State of Wisconsin
2013 - 2014 LEGISLATURE

DN

LRB-1116/1 2
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DOA:.....Hynek, BB0357 – Special Needs Scholarship Program

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

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1 AN ACT ...; **relating to:** ...; the budget.

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

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, a charter school, or a private school, if all of the following conditions are met:

1. The school has notified 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, attended a charter school, attended a private school under a parental choice program, 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, the charter school, or private school that the child wishes to attend, of providing regular instruction, instructional and pupil support services, special education and related services, and supplementary aids and services to the child plus the per pupil operating and debt

service costs; or the statewide cost per public school pupil in the previous school year plus the per pupil amount appropriated for special education in the previous school year. If the child is attending for less than a full school term, DPI must prorate the amount of the scholarship. The number of scholarship recipients in any school year may not exceed five percent of the total number of children with disabilities residing in this state in the previous school year.

DPI pays the scholarship directly to the school district, charter school, or private school 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 and 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, 2016.

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* <u>*and special needs*</u>
6 <u>*scholarships*</u>. The amounts in the schedule to reimburse parents for the costs of
7 transportation of ~~open enrollment~~ pupils under ss. <u>115.7915,</u> 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. <u>115.7915,</u> 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 <u>including a child with a disability attending a private school under s. 115.7915,</u> 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.

**** NOTE: This is reconciled s. 20.255(2)(cy). This section has been affected by LRB-1116/1 and LRB-1012/6.

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

2 **115.7915 Special Needs Scholarship Program. (1)** DEFINITION. In this
3 section:

4 (a) "Eligible school" means a public school located in this state but outside the
5 pupil's school district of residence; a charter school located in this state, including a
6 charter school located in the pupil's school district of residence and a charter school
7 under s. 118.40 (8); or a private school located in this state.

8 (b) "Services plan" has the meaning given in 34 CFR 300.37.

9 **(1m)** SCHOLARSHIP REQUIREMENTS. Subject to sub. (1r), beginning in the
10 2013–14 school year, a child with a disability shall receive a scholarship under this
11 section to attend an eligible school if all of the following apply:

12 (a) The school district in which the eligible public school is located, the eligible
13 charter school, or the eligible private school notified the department of its intent to
14 participate in the program under this section. The notice shall specify the number
15 of pupils who may participate in the program under this section for whom the school
16 has space.

17 (b) The school, if a private school, is approved by the state superintendent
18 under s. 118.165 (2) or is accredited by the Wisconsin North Central Association,
19 Wisconsin Religious and Independent Schools Accreditation, the Independent
20 Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod
21 School Accreditation, National Lutheran School Accreditation, the diocese or
22 archdiocese within which the private school is located, or any other organization
23 recognized by the National Council for Private School Accreditation as of the August
24 1 preceding the school term for which the scholarship is awarded.

1 (c) An individualized education program or services plan has been completed
2 for the child.
3 (d) The child attended a public school, attended a charter school, attended a
4 private school under s. 118.60 or 119.23, or did not attend school in this state, for the
5 entire school year immediately preceding the school year for which the child first
6 receives a scholarship under this section.
7 (e) The child, or the child's parent on behalf of the child, has submitted an
8 application to the eligible school, on a form prepared by the department, for a
9 scholarship under this section to attend the eligible school. The application shall
10 include the document developed by the department under sub. (2) (a). An application
11 may be made, and a child may begin attending an eligible school under this section,
12 at any time during the school year.
13 (f) The child has been accepted by the school district in which the eligible public
14 school is located, the eligible charter school, or the eligible private school.
15 **(1r)** LIMIT ON NUMBER OF SCHOLARSHIP RECIPIENTS. The total number of
16 scholarship recipients under this section in any school year may not exceed 5 percent
17 of the total number of children with disabilities residing in this state in the previous
18 school year, as determined by the department.
19 **(1s)** ACCEPTANCE OF PUPILS. If an eligible school receives more applications
20 under sub. (1m) (e) than the number of pupils specified in the notice under sub. (1m)
21 (a), it shall select pupils on a random basis except that it may give preference to
22 siblings of pupils who are already attending the eligible school.
23 **(2)** DEPARTMENT DUTIES. (a) 1. The department shall develop, for inclusion with
24 an application under sub. (1m) (e), a document, and revise it as necessary, comparing
25 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, with the rights of a child with a disability and of his or her parent under this section and 20 USC 1400 to 1482.

