

2011 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB110)

Received: **01/06/2012**

Received By: **pgrant**

Wanted: **As time permits**

Companion to LRB:

For: **Michelle Litjens (608) 266-7500**

By/Representing: **Jon Turke**

May Contact:

Drafter: **pgrant**

Subject: **Education - charter schools**
Education - choice schools
Education - handicapped ed.
Education - school boards
Education - state superintendent

Addl. Drafters:

Extra Copies: **TKK**

Submit via email: **YES**

Requester's email: **Rep.Litjens@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Special Needs 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 01/17/2012	csicilia 01/23/2012		_____			
/P1	pgrant 01/25/2012	csicilia 01/26/2012	phenry 01/23/2012	_____	mbarman 01/23/2012		
/1	pgrant 02/02/2012	csicilia 02/03/2012	jmurphy 01/26/2012	_____	sbasford 01/26/2012	sbasford 01/26/2012	
/2			jmurphy	_____	lparisi	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			02/03/2012 _____		02/03/2012	02/03/2012	

FE Sent For:

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/P1	pgrant 01/25/2012	csicilia 01/26/2012	phenry 01/23/2012	_____	mbarman 01/23/2012		
/1			jmurphy 01/26/2012	_____	sbasford 01/26/2012	sbasford 01/26/2012	

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/? pgrant csicilia
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/P1 phenry 01/23/2012 mbarman 01/23/2012

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Handwritten notes: Ligs, 1/26, PH+JM, 1/26, <END>

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1?	pgrant	plg's 1/23 12	1/23 ph	_____	_____	_____	_____
FE Sent For:				_____			

<END>

Grant, Peter

From: Turke, Jon
Sent: Thursday, January 05, 2012 3:35 PM
To: Grant, Peter
Subject: AB-110 Sub Amendment

Attachments: AB 110_SubstituteAmendment.docx

Peter-

Attached you will find language for a sub amendment to AB-110. In writing this we noted on page 2 towards the bottom of the funding section, we thought the funding should come out of (2) (ac) not (2) (az). Was that simply a drafting error or should it be (az)?

If you have any questions, please feel free to call me.

*Jon Turke
Office of State Representative Michelle Litjens
56th Assembly District
Phone: 608-266-7500
Office: 221 North*



AB

bstituteAmendmer

Draft Substitute Amendment to AB 110
-Only Sections with Changes Listed-

Scholarship Requirements [s. 115.7915 (1)]

Beginning in the ~~2011-12~~ 2012-13 school year, the number of scholarships awarded under the program in any fiscal year shall not exceed five per cent of the total number of students residing in the state identified as children with disabilities during the previous fiscal year. A child with a disability shall receive a scholarship under this section to attend an eligible school if all of the following apply:

- The school district in which the eligible public school or charter school (~~including~~ ~~or's and Virtual Schools~~) is located or the eligible private school notified the state superintendent of its intent to participate in the program under this section. The notice shall specify the number of pupils that may participate in the program under this section for which the school has space.
 - The school if a private school is approved by the state superintendent under 118.165 (2) or is accredited by the Wisconsin North Central Association, the Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, the ~~Archdiocese~~ of Milwaukee diocese or archdiocese within which the private school is located, or any other organization recognized by the National Council for Private School Accreditation as of the August 1 preceding the school term for which the scholarship is awarded.
 - An individualized education program has been completed for the child.
 - The child was enrolled in a public school, or did not attend school in this state, ~~in~~ throughout the school year immediately preceding the school year for which the child first receives a scholarship under this section.
 - The child or the child's parent or guardian on behalf of the child, has submitted an application to the ~~department~~ participating school, on a form prepared by the department, for a scholarship under this section to attend the eligible school. An application may be made, and a child may begin attending an eligible school under this section, at any time during the school year.
 - The child has been accepted by the school district in which the eligible public school is located or the eligible private school.
 - An eligible applicant's receipt of the document comparing the applicant's rights, as described in s. 115.7915(2) and acknowledged in a format prescribed by the department, shall constitute notice that the eligible applicant has been informed of those rights. Upon receipt of that document, subsequent acceptance of a scholarship constitutes the eligible applicant's informed consent to the provisions of s. 115.7915. *The document?*
- A child who is currently enrolled in the Milwaukee Parental Choice Program or the Racine Parental Choice Program and previously had an individualized education

program completed for him or her is also eligible for a special needs scholarship. If the parent of such a child opted for a special needs scholarship, the parent would not be able to concurrently receive scholarships through the Milwaukee Parental Choice Program or Racine Parental Choice Program.

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115.23

Department Duties [s. 115.7915 (2)]

- Once receipt of an application under sub. (1m)(e) the eligible school district, charter school, or private school notifies the department of its acceptance of an eligible child, the department shall do all of the following:
 - ✓ (a) Notify the school board of the pupil's school district of residence that the pupil has requested a scholarship under this section. The school board shall, within 3 days of receiving the notice, provide the department with a copy of the pupil's individualized education program.
 - ✓ (b) Review the pupil's individualized education program provided under par. (a) and determine the amount of the pupil's scholarship. The amount shall be the lesser of the following:
 - The sum of:
 - ~~The cost to the pupil's school district of residence of providing to the pupil regular instruction, instructional and pupil support services, special education and related services, and supplementary aids and services; statewide average per child (membership FTE) with a disability cost for special education curriculum (not including costs for home-bound instruction or hospital instruction) reduced by the special education categorical aid rate. (2009-10 estimate is \$9,500/student)~~
 - The statewide average per child (membership FTE) with a disability categorical aid cost for special education curriculum (not including costs for home-bound instruction or hospital instruction). (\$369 million / 125,000 students = approx \$3,000/student)
 - The cost to the school district in which the eligible public school is located or the eligible private school of providing ~~the instruction and services specified in sub. 1.~~ regular instruction, instructional and pupil support services, special education and related services, and supplementary aids and services.
 - ✓ (bm) Prorate the amount determined under par. (b) for a pupil attending an eligible school for less than a full school term.
 - ✓ (c) Notify the parent of the scholarship amount, as determined under par. (b) or (bm), accompanied by an explanation of how the amount was determined.
 - ✓ (d) On behalf of the pupil's parent, pay the scholarship to the school district or private school that the pupil attends from the appropriation under s. 20.255 (2) (azac) and (b). The scholarship shall continue while the pupil attends an eligible school until the pupil graduates from high school or until the end of the school term in which the pupil attains the age of 21, whichever comes first.
- Not later than sixty days after the effective date of this section, the department shall develop a document that compares a parent's and child's rights under

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✓

✓ Subchapter V of Chapter 115 and 20 U.S.C. 1400 et seq. with the parent's and child's rights under the Wisconsin special needs scholarship program established in s. 115.7915. The department shall revise that document as necessary to reflect any pertinent changes in state or federal statutory law, rule, or regulation enacted or adopted after the initial document is developed. The department shall ensure that the document prescribed in this section is distributed to each parent who applies for the special needs scholarship.

how will they know who applies? DOL doesn't know until child is accepted.

