Insert
from
p. 2

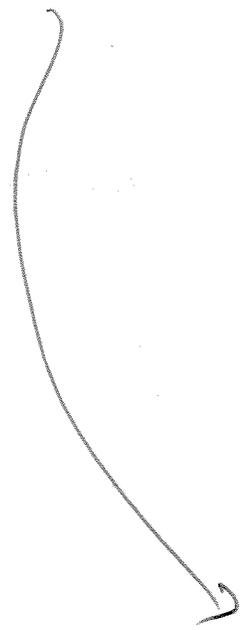
1 provider unless the person providing special education or related services holds the
2 appropriate license issued by the department.

3 (5) The department shall promulgate rules to implement and administer this
4 section, including procedures and deadlines for scholarship applications, payment
5 schedules for scholarships, and standards for the approval of private providers under
6 sub. ~~4~~ (3)

7 SECTION 2. 121.05 (1) (a) 4. of the statutes is created to read:

8 121.05 (1) (a) 4. Pupils residing in the school district who are attending a
9 special education program operated by another school district, another public entity,
10 or a private provider as a result of receiving a scholarship under s. 115.85.

11 ~~(END)~~



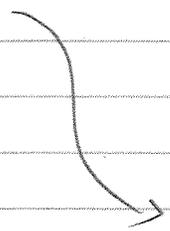
④ ③ ③
SEC. # CR. 12.81(2)(br) ✓

④ 12.81(2)(br) ^③ Notwithstanding [✓] parso (a) and (b) [✓]
awarded a scholarship under 10.11505 ✓
if a pupil ~~is~~ attends a ~~very~~ school district
other than ^{of} his ^{or} her school district of residence
under that section; all of the following apply ⑤

④ 10. The application need not be accompanied by
a written ^{declaration} ~~statement~~ regarding establishing
residence in the school district

④ 20. The school district may not waive ^{or refund} tuition
for the pupils

④ 30. The pupil shall not be ^{considered} a resident
pupil in computing general ^{aid} under subch. II ⑤



NONSTAT SESSLAW

1. In the component bar:

For the action phrase, execute: **create** → **action:** → *NS: → **nonstat**

For the budget action phrase, execute: **create** → **action:** → *NS: → **91XX**

For a subsection, execute: **create** → **text:** → *NS: → **sub**

For a paragraph, execute: **create** → **text:** → *NS: → **par**

For a subdivision, execute: **create** → **text:** → *NS: → **subd**

For a subdivision paragraph, execute: **create** → **text:** → *NS: → **subpar**

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9100 department code.

SECTION # 91 **Nonstatutory provisions** 10..

(#1) WV ^{CS} AUDIT

Not The legislative audit bureau is requested to perform a financial and performance audit of the autism scholarship program established by this act. If the bureau performs the audit, it shall file its report as described in section 1394 (1)(b) of the statutes by December 31, 2007.

based on the data from the 2006-07 fiscal year.

emergency rules must expire in 150 days, unless extended for not more than 120 days under s. 227.24 (2) (a), stats., and because expedited procedures are used in their promulgation which may deny the agency and the public the benefits of the permanent rule-making process, emergency rules are generally used for temporary purposes only. If you want to extend or permit extension of the effective period of an emergency rule, you may do so in a nonstatutory provision. Considering how long it may take to get permanent rules into effect if a requester intends emergency rules to cover the period before permanent rules take effect, it may be necessary to permit the emergency rules to remain

in effect for longer than the period authorized under s. 227.24 (1) (c) and (2), stats., unless the draft has a significantly delayed effective date. If you want to require an agency to promulgate rules immediately but no emergency condition exists, draft a nonstatutory provision authorizing the agency to do so in the absence of an emergency and exempting the agency from making an emergency finding before promulgating the emergency rule. See example 7.15 (5). If you provide an exemption from emergency rule procedures, add the appropriate phrase, as specified in sub. (2) (e), to the relating clause.

EXAMPLE 7.15 (5)

SECTION 6. Nonstatutory provisions; insurance.

(1) HEALTH INSURANCE RISK-SHARING PLAN; RULES.

(a) The commissioner of insurance shall submit in proposed form the rules required under section 619.115 of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th month beginning after the effective date of this paragraph.

(b) Using the procedure under section 227.24 of the statutes, the commissioner of insurance may promulgate rules required under section 619.115 of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

SECTION 7. Nonstatutory provisions; workforce development.

~~(2) DEFINITION OF NEEDY PERSON.~~ Using the procedure under section 227.24 of the statutes, the department of ~~workforce development~~ shall promulgate the rule required under section ~~49.138 (1d)~~ of the statutes, as created by this act, for the period before the effective date of the permanent rule promulgated under ~~section 49.138 (1d) (b) of the statutes, as created by this act,~~ but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

~~SECTION 8. Nonstatutory provisions; agriculture, trade and consumer protection.~~

NONSTATS.

⑤ RULES
115085 (5)

(End) ✓

public instruction

that section

213

¶ (b) No more than 200 scholarships may be awarded under this section in any school year of the school district

(c) ~~neither the school board for which the pupil resides or the school board of the school district that the pupil is attending, nor the school board of the school district that the pupil is attending under the scholarship, is responsible for transporting the pupil to and from school.~~

If a pupil is awarded a scholarship under this section,

Analysis

¶ This bill directs the Department of Public Instruction (DPI) to award scholarships in the 2006-07 and 2007-08 school years to the parents of eligible autistic children. A child is eligible if the child's school district has identified the child as autistic and has ~~developed~~ an individualized education program (IEP) in effect for the child, and the child was enrolled in public school in the previous school year or is eligible to enter public school in the school year in which a scholarship is first sought for the child.

¶ The scholarship may be used only to pay tuition for the child to attend a special education program that implements the child's IEP.

one that is operated by a school district other than the school district that the child is attending ^{or} in which the child resides; by another public entity; or by a private provider approved by DEI. DEI must establish standards for ~~the~~ the approval of private providers. The bill prohibits ^PDEI from approving a private provider unless the person providing special education holds the appropriate DEI license.

The amount of a scholarship is $\$15,000$ or the actual tuition ^{charged} charged by the special education

program, whichever is less. No more than 200 ^{pupils} pupils may receive a scholarship in either school year. INSEPTA

The bill directs ~~that~~ the school district in which the pupil, who is ~~awarded~~ awarded a scholarship resides to ^{count} count the pupil in its

enrollment for state aid purposes. The bill
directs DOE to decrease each school
district's state aid payment by the amount of
scholarships awarded to each pupil. ⊙

⊕ Finally, the bill directs the Legislative
Audit Bureau to conduct a financial ^{and}
performance audit of the Scholarship Program
^{after} ~~the~~ the 2006-07 school year and to file a
report by December 31, 2007.

FE - SL

(A)

(m A)

The bill specifies that the parent ^{or} or
guardian of the pupil is responsible for
transporting the pupil to and from the
special education program the pupil attends
under the scholarship.