2. Receipt by an applicant of the document developed under subd. 1., 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 to 1482. Subsequent acceptance of a scholarship under this section constitutes the applicant's informed consent to the rights specified in the document.

(b) The governing body of an eligible school that accepts a child under sub. (1m) (f) shall notify the department. Upon being notified, 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 been awarded a scholarship under this section. The school board shall, within 3 days of receiving the notice, provide the department and the governing body of the eligible school that accepted the pupil with a copy of the pupil's individualized education program.

2. Determine the amount of the pupil's scholarship. The amount shall be the lesser of the following:

a. Divide the sum of the statewide gross property tax levy for schools in the previous year and the total amount of general school aid appropriated under s. 20.255 (2) (ae), (ar), and (bb) in the previous fiscal year by the total statewide membership, as defined in s. 121.004 (5), in the previous school year, and add to the quotient the result obtained by dividing the amount appropriated under s. 20.255 (2) (b) in the previous fiscal year by the total full–time equivalent number of children with disabilities enrolled in public schools in the previous school year.

1 b. The cost to the school district in which the eligible public school is located,
2 the eligible charter school, or the eligible private school of providing to the pupil
3 regular instruction, instructional and pupil support services, special education and
4 related services, supplementary aids and services, and operating and debt services
5 costs per pupil, as described under s. 118.60 (4) (d), other than costs under s. 115.88
6 (3) and (4).

7 3. Prorate the amount determined under subd. 2. for a pupil attending an
8 eligible school for less than a full school term.

9 4. Notify the parent of the scholarship amount, as determined under subd. 2.
10 or 3., accompanied by an explanation of how the amount was determined.

11 5. On behalf of the pupil's parent, pay the scholarship to the school district,
12 charter school, or private school that the pupil attends from the appropriation under
13 s. 20.255 (2) (az), except that the department may not pay a scholarship to a private
14 school unless the pupil's parent has acknowledged receiving the private school's
15 profile under sub. (4) (g) in the manner provided by the department. Except as
16 provided in sub. (3) (c), the scholarship continues while the pupil attends an eligible
17 school until the pupil graduates from high school or until the end of the school term
18 in which the pupil attains the age of 21, whichever comes first.

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

22 (b) Upon the request of a parent of a pupil receiving a scholarship, the pupil's
23 resident school district shall administer the appropriate examinations under s.
24 118.30 to the pupil at no cost if the school attended by the pupil does not administer
25 them.

1 (c) If a child attends a private school under this section, the school board of the
2 child's school district of residence shall ensure that the child's individualized
3 education program team reevaluates the child as provided in s. 115.782 (4). If the
4 individualized education program team determines that the child is no longer a child
5 with a disability, the child is ineligible to receive a scholarship under this section
6 beginning in the school term following the determination.

7 **(3m)** MAINTENANCE OF EFFORT. Whenever a pupil receives a scholarship under
8 this section, the department and the school board of the pupil's school district of
9 residence shall count the scholarship amount toward federal maintenance–of–effort
10 requirements.

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

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

15 (b) Hold a valid certificate of occupancy, if required by the municipality in which
16 the school is located or, if the municipality in which the school is located does not
17 issue certificates of occupancy, obtain a certificate of occupancy issued by the local
18 or regional governmental unit with authority to issue certificates of occupancy.

19 (c) Comply with 42 USC 2000d.

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

24 (e) Annually submit to the department a school financial information report,
25 prepared by a certified public accountant, that complies with uniform financial

accounting standards established by the department by rule under s. 118.60 (11) (a). 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 the private school.