School Board Duties [s. 115.7915 (3)]

Private School Duties [s. 115.7915 (4)]

- Comply with all health and safety laws or codes that apply to private schools
- Hold a valid occupancy permit, if required by the municipality in which the school is located. If the municipality within which the private school is located does not issue certificates of occupancy, the private school shall obtain a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy (mirrors SB 234).
- ✓ ~~Annually certify to the department that it complies~~ Comply with 42 USC 2000d.
- Conduct criminal background investigations of its employees and exclude from employment any person not permitted to hold a teaching license as the result of an offense and any person who might reasonably be believed to pose a threat to the safety of others.
- Annually submit to the department a school financial information report, prepared by a certified public accountant, that complies with uniform financial accounting standards established by the department by rule. The report shall be accompanied by an auditor's statement that the report is free of material misstatements and fairly represents pupil costs. The report shall be limited in scope to those records that are necessary for the department to make payments to participating schools.
- If the participating school expects to receive at least \$50,000 in scholarships under this section during a school year, do one of the following before the beginning of the school year:
 - ✓ File with the department a surety bond payable to the state in an amount equal to the total amount of scholarships expected to be received by the school during the school year under this section.
 - ✓ File with the department financial information demonstrating that the school has the ability to pay an amount equal to the total amount of scholarships expected to be received by the school during the school year under this section.
- ✓ • Retain on file documentation as required by the department.
- ✓ • Implement the child's individualized education program, *as it is modified by the school and parent when such modifications are agreed upon between the school*

- ✓ *and parent*, and other services agreed to by the school and parent that are not included in the individualized education program but are associated with educating the child.
- Provide a record of the implementation of the individualized education program, *as it is modified by the school and parent when such modifications are agreed upon between the school and parent*, for each child enrolled in the school's special education program, including evaluation of the child's progress, to the child's resident school district in the form and manner prescribed by the department.
- Submit in writing to the parent ~~to whom a scholarship is awarded on behalf of that child~~ who applies to the school a profile of the provider's special education program, in a form as prescribed by the department, that shall contain the following:
 - ✓ Methods of instruction that will be utilized by the provider to provide services to the child;
 - ✓ Qualifications of teachers, instructors, and other persons who will be engaged by the provider to provide services to the child.
- ✓ As a condition of receiving payments for a scholarship, each eligible child, or the child's parent on behalf of the child, shall attest to receipt of the profile. Such attestation shall be made and submitted to the department in the form and manner as required by the department.
- Regularly report to the parent of a pupil attending the school and receiving a scholarship under this section on the pupil's progress.

Transportation [s. 115.7915 (5)]

Penalties [s. 115.7915 (6)]

Study [s. 115.7915 (7)]

Grant, Peter

From: Grant, Peter
Sent: Monday, January 09, 2012 3:17 PM
To: Turke, Jon
Subject: RE: AB-110 Sub Amendment

Hi Jon,

I have a few questions for you about the instructions for the sub:

- I'm confused by the addition of the parental choice schools at the bottom of the first page of the attachment. Does this mean that a pupil attending one of the private schools under one of the parental choice programs is eligible for a scholarship? I note that several paragraphs above that new paragraph, there are no changes made to par. (d) that indicate this change. (It still reads, "The child was enrolled *in a public* school, or did not attend school in this state, throughout the school year immediately preceding the school year for which the child first receives a scholarship under this section.") Would this apply only to pupils for whom the state is paying tuition at the private school, or all pupils at the school? Could the pupil use the scholarship to attend a different private school or only the one that he or she is attending? Does the language at the bottom of the first page, "...who is currently enrolled..." mean enrolled in the 2011-12 school year? Or in *any* school year? Does "...previously had an IEP completed..." mean at *any* time in the past?
- I note at the beginning of the attachment, the number of scholarships awarded under the program in any fiscal year may not exceed 5% of the total number of pupils residing in the state who are children with disabilities. How will this be administered? The attachment provides for an application to be submitted to the eligible school instead of to DPI. DPI is notified only after the eligible school has accepted the pupil. So how will an eligible school know whether it can admit a child without going over the 5% limit?
- Similarly, the attachment requires DPI to prepare a document comparing a child's and parent's rights under current law with their rights under the act. The attachment requires each eligible school to give this document to each parent who applies for a special needs scholarship. But how will DPI know who has applied, since under the attachment, applications are submitted to the eligible school, and DPI is notified only after the child is accepted? (And I'm not sure that receipt of the document at that time is sufficient "notice that the eligible applicant has been informed of those rights" if he or she is already committed to attending the eligible school.)
- I'm having trouble understanding the changes to the scholarship amount. I haven't heard of a cost for special education *curriculum*; the term I have heard of is special education *instruction*. Is that correct? Also, why is the special ed categorical aid rate subtracted in the first paragraph, only to be added in the second paragraph? And I think there are several categorical aids for special ed; I'm not sure which one is intended. If I might make a suggestion, I think it would be a good idea to contact Layla Merrifield in the Legislative Fiscal Bureau, who understands this material a lot better than I do.
- On the last page of the attachment, in the checked paragraphs, does "services" refer to "related services" (as defined in s. 115.76 (14)), to "supplementary aids and services" (as defined in s. 115.76 (16)), to both, or to something else entirely?

Thanks.

Peter

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Jon Turke

Office of State Representative Michelle Litjens

56th Assembly District

Phone: 608-266-7500

Office: 221 North

<< File: AB 110_SubstituteAmendment.docx >>

Grant, Peter

From: Turke, Jon
Sent: Friday, January 13, 2012 1:15 PM
To: Grant, Peter
Subject: RE: AB-110 Sub Amendment

Attachments: DPI_Open Enrollment SpEd Changes.pdf

Hi Peter-

I've put our responses in red. I hope this clears things up!

I have a few questions for you about the instructions for the sub:

I'm confused by the addition of the parental choice schools at the bottom of the first page of the attachment. Our goal is to ensure that special needs children in the MPCP/RPCP, who are currently entitled to \$6,442 through that program, are eligible for the higher scholarship amount under this legislation. Does this mean that a pupil attending one of the private schools under one of the parental choice programs is eligible for a scholarship? (Yes, but only if the student has had an IEP or a service plan completed for him/her.) I note that several paragraphs above that new paragraph, there are no changes made to par. (d) that indicate this change. (It still reads, "The child was enrolled in a public school, or did not attend school in this state, throughout the school year immediately preceding the school year for which the child first receives a scholarship under this section.") (Perhaps there is better way to format this but the reason it's not included above is because of the "if all of the following apply" language; open to suggestions re: a better way to articulate this.) Would this apply only to pupils for whom the state is paying tuition at the private school, or all pupils at the school? (It would only apply to those in the two choice programs...students not receiving a voucher are not participants in the MPCP/RPCP.) Could the pupil use the scholarship to attend a different private school or only the one that he or she is attending? (Yes, the legislative intent is to give parents more choices.) Does the language at the bottom of the first page, "...who is currently enrolled..." mean enrolled in the 2011-12 school year? Or in any school year? (For consistency's sake, we should use the "The child was enrolled throughout the school year immediately preceding the school year for which the child first receives a scholarship..." language.) Does "...previously had an IEP completed..." mean at any time in the past? (Yes, but modify the language to: "...had an individualized education program or a service plan completed for...")

I note at the beginning of the attachment, the number of scholarships awarded under the program in any fiscal year may not exceed 5% of the total number of pupils residing in the state who are children with disabilities. How will this be administered? The attachment provides for an application to be submitted to the eligible school instead of to DPI. DPI is notified only after the eligible school has accepted the pupil. So how will an eligible school know whether it can admit a child without going over the 5% limit? (Under the MPCP, schools electronically notify DPI once they accept a student, through software that was developed...I imagine this was helpful when MPCP had enrollment caps and in avoiding surpassing the cap. Also, this language should be incorporated "If a participating school receives applications from more eligible students than it has scholarship seats available, selection of students will be determined on a random basis. A participating school may give preference to siblings of pupils already enrolled.") ✓

Similarly, the attachment requires DPI to prepare a document comparing a child's and parent's rights under current law with their rights under the act. The attachment requires each eligible school to give this document to each parent who applies for a special needs scholarship. But how will DPI know who has applied, since under the attachment, applications are submitted to the eligible school, and DPI is notified only after the child is accepted? (And I'm not sure that receipt of the document at that time is sufficient "notice that the eligible applicant has been informed of those rights" if he or she is already committed to attending the eligible school.)

(Let's fix this by requiring that the comparison of rights must be part of the application. This way, the parent has the comparison of rights, and acknowledges that he/she has read it, while simultaneously submitting the application to the desired school/s.)

I'm having trouble understanding the changes to the scholarship amount. I haven't heard of a cost for special education curriculum; the term I have heard of is special education instruction. Is that correct? Also, why is the special ed categorical aid rate subtracted in the first paragraph, only to be added in the second paragraph? And I think there are several categorical aids for special ed; I'm not sure which one is intended. If I might make a suggestion, I think it would be a good idea to contact Layla Merrifield in the Legislative Fiscal Bureau, who understands this material a lot better than I do. (This language is borrowed from a DPI working document that staff developed for internal discussion related to special education and open enrollment; while it doesn't represent an official position necessarily advocated by DPI, it is their language—see item 4 in the attached—DPI leaves out “the special education categorical aid rate,” and this draft supplements that subtotal of \$9,500 with what would amount to a statewide per pupil special education categorical aid average...roughly \$3,000 (\$368,939,100 divided by total number of special needs students). So, the goal is to have \$9,500 lapsed from the school district's general equalization aid payment and the statewide regular special ed categorical aid (not the “additional” and/or “supplemental” categorical aid) lapsed from their categorical aid payment for each student that receives a scholarship. The intent here is to provide some predictability after DPI and others suggested the original bill represented widely-varying costs.) You can share this and the attachment with LFB.

Finally, the goal is to fund these scholarships outside of revenue limits (like Open Enrollment) to avoid property tax increases.

On the last page of the attachment, in the checked paragraphs, does "services" refer to "related services" (as defined in s. 115.76 (14)), to "supplementary aids and services" (as defined in s. 115.76 (16)), to both, or to something else entirely? (Good point: Both, the intent is to have well-informed parents.)

(14)(a) "Related services" means transportation and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including all of the following:

1. Speech-language pathology and audiology services.
2. Interpreting services.
3. Psychological services.
4. Physical and occupational therapy.
5. Recreation, including therapeutic recreation.
6. Social work services.
7. School nursing services designed to enable a child with a disability to receive a free appropriate public education as described in the child's individualized education program.
8. Counseling services, including rehabilitative counseling.
9. Orientation and mobility services.
10. Medical services for diagnostic and evaluative purposes only.
11. The early identification and assessment of disabling conditions in children.

(b) "Related services" does not include a medical device that is surgically implanted or the replacement of such a device.

(16) "Supplementary aids and services" means aids, services and other supports that are provided in regular education classes or other education-related settings to enable a child with a disability to be educated with nondisabled children to the maximum extent appropriate.



DPI_Open
ollment SpEd Char

Jon Turke
Office of State Representative Michelle Litjens
56th Assembly District
Phone: 608-266-7500
Office: 221 North

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Jon Turke

Office of State Representative Michelle Litjens

56th Assembly District

Phone: 608-266-7500

Office: 221 North

<< File: AB 110_SubstituteAmendment.docx >>



State of Wisconsin
2011 - 2012 LEGISLATURE

(MON)

560N



LRB-1976/1
PG:cjs:ph

LRBs 0282/1

PG: j5

d-note
inserts

A. SUBST. AMDT. —
To 2011 ASSEMBLY BILL 110

SA

April 20, 2011 † Introduced by Representatives LUTJENS, FUELS, WYNN, HEDDSON, NASS, PRIDEMORE, UNIESFELDT, VOE, KLEEFITSCHE, LAFLAMIEU, NUGREN, SYRACHOVA, BERNIER, BIES, BROOKS, ENDSLEY, FARROW, HONADEL, JACQUE, KNILANS, KODYENGA, KRAMER, KRUG, KUGLITSCH, T. LARSON, MURSAU, PETRYK, RIVARD, SEVERSON, SPANBAUER, TIFFANY and ZIEGELBAUER, cosponsored by Senators VUKMIR, MOULTON, GALLOWAY and DARNING. Referred to Committee on Education.

Gen Cat

1 AN ACT to amend 20.255 (2) (cy), 115.77 (1), 115.791 (4), 121.08 (4) (c), 121.08 (4)
2 (d) and 121.54 (3); and to create 20.255 (2) (az), 115.7915, 121.05 (1) (a) 4. and
3 121.08 (4) (am) of the statutes; relating to: creating the Special Needs
4 Scholarship Program for disabled pupils, granting rule-making authority, and
5 making an appropriation.

Analysis by the Legislative Reference Bureau

This bill establishes a Special Needs Scholarship Program. Under the program, a child with a disability may receive a scholarship to attend a public school located outside the pupil's school district of residence, or a private school, if all of the following conditions are met:

1. The school has notified the Department of Public Instruction (DPI) of its intent to participate in the program and the child has been accepted by the school.
2. If the school is a private school, it is approved as a private school by DPI or is accredited.
3. An individualized education program (IEP) has been completed for the child.
4. The child attended a public school, or did not attend school in this state, in the previous school year.