(f) If the private 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:

1. File with the department a surety bond payable to the state in an amount equal to 25 percent of the total amount of scholarships expected to be received by the private school during the school year under this section.

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

(g) Provide to each applicant under sub. (1m) (e) a profile of the private school's special education program, in a form prescribed by the department, that includes the methods of instruction that will be used by the school to 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.

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

2. Provide a record of the implementation of the child's individualized education program or services plan under subd. 1., 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.

(i) Regularly report to the parent of a pupil attending the private school and receiving a scholarship under this section on the pupil's progress.

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

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

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

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

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

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

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

(b) If the department bars a school district, charter school, or private school from participating in the program under this section, it shall notify all pupils eligible to participate in the program and their parents as quickly as possible. A pupil who

is receiving a scholarship and attending a school district, charter school, or private school barred from the program may attend another participating school district, charter school, or private school under the scholarship.

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

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

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

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

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

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

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

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

2. Protect the identity of participating schools and pupils.

(c) The contract under par. (a) shall require that the results of the study be reported to the appropriate standing committees of the legislature under s. 13.172 (3) by January 9, 2016.

1 **(8)** RULES. The department shall promulgate rules to implement and
2 administer this section, including rules relating to all of the following:
3 (a) The eligibility and participation of eligible schools, including timelines that
4 maximize pupil and school participation.
5 (b) The calculation and distribution of scholarships.
6 (c) The application and approval procedures for pupils and eligible schools.
7 (d) In a manner consistent with federal law, requiring the school board of a
8 school district participating in the program under this section to spend its federal
9 equitable share funds on children with disabilities who are enrolled by their parents
10 in private schools other than under this section.
11 **SECTION 6.** 118.60 (4s) of the statutes is created to read:
12 118.60 **(4s)** Notwithstanding subs. (4), (4m), and (4r), a pupil attending a
13 private school participating in the program under this section who is receiving a
14 scholarship under s. 115.7915 shall not be counted as a pupil attending the private
15 school under this section under sub. (4), (4m), or (4r).
16 **SECTION 7.** 119.23 (4s) of the statutes is created to read:
17 119.23 **(4s)** Notwithstanding subs. (4), (4m), and (4r), a pupil attending a
18 private school participating in the program under this section who is receiving a
19 scholarship under s. 115.7915 shall not be counted as a pupil attending the private
20 school under this section under sub. (4), (4m), or (4r).
21 **SECTION 8.** 121.05 (1) (a) 4. of the statutes is created to read:
22 121.05 **(1)** (a) 4. Pupils residing in the school district but attending a public
23 school in another school district, or a private school, under s. 115.7915.
24 **SECTION 9.** 121.08 (4) (am) of the statutes is created to read:

121.08 **(4)** (am) The amount of state aid that a school district is eligible to be paid from the appropriation under s. 20.255 (2) (ac) in any school year shall be reduced by the total amount of scholarships paid by the department under s. 115.7915 in that school year for pupils who reside in the school district. The department shall ensure that the amount of the aid reduction under this paragraph does not affect the amount determined to be received by a school district as state aid under this section for any other purpose.

SECTION 10. 121.08 (4) (d) of the statutes is amended to read:

121.08 **(4)** (d) The state superintendent shall ensure that the total amount of aid reduction under ~~pars. (a), (b), and (br)~~ this subsection lapses to the general fund.

SECTION 11. 121.54 (3) of the statutes is amended to read:

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

(END)

D-Note

LRB-1116/2dn
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DN Date

This draft reconciles LRB-1116/1 and LRB-1012/6 by combining the treatments of s. 20.255(2)(cy). Both drafts should continue to appear in the compiled bill.

PG

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–1116/2dn
PG:kjf:ph

February 13, 2013

This draft reconciles LRB–1116/1 and LRB–1012/6 by combining the treatments of s. 20.255 (2) (cy). Both drafts should continue to appear in the compiled bill.