Upon receipt of an application for a scholarship, DPI must review the child's IEP and determine the amount of the child's scholarship. The amount is the lesser of the cost to the child's school district of residence, or the cost to the school district or private school that the child wishes to attend, of providing regular instruction,

9

ASSEMBLY BILL 110

instructional and pupil support services, special education and related services, and supplementary aids and services to the child. If the child is attending for less than a full school term, DPI must prorate the amount of the scholarship.

DPI pays the scholarship directly to the school or school district that the child will attend. The scholarship continues while the child attends a school eligible to participate in the program until he or she graduates from high school or until the end of the school term in which he or she turns 21, whichever comes first.

Under the bill, a pupil attending a private school, or a public school outside the pupil's school district of residence, under the program is counted for state aid purposes by the pupil's school district of residence. However, the state aid paid to that school district is reduced by the total amount of scholarships paid by DPI for pupils who reside in that school district.

Each private school participating in the program must comply with applicable health and safety laws; hold a valid occupancy permit, if required by the municipality; comply with federal law that prohibits discrimination against any person on the basis of race, color, or national origin; and conduct criminal background investigations of its employees and exclude from employment any person not permitted to hold a teaching license as the result of an offense any any person who might reasonably be believed to pose a threat to the safety of others.

The private school must also annually submit to DPI a school financial report prepared by a certified public accountant. If the private school expects to receive at least \$50,000 in scholarships during a school year, it must either file a surety bond with DPI or provide DPI with information demonstrating that it has the ability to pay an amount equal to the total amount of scholarships that it expects to receive.

The bill provides that if a child attends a private school under the program, his or her school district of residence must provide transportation to and from the school if the school is located at least two miles from the child's residence, the child resides in the private school's attendance area, and the private school is situated within the school district of residence or not more than five miles beyond the boundaries of the school district.

If the child attends a public school under the program, the child's parent is responsible for transporting the child to and from school unless transportation is required in the child's IEP. If the latter applies, the school district that the child attends is responsible for transporting the child. The bill allows a low-income pupil to apply to DPI for reimbursement of transportation costs.

The bill authorizes DPI to bar a school from participating in the program if the school intentionally and substantially misrepresents information required under the bill, routinely fails to comply with financial standards, uses a pupil's scholarship for any purpose other than educational purposes, or fails to refund any scholarship overpayments to the state.

Finally, the bill directs the Legislative Audit Bureau to contract for a study of the program. The results of the study must be reported to the legislature by January 9, 2015.

ASSEMBLY BILL 110

For further information see the ~~state and local~~ fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.255 (2) (az) of the statutes is created to read:

2 20.255 (2) (az) *Special Needs Scholarship Program*. A sum sufficient to pay the
3 special needs scholarships under s. 115.7915.

4 **SECTION 2.** 20.255 (2) (cy) of the statutes is amended to read:

5 20.255 (2) (cy) *Aid for transportation; open enrollment and special needs*
6 *scholarships*. The amounts in the schedule to reimburse parents for the costs of
7 transportation of ~~open enrollment~~ pupils under ss. 115.7915, 118.51 (14) (b), and
8 118.52 (11) (b).

9 **SECTION 3.** 115.77 (1) of the statutes is amended to read:

10 115.77 (1) In sub. (1m) (a) to (d), except as provided in s. 118.51 (12) (a) and (b)
11 2., if a child with a disability is attending a public school in a nonresident school
12 district under s. 115.7915, 118.51, or 121.84 (1) (a) or (4), "local educational agency"
13 means the school district that the child is attending.

14 **SECTION 4.** 115.791 (4) of the statutes is amended to read:

15 115.791 (4) Subject to s. 115.77 (1m) (d) and (e), this section does not require
16 a local educational agency to pay the cost of education, including special education
17 and related services, of a child with a disability at a private school or facility,
18 including a child with a disability attending a private school under s. 115.7915, if the
19 local educational agency made a free appropriate public education available to the
20 child and the child's parents elected to place the child in a private school or facility.

21 **SECTION 5.** 115.7915 of the statutes is created to read:

ASSEMBLY BILL 110

SECTION 5

: # (a)

1 115.7915 Special Needs Scholarship Program. (1) DEFINITION. In this
2 section, "eligible school" means a public school located outside the pupil's school
3 district of residence, including a charter school,
4 or a private school.

5 (1m) SCHOLARSHIP REQUIREMENTS. Beginning in the ~~2012-13~~ 2012-13
6 school year, a child with a disability shall receive a scholarship under this section to attend an eligible
7 school if all of the following apply:

8 (a) The school district in which the eligible public school is located or the eligible
9 private school notified the ~~state superintendent~~ ^{department} of its intent to participate in the
10 program under this section.

11 (b) The school, if a private school, is approved by the state superintendent
12 under s. 118.165 (2) or is accredited by the Wisconsin North Central Association, ~~the~~

13 Wisconsin Religious and Independent Schools Accreditation, the Independent
14 Schools Association of the Central States, the ~~Archdiocese~~ ^{diocese or} ~~episcopate~~ ^{within which the}
15 other organization recognized by the National Council for Private School
16 Accreditation as of the August 1 preceding the school term for which the scholarship
17 is awarded.

18 (c) An individualized education program ^{attended a private school under}
19 ^{s. 118.60 or 119.23} has been completed for the child.

20 (d) The child attended a public school, or did not attend school in this state, ^{for the}
21 ^{entire} school year immediately preceding the school year for which the child first
22 receives a scholarship under this section.

23 (e) The child, or the child's parent on behalf of the child, has submitted an
24 application to the ~~department~~ ^{eligible school}, on a form prepared by the department, for a
25 scholarship under this section to attend the eligible school. ^{The application shall include} An application may be
made, and a child may begin attending an eligible school under this section, at any
time during the school year.

Wisconsin Evangelical Lutheran Synod School Accreditation,
National Lutheran School Accreditation,
Lutheran Synod

the document developed by the department under sub. (2) (a).

4-3

ASSEMBLY BILL 110

(f) The child has been accepted by the school district in which the eligible public school is located or the eligible private school.

eligible

the charter school

being notified

5-2

5-3

(2) DEPARTMENT DUTIES. Upon receipt of an application under sub. (1)(c), the department shall do all of the following:

1. Notify the school board of the pupil's school district of residence that the pupil has requested a scholarship under this section. The school board shall, within 3 days of receiving the notice, provide the department with a copy of the pupil's individualized education program.

2. ~~Review the pupil's individualized education program provided under par. (a) and~~ determine the amount of the pupil's scholarship. The amount shall be the lesser of the following:

- 1. The cost to the pupil's school district of residence of providing to the pupil regular instruction, instructional and pupil support services, special education and related services, and supplementary aids and services.
- 2. The cost to the school district in which the eligible public school is located or the eligible private school of providing the instruction and services specified in subd. 1.

5-17

3. Prorate the amount determined under ~~par. (b)~~ ^{subd. 2.} for a pupil attending an eligible school for less than a full school term.

4. Notify the parent of the scholarship amount, as determined under ~~par. (b)~~ ^{3.} or ~~par. (c)~~, accompanied by an explanation of how the amount was determined.

5. On behalf of the pupil's parent, pay the scholarship to the school district or private school that the pupil attends from the appropriation under s. 20.255 (2) (az).

The scholarship shall continue while the pupil attends an eligible school until the

subd. 2.

charter schools

5-23

ASSEMBLY BILL 110**SECTION 5**

1 pupil graduates from high school or until the end of the school term in which the pupil
2 attains the age of 21, whichever comes first.

3 (3) SCHOOL BOARD DUTIES. (a) Annually, each school board shall notify the
4 parents of each child with a disability enrolled in the school district of the program
5 under this section.

6 (b) Upon the request of a parent of a pupil receiving a scholarship, the pupil's
7 resident school district shall administer the appropriate examinations under s.
8 118.30 to the pupil at no cost if the school attended by the pupil does not administer
9 them.

10 (4) PRIVATE SCHOOL DUTIES. Each private school participating in the program
11 under this section shall do all of the following:

12 (a) Comply with all health and safety laws or codes that apply to private
13 schools.

14 (b) Hold a valid ^{certificate of} occupancy ~~permit~~, if required by the municipality in which the
15 school is located. ⁶⁻¹⁵

16 (c) ~~Annually certify to the department that it~~ ^{comply} complies with 42 USC 2000d.

17 (d) Conduct criminal background investigations of its employees and exclude
18 from employment any person not permitted to hold a teaching license as the result
19 of an offense and any person who might reasonably be believed to pose a threat to the
20 safety of others.

21 (e) Annually submit to the department a school financial information report,
22 prepared by a certified public accountant, that complies with uniform financial
23 accounting standards established by the department by rule. The report shall be
24 accompanied by an auditor's statement that the report is free of material
25 misstatements and fairly represents pupil costs. The report shall be limited in scope

ASSEMBLY BILL 110

1 to those records that are necessary for the department to make payments to
 2 ~~participating schools~~. ^{the private school}

3 (f) If the ~~participating~~ ^{private} school expects to receive at least \$50,000 in scholarships
 4 under this section during a school year, do one of the following before the beginning
 5 of the school year:

6 1. File with the department a surety bond payable to the state in an amount
 7 equal to the total amount of scholarships expected to be received by the ^{private} school during
 8 the school year under this section.

9 2. File with the department financial information demonstrating that the
 10 ^{private} school has the ability to pay an amount equal to the total amount of scholarships
 11 expected to be received by the ^{private} school during the school year under this section.

12 (i) ~~(g)~~ Regularly report to the parent of a pupil attending the ^{private} school and receiving
 13 a scholarship under this section on the pupil's progress. X

14 (5) TRANSPORTATION. (a) *Private school*. Section 121.54 applies to the
 15 transportation of a pupil to and from the private school he or she is attending under
 16 this section.

17 (b) *Public school*. Section 118.51 (14) applies to the transportation of a pupil
 18 to and from the public school he or she is attending under this section.

19 (6) PENALTIES. (a) The department may bar a school district ^{, charter school,} or private school
 20 from participating in the program under this section if the department determines
 21 that the school district ^{, charter school,} or private school has done any of the following:

22 1. Intentionally and substantially misrepresented information required under
 23 sub. (4).

24 2. Routinely failed to comply with the standards under sub. (4) (e) or (f).

7-11 →

ASSEMBLY BILL 110**SECTION 5**

1 3. Used a pupil's scholarship for any purpose other than educational purposes
2 or rebated, refunded, or shared a pupil's scholarship with a parent or pupil.

3 4. Failed to refund to the state, in a timely manner, any scholarship
4 overpayments.

5 (b) If the department bars a school district^{, charter school,} or private school from participating
6 in the program under this section, it shall notify all pupils eligible to participate in
7 the program and their parents as quickly as possible. A pupil who is receiving a
8 scholarship and attending a school district^{, charter school,} or private school barred from the program
9 may attend another participating school district^{, charter school,} or private school under the
10 scholarship.

11 (7) STUDY. (a) The legislative audit bureau shall contract for a study of the
12 program under this section with one or more researchers who have experience
13 evaluating school choice programs. The study shall evaluate all of the following:

14 1. The level of satisfaction with the program expressed by participating pupils
15 and their parents.

16 2. The percentage of participating pupils who were victimized because of their
17 special needs at their resident school district and the percentage of such pupils at
18 their participating school.

19 3. The percentage of participating pupils who exhibited behavioral problems
20 at their resident school district and the percentage of such pupils at their
21 participating school.

22 4. The average class size at participating pupils' resident school districts and
23 at their participating schools.

24 5. The fiscal impact of the program on the state and on resident school districts.

ASSEMBLY BILL 110

1 (b) The contract under par. (a) shall require the researchers who conduct the
2 study to do all of the following:

3 1. Apply appropriate analytical and behavioral science methodologies to
4 ensure public confidence in the study.

5 2. Protect the identity of participating schools and pupils.

6 (c) The contract under par. (a) shall require that the results of the study be
7 reported to the appropriate standing committees of the legislature under s. 13.172
8 (3) by January 9, 2015.

9 **(8) RULES.** The department shall promulgate rules to implement and
10 administer this section, including rules relating to all of the following:

11 (a) The eligibility and participation of eligible schools, including timelines that
12 maximize pupil and school participation.

13 (b) The calculation and distribution of scholarships.

14 (c) The application and approval procedures for pupils and eligible schools.

9-14 →

15 **SECTION 6.** 121.05 (1) (a) 4. of the statutes is created to read:

16 121.05 (1) (a) 4. Pupils residing in the school district but attending a public
17 school in another school district, or a private school, under s. 115.7915.

18 **SECTION 7.** 121.08 (4) (am) of the statutes is created to read:

19 121.08 (4) (am) The amount of state aid that a school district is eligible to be
20 paid from the appropriation under s. 20.255 (2) (ac) in any school year shall be
21 reduced by the total amount of scholarships paid by the department under s.
22 115.7915 in that school year for pupils who reside in the school district.

23 **SECTION 8.** 121.08 (4) (c) of the statutes is amended to read:

24 121.08 (4) (c) The amount of state aid that a school district is eligible to be paid
25 from the appropriation under s. 20.255 (2) (ac) shall also be reduced by an amount

ASSEMBLY BILL 110

SECTION 8

1 equal to the amount paid to the Second Chance Partnership under s. 115.28 (54) for
 2 pupils enrolled in the school district. The department shall ensure that the amount
 3 of the aid reduction lapses to the general fund and that it does not affect the amount
 4 determined to be received by a school district as state aid under this section for any
 5 other purpose.

As affected by 2011 Wisconsin Act 32

6 **SECTION 9.** 121.08 (4) (d) of the statutes is amended to read:

7 121.08 (4) (d) The state superintendent shall ensure that the total amount of
 8 aid reduction under pars. ~~AA, AA(1), and AA(2)~~ ^{(a), (b), and (c)} this subsection lapses to the general fund.