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State of Wisconsin
2013 - 2014 LEGISLATURE

LRB-1116/2
PG:sac:ph

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1. The school has notified 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, attended a charter school, attended a private school under a parental choice program, 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, the charter school, or private school that the child wishes to attend, of providing regular instruction, instructional and pupil support services, special education and related services, and supplementary aids and services to the child plus the per pupil operating and debt

service costs; or the statewide cost per public school pupil in the previous school year plus the per pupil amount appropriated for special education in the previous school year. If the child is attending for less than a full school term, DPI must prorate the amount of the scholarship. The number of scholarship recipients in any school year may not exceed five percent of the total number of children with disabilities residing in this state in the previous school year.

DPI pays the scholarship directly to the school district, charter school, or private school 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 and 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, 2016.

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

****NOTE: This is reconciled s. 20.255 (2) (cy). This SECTION has been affected by drafts with the following LRB numbers: LRB–1116/1 and LRB–1012/6.

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

1 local educational agency made a free appropriate public education available to the
2 child and the child's parents elected to place the child in a private school or facility.

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

4 **115.7915 Special Needs Scholarship Program. (1)** DEFINITION. In this
5 section:

6 (a) "Eligible school" means a public school located in this state but outside the
7 pupil's school district of residence; a charter school located in this state, including a
8 charter school located in the pupil's school district of residence and a charter school
9 under s. 118.40 (8); or a private school located in this state.

10 (b) "Services plan" has the meaning given in 34 CFR 300.37.

11 **(1m)** SCHOLARSHIP REQUIREMENTS. Subject to sub. (1r), beginning in the
12 2013–14 school year, a child with a disability shall receive a scholarship under this
13 section to attend an eligible school if all of the following apply:

14 (a) The school district in which the eligible public school is located, the eligible
15 charter school, or the eligible private school notified the department of its intent to
16 participate in the program under this section. The notice shall specify the number
17 of pupils who may participate in the program under this section for whom the school
18 has space.

19 (b) The school, if a private school, is approved by the state superintendent
20 under s. 118.165 (2) or is accredited by the Wisconsin North Central Association,
21 Wisconsin Religious and Independent Schools Accreditation, the Independent
22 Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod
23 School Accreditation, National Lutheran School Accreditation, the diocese or
24 archdiocese within which the private school is located, or any other organization

1 recognized by the National Council for Private School Accreditation as of the August
2 1 preceding the school term for which the scholarship is awarded.
3 (c) An individualized education program or services plan has been completed
4 for the child.
5 (d) The child attended a public school, attended a charter school, attended a
6 private school under s. 118.60 or 119.23, or did not attend school in this state, for the
7 entire school year immediately preceding the school year for which the child first
8 receives a scholarship under this section.
9 (e) The child, or the child's parent on behalf of the child, has submitted an
10 application to the eligible school, on a form prepared by the department, for a
11 scholarship under this section to attend the eligible school. The application shall
12 include the document developed by the department under sub. (2) (a). An application
13 may be made, and a child may begin attending an eligible school under this section,
14 at any time during the school year.
15 (f) The child has been accepted by the school district in which the eligible public
16 school is located, the eligible charter school, or the eligible private school.
17 **(1r)** LIMIT ON NUMBER OF SCHOLARSHIP RECIPIENTS. The total number of
18 scholarship recipients under this section in any school year may not exceed 5 percent
19 of the total number of children with disabilities residing in this state in the previous
20 school year, as determined by the department.
21 **(1s)** ACCEPTANCE OF PUPILS. If an eligible school receives more applications
22 under sub. (1m) (e) than the number of pupils specified in the notice under sub. (1m)
23 (a), it shall select pupils on a random basis except that it may give preference to
24 siblings of pupils who are already attending the eligible school.

1 **(2)** DEPARTMENT DUTIES. (a) 1. The department shall develop, for inclusion with
2 an application under sub. (1m) (e), a document, and revise it as necessary, comparing
3 the rights of a child with a disability and of his or her parent under this subchapter,
4 other than this section, and 20 USC 1400 to 1482, with the rights of a child with a
5 disability and of his or her parent under this section and 20 USC 1400 to 1482.
6 2. Receipt by an applicant of the document developed under subd. 1.,
7 acknowledged in a format prescribed by the department, constitutes notice that the
8 applicant has been informed of his or her rights under this section and 20 USC 1400
9 to 1482. Subsequent acceptance of a scholarship under this section constitutes the
10 applicant's informed consent to the rights specified in the document.
11 (b) The governing body of an eligible school that accepts a child under sub. (1m)
12 (f) shall notify the department. Upon being notified, the department shall do all of
13 the following:
14 1. Notify the school board of the pupil's school district of residence that the pupil
15 has been awarded a scholarship under this section. The school board shall, within
16 3 days of receiving the notice, provide the department and the governing body of the
17 eligible school that accepted the pupil with a copy of the pupil's individualized
18 education program.
19 2. Determine the amount of the pupil's scholarship. The amount shall be the
20 lesser of the following:
21 a. Divide the sum of the statewide gross property tax levy for schools in the
22 previous year and the total amount of general school aid appropriated under s.
23 20.255 (2) (ae), (ar), and (bb) in the previous fiscal year by the total statewide
24 membership, as defined in s. 121.004 (5), in the previous school year, and add to the
25 quotient the result obtained by dividing the amount appropriated under s. 20.255 (2)

(b) in the previous fiscal year by the total full–time equivalent number of children with disabilities enrolled in public schools in the previous school year.

b. The cost to the school district in which the eligible public school is located, the eligible charter school, or the eligible private school of providing to the pupil regular instruction, instructional and pupil support services, special education and related services, supplementary aids and services, and operating and debt services costs per pupil, as described under s. 118.60 (4) (d), other than costs under s. 115.88 (3) and (4).

3. Prorate the amount determined under 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 subd. 2. or 3., 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, charter school, or private school that the pupil attends from the appropriation under s. 20.255 (2) (az), except that the department may not pay a scholarship to a private school unless the pupil's parent has acknowledged receiving the private school's profile under sub. (4) (g) in the manner provided by the department. Except as provided in sub. (3) (c), the scholarship continues 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.

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

(b) Upon the request of a parent of a pupil receiving a scholarship, the pupil's resident school district shall administer the appropriate examinations under s.

118.30 to the pupil at no cost if the school attended by the pupil does not administer them.

(c) If a child attends a private school under this section, the school board of the child's school district of residence shall ensure that the child's individualized education program team reevaluates the child as provided in s. 115.782 (4). If the individualized education program team determines that the child is no longer a child with a disability, the child is ineligible to receive a scholarship under this section beginning in the school term following the determination.

(3m) MAINTENANCE OF EFFORT. Whenever a pupil receives a scholarship under this section, the department and the school board of the pupil's school district of residence shall count the scholarship amount toward federal maintenance–of–effort requirements.

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

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

(b) Hold a valid certificate of occupancy, if required by the municipality in which the school is located 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.

(c) Comply with 42 USC 2000d.

(d) 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.

1 (e) Annually submit to the department a school financial information report,
2 prepared by a certified public accountant, that complies with uniform financial
3 accounting standards established by the department by rule under s. 118.60 (11) (a).
4 The report shall be accompanied by an auditor's statement that the report is free of
5 material misstatements and fairly represents pupil costs. The report shall be limited
6 in scope to those records that are necessary for the department to make payments
7 to the private school.

8 (f) If the private school expects to receive at least $50,000 in scholarships under
9 this section during a school year, do one of the following before the beginning of the
10 school year:

11 1. File with the department a surety bond payable to the state in an amount
12 equal to 25 percent of the total amount of scholarships expected to be received by the
13 private school during the school year under this section.

14 2. File with the department financial information demonstrating that the
15 private school has the ability to pay an amount equal to the total amount of
16 scholarships expected to be received by the private school during the school year
17 under this section.