9 **SECTION 10.** 121.54 (3) of the statutes is amended to read:

10 121.54 (3) TRANSPORTATION FOR CHILDREN WITH DISABILITIES. Every Except as
 11 provided in s. 115.7915 (5), every school board shall provide transportation for
 12 children with disabilities, as defined in s. 115.76 (5), to any public or private
 13 elementary or high school, to the school operated by the Wisconsin Center for the
 14 Blind and Visually Impaired or the school operated by the Wisconsin Educational
 15 Services Program for the Deaf and Hard of Hearing or to any special education
 16 program for children with disabilities sponsored by a state tax-supported institution
 17 of higher education, including a technical college, regardless of distance, if the
 18 request for such transportation is approved by the state superintendent. Approval
 19 shall be based on whether or not the child can walk to school with safety and comfort.
 20 Section 121.53 shall apply to transportation provided under this subsection.

21 (END)

d-note

(b)

4-3

¶ 2. ✓ "Services plan" ✓ has the meaning

✓ given in 34 CFR 300.37.

(H)

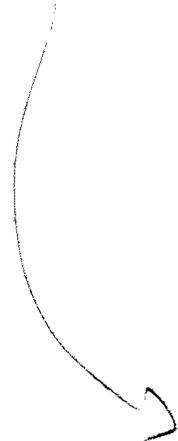
(B)

5-2:1

(CS)

(Lr) LIMIT ON NUMBER OF SCHOLARSHIPS.

The number of scholarships awarded under this section in any school year may not exceed 5 percent of the total number of children with disabilities residing in this state in the previous school year, as determined by the department.



(5-2:2)

(B) (CS)

(7) (1s) ACCEPTANCE OF PUPILS. If an ^{eligible} participating school receives more applications under sub. (1m) (e) than the number of pupils specified in the notice under sub. (1m) (a), it shall select pupils on a random basis except that it may give preference to siblings of pupils who are already attending the ^{eligible} participating school.

~~(b) An applicant's receipt of the document prepared~~

5-31

↑ for inclusion with
an application under
sub. (1m)(e) ↑

Ⓐ (a) 1. The department shall develop a document ^{↑ and revise it as necessary} comparing the rights of a child with a disability and of his or her parent under this subchapter, other than this section, and ^{20 USC 1400 to 1482} 20 USC 1400 to 1482, with the rights of a child with a disability and of his or her parent under this section and ^{20 USC 1400 to 1482} 20 USC 1400 to 1482 for inclusion with an application under sub. (1m)(e).

~~(b) The governing body of an eligible school that accepts a child under sub. (1m)(f) shall notify the department~~

Ⓐ

2. Receipt ^{by an applicant} of the document developed under subd. 1. ^{acknowledged} ^{↑ acknowledged} in a format prescribed by the department, [↑] constitutes notice that the applicant has been informed of his or her

rights under this section and ^{20 USC 1400} ~~20 USC 1400~~ ^{to 1482} to 1482.
Subsequent acceptance of a scholarship under

¶ (b) The governing body of an eligible school that accepts a child under sub. (m) (f) shall notify the department.

this section constitutes the applicant's informed consent to the rights specified in the document.

5-17 :/

④

a. The $\left(\begin{array}{l} \text{amount determined by doubling the} \\ \text{statewide total cost of special} \\ \text{in the previous school year} \end{array} \right)$ education $\left(\begin{array}{l} \text{excluding costs under s. 115.88(3) and (4)} \\ \text{in the previous} \end{array} \right)$ ~~instruction and costs under s. 115.88(4) in the previous~~ as determined by the department \uparrow ~~subtracting~~ from that product the subtracting \downarrow amount appropriated under s. 20-255(2)(b) in the previous fiscal year \uparrow and dividing the result by the total full-time equivalent number of children with disabilities ~~number of pupils enrolled in special instruction~~ in public schools in the previous school year \circ

④

④

b. The cost to the school district in which the eligible public school is located $\left(\begin{array}{l} \text{eligible} \\ \text{the charter school} \end{array} \right)$ or the eligible private school of providing $\left(\begin{array}{l} \text{to the pupil} \\ \text{regular} \end{array} \right)$ instruction \uparrow instructional and pupil support services \uparrow special education and related services \uparrow and supplementary aids and services \uparrow other than

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

5-17 : 2

costs under s. 115.88(3) and (4).

5-23

unless the applicant has not
 acknowledged receipt of the profile
 under sub. (4)(g)

(no 9)

^ except that the department may not
 pay a scholarship to a private school
 unless the ~~parent~~ - pupil's parent has
 acknowledged receiving the private school's
 profile under
 sub. (4)(g) in the manner provided by
 the department.

6-15

(not)

or, if the municipality in which the school is located does not issue certificates of occupancy, obtain a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy

7-11:1

④ (g) Provide to ~~the~~ ^{each} applicant under sub. (1m) (e) a profile of the ~~etiprint~~ private school's special education program ^{in a} form prescribed by the department, that includes ~~all of the following:~~

the methods of instruction that will be used by the school to ^{provide} provide special education and related services to the child and

the qualifications of the teachers and other persons who will be providing special education and related services to the child.

7-11:2

91

(h) 1. Implement the ^{child's} most recent individualized or services plan education program, as modified by agreement between the ~~eligible~~ ^{private} school and the child's parent, and ~~the~~ ^{related} services agreed to by the ~~eligible~~ ^{private} school and the child's parent that are not included in the child's individualized education program ^{or services plan}.

91

2. Provide a record of the implementation of the child's individualized or services plan education program under subd. 1. g. including an evaluation of the child's progress, to the school board of the school district in which the child resides in the form and manner prescribed by the department.

9-14:1

✓

4s

SEC. # CR, 118.60 (4s)

118.60 (4s) Notwithstanding subs. (4), (4m),
 4r
 and (4r), a pupil attending a private
 school participating in the program
 under this section who is receiving a

s. 115.7915

scholarship under s. 115.7915 shall not be ✓

counted as a pupil attending the private school
 under this section under sub. (4), (4m), or (4r).

9-14:2

SEC. # CR; 119.23 (4s)

119.23 (4s) Notwithstanding subs. (4), (4m), and (4r), a pupil attending a private school participating in the program under this section who is receiving a scholarship under s. 115.2915 shall not be counted as a pupil attending the private school under this section under sub. (4), (4m), or (4r).

PG - gjs

DN

⑨ Representative Litjens Litjens,

⑨ This preliminary draft is based on instructions received from your office on January 5 and a follow-up email received on January 13. I have a number of additional questions, which are listed below:

~~Can you let me know what a service plan is? Your email referred to "an IEP or a service plan," but the latter term is not used in the statutes.~~

⑨ 1. Regarding the document that DPL is directed to develop comparing rights under the scholarship program with rights under state and federal special education law, the instructions implied that if a pupil receives a scholarship, federal law would not apply. I don't know why this

would be true
would be true, and drafted accordingly

Please let me know if this is an error.