18 (g) Provide to each applicant under sub. (1m) (e) a profile of the private school's
19 special education program, in a form prescribed by the department, that includes the
20 methods of instruction that will be used by the school to provide special education
21 and related services to the child and the qualifications of the teachers and other
22 persons who will be providing special education and related services to the child.

23 (h) 1. Implement the child's most recent individualized education program or
24 services plan, as modified by agreement between the private school and the child's
25 parent, and related services agreed to by the private school and the child's parent

1 that are not included in the child's individualized education program or services
2 plan.

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

7 (i) Regularly report to the parent of a pupil attending the private school and
8 receiving a scholarship under this section on the pupil's progress.

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

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

14 **(6)** PENALTIES. (a) The department may bar a school district, charter school,
15 or private school from participating in the program under this section if the
16 department determines that the school district, charter school, or private school has
17 done any of the following:

18 1. Intentionally and substantially misrepresented information required under
19 sub. (4).

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

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

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

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

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

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

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

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

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

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

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

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

2. Protect the identity of participating schools and pupils.

1 (c) The contract under par. (a) shall require that the results of the study be
2 reported to the appropriate standing committees of the legislature under s. 13.172
3 (3) by January 9, 2016.

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

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

8 (b) The calculation and distribution of scholarships.

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

10 (d) In a manner consistent with federal law, requiring the school board of a
11 school district participating in the program under this section to spend its federal
12 equitable share funds on children with disabilities who are enrolled by their parents
13 in private schools other than under this section.

14 **SECTION 6.** 118.60 (4s) of the statutes is created to read:

15 118.60 **(4s)** Notwithstanding subs. (4), (4m), and (4r), a pupil attending a
16 private school participating in the program under this section who is receiving a
17 scholarship under s. 115.7915 shall not be counted as a pupil attending the private
18 school under this section under sub. (4), (4m), or (4r).

19 **SECTION 7.** 119.23 (4s) of the statutes is created to read:

20 119.23 **(4s)** Notwithstanding subs. (4), (4m), and (4r), a pupil attending a
21 private school participating in the program under this section who is receiving a
22 scholarship under s. 115.7915 shall not be counted as a pupil attending the private
23 school under this section under sub. (4), (4m), or (4r).

24 **SECTION 8.** 121.05 (1) (a) 4. of the statutes is created to read:

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

SECTION 9. 121.08 (4) (am) of the statutes is created to read:

121.08 **(4)** (am) The amount of state aid that a school district is eligible to be paid from the appropriation under s. 20.255 (2) (ac) in any school year shall be reduced by the total amount of scholarships paid by the department under s. 115.7915 in that school year for pupils who reside in the school district. The department shall ensure that the amount of the aid reduction under this paragraph does not affect the amount determined to be received by a school district as state aid under this section for any other purpose.

SECTION 10. 121.08 (4) (d) of the statutes is amended to read:

121.08 **(4)** (d) The state superintendent shall ensure that the total amount of aid reduction under ~~pars. (a), (b), and (br)~~ <u>this subsection</u> lapses to the general fund.

SECTION 11. 121.54 (3) of the statutes is amended to read:

121.54 **(3)** TRANSPORTATION FOR CHILDREN WITH DISABILITIES. ~~Every~~ <u>Except as provided in s. 115.7915 (5), every</u> school board shall provide transportation for children with disabilities, as defined in s. 115.76 (5), to any public or private elementary or high school, to the school operated by the Wisconsin Center for the Blind and Visually Impaired or the school operated by the Wisconsin Educational Services Program for the Deaf and Hard of Hearing or to any special education program for children with disabilities sponsored by a state tax–supported institution of higher education, including a technical college, regardless of distance, if the request for such transportation is approved by the state superintendent. Approval

1 shall be based on whether or not the child can walk to school with safety and comfort.

2 Section 121.53 shall apply to transportation provided under this subsection.

3 **(END)**