91

2. The instructions state that receipt of
 DPI's document constitutes notice of the
 applicant's rights. The instructions also state
 that subsequent acceptance of the
 scholarship constitutes the ... applicant's
 informed consent to the provisions of
 s. 115.7915. It seems odd to me that
 the applicant receives notice of rights specified
 in the document, but consents to s. 115.7915,
 not the document. In addition, it's unclear
 what provisions the applicant is consenting to
 in s. 115.7915. Most of the provisions relate to
 duties of the department or of a school board
 or private school. Informed consent of the

applicant
 applicant is not necessary for the
 department, the school board, or the
 private school to comply with these
 requirements. Therefore, I did not
 include the provisions relating to
 acceptance of the scholarship ^{constituting} ~~constituting~~
 s. 115.7915
 informed consent to s. 115.7915. Please let
 me know how you would like to proceed.

- ④ 3. Please ^{read} ~~read~~ the ^{description of} ~~description of~~ the
 scholarship amount
 scholarships amount ^{carefully} to make sure
 I've
 I've captured your intent (your instructions
 referred to "item 4 in the attached," which I
 did not receive.) ^{Your instructions state} your instructions state that the
 amount would be the lesser of two
 calculations. The first is the average cost of
 special ed for a child with a disability,
 less the average special ed aid for a child with

a disability, plus the average cost of special ed for a child with a

disability. Is that right? (INS. A)

5. The ^{original} draft reduced a school district's general aid payment by the ^{total} amount of ~~the~~ scholarships awarded for pupils who reside in the school district. This draft does not change that, although your e-mail of January 13 seems to indicate some modification.

If you need a change, please let me know.

4. Regarding the second calculation (the cost to the school district or private school of providing regular instruction, special education, etc.): I assumed that this meant the cost of the particular child. Is that correct?

5 (circled) ~~is labeled~~

Note that if you reduce a district's
 general aid by the average ^{per pupil} cost of
 special ed less the average ^{per pupil} special ed
 aid, and ~~reduce~~ reduce a district's
 special ed aid by the average ^{per pupil} special
 ed aid, the resulting ~~relationship~~
 reductions may bear no relationship to
 the amount of the scholarship because the
 scholarship may be calculated on the basis
 of the actual cost to the district or
 private school of providing regular and
 special ed.

LPS:
this
is a
new
paragraph
under
item 5.

Please let me know if you have
questions or need more information.

PG

INS
A

Also, why are costs under s. 115.88(3) and (4) excluded in the first step of the calculation (i.e., from costs) but not in the second step, the subtracting of the amount appropriated as special ed aid (which pays for the costs under s. 115.88 (3) and (4))?

↑
LPS: this insert is a ~~part~~ part of item 3. in the D-note, but it is also a new paragraph. It goes before item 4.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0282/P1dn
PG:cjs:ph

January 23, 2012

Representative Litjens,

This preliminary draft is based on instructions received from your office on January 5 and a follow-up e-mail received on January 13. I have a number of additional questions, which are listed below:

1. Regarding the document that DPI is directed to develop comparing rights under the scholarship program with rights under state and federal special education law, the instructions implied that if a pupil receives a scholarship, federal law would not apply. I don't know why this would be true, and drafted accordingly. Please let know if this is an error.

2. The instructions state that receipt of DPI's document constitutes notice of the applicant's rights. The instructions also state that subsequent acceptance of the scholarship "constitutes the ... applicant's informed consent to the provisions of s. 115.7915." It seems odd to me that the applicant receives notice of rights specified in the document, but consents to s. 115.7915, not the document. In addition, it's unclear what provisions the applicant is consenting to in s. 115.7915. Most of the provisions relate to duties of the department or of a school board or private school. Informed consent of the applicant is not necessary for the department, the school board, or the private school to comply with these requirements. Therefore, I did not include the provision relating to acceptance of the scholarship constituting informed consent to s. 115.7915. Please let me know how you would like to proceed.

3. Please read the description of the scholarship amount carefully to make sure I've captured your intent. (Your instructions referred to "item 4 in the attached," which I did not receive.) Your instructions state that the amount would be the lesser of two calculations. The first is the average cost of special ed for a child with a disability, less the average special ed aid for a child with a disability, plus the average cost of special ed for a child with a disability. Is that right?

Also, why are costs under s. 115.88 (3) and (4) excluded in the first step of the calculation (i.e., from costs) but not in the second step, the subtracting of the amount appropriated as special ed aid (which pays for the costs under s. 115.88 (3) and (4))?

4. Regarding the second calculation (the cost to the school district or private school of providing regular instruction, special education, etc.): I assumed that this meant the cost of the particular child. Is that correct?

5. The original draft reduced a school district's general school aid payment by the total amount of scholarships awarded for pupils who reside in the school district. This draft does not change that, although your e-mail of January 13 seems to indicate some modification. If you need a change, please let me know.

Note that if you reduce a district's general aid by the average per pupil cost of special ed less the average per pupil special ed aid, and reduce a district's special ed aid by the average per pupil special ed aid, the resulting reductions may bear no relationship to the amount of the scholarship, because the scholarship may be calculated on the basis of the actual cost to the district or private school of providing regular and special ed.

Please let me know if you have questions or need more information.

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

Grant, Peter

From: Turke, Jon
Sent: Wednesday, January 25, 2012 11:18 AM
To: Grant, Peter
Subject: RE: Special Needs Questions

Hi Peter-

Here is our response for the questions you posed. I hope this helps!

1. Regarding the document that DPI is directed to develop comparing rights under the scholarship program with rights under state and federal special education law, the instructions implied that if a pupil receives a scholarship, federal law would not apply. I don't know why this would be true, and drafted accordingly. Please let know if this is an error.

I'm not sure where you're getting that from, but this substitute amendment borrows a lot of concepts from Ohio's Jon Peterson Special Needs Scholarship. The "comparison of rights" component is one of them and is in Ohio Revised Code 3323.052. Our goal is to provide parents transparency on what state and federal laws (i.e. IDEA) apply in public schools vs. private schools.

2. The instructions state that receipt of DPI's document constitutes notice of the applicant's rights. The instructions also state that subsequent acceptance of the scholarship "constitutes the ... applicant's informed consent to the provisions of s. 115.7915." It seems odd to me that the applicant receives notice of rights specified in the document, but consents to s. 115.7915, not the document. In addition, it's unclear what provisions the applicant is consenting to in s. 115.7915. Most of the provisions relate to duties of the department or of a school board or private school. Informed consent of the applicant is not necessary for the department, the school board, or the private school to comply with these requirements. Therefore, I did not include the provision relating to acceptance of the scholarship constituting informed consent to s. 115.7915. Please let me know how you would like to proceed.

That's fine...this language was also borrowed from Ohio (3310.53): "Upon receipt of that document [the one cited in 3323.052 that I linked above], subsequent acceptance of a scholarship constitutes the eligible applicant's informed consent to the provisions of sections 3310.51 to 3310.64 of the Revised Code." Consider that, but perhaps your approach makes more sense.

3. Please read the description of the scholarship amount carefully to make sure I've captured your intent. (Your instructions referred to "item 4 in the attached," which I did not receive.) Your instructions state that the amount would be the lesser of two calculations. The first is the average cost of special ed for a child with a disability, less the average special ed aid for a child with a disability, plus the average cost of special ed for a child with a disability. Is that right?

As we discussed in a previous follow-up email about the attachment, which was written by DPI—not for the purposes of this legislation (they were considering changes to open enrollment funding for special needs students), but since this bill is essentially open enrollment for special needs student + a private school option, it made sense to use. Here is their verbatim language:

4. Establish a separate uniform amount for students with disabilities to be transferred by the Department from the resident to the nonresident school district, as follows:

The statewide average per child (membership FTE) with a disability cost for special education curriculum (not including costs for home-bound instruction and hospital instruction) reduced by the special education categorical aid rate.

For the 2009-10 school year, this is estimated to be \$9,500, compared to the final transfer amount for non-

special education of \$6,498.

I'm not entirely sure why they word it that way, but they're the experts.

So, they seem to reduce the special ed categorical aid payment from their calculation for some reason (again, this was only a draft of theirs and not something they are necessarily pursuing). If it's easier to simply say: "The statewide average per child (membership FTE) with a disability cost for special education curriculum (not including costs for home-bound instruction and hospital instruction)", that's fine.

Just so we're clear, though, the legislative intent here is to:

-Ensure a healthy scholarship amount. Whatever the actual statewide average that is spent on special needs children is a fair candidate for this part of the "lesser than" equation.

-Ensure predictability for DPI and school districts. One of the complaints raised at the public hearing is that special needs children cost anywhere from a few thousand dollars to \$117,000.

-Ensure that we're as close to "the money follows the child" as possible by tapping both equalization aids *and* special ed categorical aid. We've gotten away a bit from the concept in this substitute (by limiting one-half of the "lesser than" equation here), but both equalization aids and the special ed categorical aid are spent on special needs children in WI public schools, and they should be spent on them if they receive a scholarship. I assume, based on the DPI attachment, that this would break down to about \$9,500/student in equalization aids and about \$3,000/student in special ed cat aid.

*mk yba 365M sp. ed aid = \$3000 ?
sp. ed kids*

Also, why are costs under s. 115.88 (3) and (4) excluded in the first step of the calculation (i.e., from costs) but not in the second step, the subtracting of the amount appropriated as special ed aid (which pays for the costs under s. 115.88 (3) and (4))?

It should be excluded in both; thanks for pointing that out. ✓

Question for you: why do you start the first calculation (on Page 5, Lines 3-8) by "**doubling** the statewide total cost of special education in the previous year..."? This is not contained in the DPI language (see red italics in answer to your question 3).

4. Regarding the second calculation (the cost to the school district or private school of providing regular instruction, special education, etc.): I assumed that this meant the cost of the particular child. Is that correct?

Correct.

5. The original draft reduced a school district's general school aid payment by the total amount of scholarships awarded for pupils who reside in the school district. This draft does not change that, although your e-mail of January 13 seems to indicate some modification. If you need a change, please let me know.

This question is answered above...statewide average of general aid (roughly \$9,500 in the last year) and statewide average of the regular special ed cat aid (roughly \$3,000).

Note that if you reduce a district's general aid by the average per pupil cost of special ed less the average per pupil special ed aid, and reduce a district's special ed aid by the average per pupil special ed aid, the resulting reductions may bear no relationship to the amount of the scholarship, because the scholarship may be calculated on the basis of the actual cost to the district or private school of providing regular and special ed.

Good point. For purposes of discussion let's call the two different scholarship scenario the "statewide average" (gen aid + special ed cat aid) and "actual cost".

Could we design it so that, when the actual cost comes in lower than the statewide average, the scholarship is derived from same *percentage* of aid as the statewide averages?

For instance, I notice that right now, the statewide average of general aid is roughly 76% of the total (\$9,500 of \$12,500) and the statewide average of the regular special ed cat aid is 24% of the total (\$3,000 of \$12,500). Let's say the actual cost is \$10,000. The scholarship would be funded with 76% from the school district's general aid (\$7,600) and 24% from the school district's special ed categorical aid payment (\$2,400).

In future years, the statewide average amounts could fluctuate. So, if the statewide average of general aid was \$10,500 and the statewide average of the categorical aid remained flat (\$3,000), the total average would be \$13,500. In this case, the general aid percentage is 77.7% and categorical aid percentage is 22.3%, for purposes of determining from where the "actual cost" scholarship funds will come.

Does that make sense?

Jon Turke
Office of State Representative Michelle Litjens
56th Assembly District
Phone: 608-266-7500
Office: 221 North

From: Grant, Peter
Sent: Monday, January 23, 2012 4:25 PM
To: Turke, Jon
Subject: RE: Special Needs Questions

Well, I'm still confused. The amount described in item 4 seems different to me from the amount described in the email of 1/13.

From: Turke, Jon
Sent: Monday, January 23, 2012 3:26 PM
To: Grant, Peter
Subject: RE: Special Needs Questions

No I think number 4 was just where we were getting their ideas for the funding mechanism from. So if that makes more sense now that you have it to what our original document was referring to "item number 4" then please include that language however it needs to be done.

Jon Turke
Office of State Representative Michelle Litjens
56th Assembly District
Phone: 608-266-7500
Office: 221 North

From: Grant, Peter
Sent: Monday, January 23, 2012 2:56 PM
To: Turke, Jon
Subject: RE: Special Needs Questions

Thanks for the attachment, Jon. Honestly, it does not look at all familiar to me. I checked through the drafting files of the requests that I think could have been the original, and it is not in any of them. I searched my email files for all emails from you or from Rep. Litjens, and none of them had such an attachment.

Regardless of what happened, in looking over the attachment now, I note that neither the bill nor the sub include any of the things listed. Should the sub contain these provisions?

Peter

From: Turke, Jon
Sent: Monday, January 23, 2012 2:06 PM
To: Grant, Peter
Subject: Special Needs Questions

Hi Peter-

I will look over your questions with Michelle and get you some answers ASAP.

Quickly though, in Question #3, I am re-attaching the document that was in the original info (the document that was referred to as having "item number 4" in it. It was in the original email at the bottom.

Thanks!

<< File: DPI_Open Enrollment SpEd Changes.pdf >>

*Jon Turke
Office of State Representative Michelle Litjens
56th Assembly District
Phone: 608-266-7500
Office: 221 North*

1/25/12

TR of Tom Tunke :

stay with reduction in gen'l aid only;

do not reduce a sd's spec. ed. aid.