



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2159/P3
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DOA:.....Kretschmann, BB0441 - Special Needs Scholarship compile

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

1. Changes to Special Needs Scholarship Program

Under current law, a child with a disability who meets certain eligibility criteria may receive a scholarship to attend a private school participating in the Special Needs Scholarship Program. This bill makes the following changes to the SNSP:

1. The bill provides that, beginning in the 2020-21 school year, DPI may not provide an SNSP scholarship to a child to attend a private school unless the child was attending a private school under the SNSP in the 2019-20 school year. In addition, if the child does not attend a private school under an SNSP scholarship in any school year after the 2019-20 school year, DPI may not provide an SNSP scholarship to the child for any subsequent school year.

2. [2017 Wisconsin Act 59](#), the 2017 biennial budget act, created a process that allows the per pupil payment under the SNSP to be determined based on the actual costs to educate the pupil in the previous school year, as reported by the private school. The first SNSP payments based on the actual costs will be paid in the 2019-20 school year based on the actual costs reported for the 2018-19 school year. The bill repeals the process for determining SNSP per pupil payments based on actual costs and reinstates the per pupil payment amount under the SNSP that

existed prior to the 2017 biennial budget act. Under the bill, the SNSP per pupil amount is the same for all pupils and is determined by law. For the 2018-19 school year, the amount is \$12,431.

3. Under current law, the SNSP per pupil amount is adjusted annually by an amount equal to the sum of the per member revenue limit increase that applies to school districts in that school year, if any, and the per member increase in categorical aids between the current school year and the previous school year, if any. Under the bill, beginning in the 2019-20 school year, the annual adjustment to the SNSP per pupil amount is the sum of the per member revenue limit increase that applies to school districts in that school year, if any, and the increase in the per member amount of per pupil aid paid to school districts between the current school year and the previous school year, if any.

4. The bill provides that, with certain exceptions explained below, a private school participating in the SNSP may participate only if the private school also participates in a parental choice program. Under current law, a private school may participate in the SNSP if the private school is accredited or if the private school's educational program meets certain criteria.

The bill provides that, if a private school that is participating in the SNSP in the 2019-20 school year does not participate in a parental choice program, the private school must, if the private school is not accredited by August 1, 2019, do all of the following: 1) obtain preaccreditation by August 1, 2020; 2) apply for accreditation by December 31, 2020; and 3) obtain accreditation by December 31, 2023. In addition, a private school that does not participate in a parental choice program must, after obtaining accreditation, comply with other requirements relating to accreditation, including maintaining accreditation and providing information to DPI regarding the private school's accreditation status. A private school that meets the accreditation requirement may continue to participate under that requirement for so long as the private school continuously participates in the SNSP.

5. The bill provides that, beginning in the 2020-21 school year, a private school participating in the SNSP may not charge a child receiving an SNSP scholarship tuition, in addition to the payments the private school receives under the SNSP, if a) the child is enrolled in a grade from kindergarten to eight; or b) the child's family income does not exceed 220 percent of the federal poverty line. The bill also provides that, beginning in the 2020-21 school year, a private school participating in the SNSP may recover reasonable fees from a child receiving an SNSP scholarship for certain enumerated items and services the school provides to the child but may not expel or discipline a child for failing to pay those fees.

6. The bill provides that a private school participating in the SNSP must allow a child attending the private school under the SNSP to refrain from participating in any religious activity if the child's parent submits to the child's teacher or the private school's principal a written request that the child be exempt from such activities.

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:

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

20.255 (2) (az) *Special Needs Scholarship Program.* A sum sufficient to make the payments under s. 115.7915 (4m) (a), ~~(em)~~, and (e) and (4p).

SECTION 2. 115.7915 (1) (a) of the statutes is renumbered 115.7915 (1) (an).

SECTION 3. 115.7915 (1) (ac) of the statutes is created to read:

115.7915 (1) (ac) “Accrediting entity” has the meaning given in s. 118.60 (1) (ab).

SECTION 4. 115.7915 (1) (ag) of the statutes is created to read:

115.7915 (1) (ag) “Disqualified organization” means an accrediting organization that is not an accrediting entity or a member of or otherwise sanctioned by an accrediting entity.

SECTION 5. 115.7915 (1) (ar) of the statutes is created to read:

115.7915 (1) (ar) “Preaccreditation” has the meaning given in s. 118.60 (1) (c).

SECTION 6. 115.7915 (1) (aw) of the statutes is created to read:

115.7915 (1) (aw) “Preaccrediting entity” has the meaning given in s. 118.60 (1) (cm).

SECTION 7. 115.7915 (2) (intro.) of the statutes is amended to read:

115.7915 (2) SCHOLARSHIP REQUIREMENTS. (intro.) Beginning in the 2016-17 school year, the department shall, subject to sub. (11), provide to a child with a disability a scholarship under sub. (4m) (a) to attend an eligible school if all of the following apply:

SECTION 8. 115.7915 (2) (c) (intro.) of the statutes is created to read:

115.7915 (2) (c) (intro.) Any of the following applies to the eligible school:

SECTION 9. 115.7915 (2) (c) of the statutes is renumbered 115.7915 (2) (c) 2. a. and amended to read:

115.7915 (2) (c) 2. a. ~~The~~ For the 2019-20 school year, the eligible school has ~~been~~ either is approved as a private school by the state superintendent under s. 118.165 (2) or is accredited by ~~AdvancED, Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, Wisconsin Association of Christian Schools, National Lutheran School Accreditation, Christian Schools International, Association of Christian Schools International, the diocese or archdiocese within which the eligible school is located, or any other organization recognized by the National Council for Private School Accreditation, as of the~~ an accrediting entity on August 1 preceding the school term for which the scholarship is awarded, 2019.

SECTION 10. 115.7915 (2) (c) 1. of the statutes is created to read:

115.7915 (2) (c) 1. The eligible school participates in a parental choice program under s. 118.60 or 119.23 for the school year for which the scholarship is awarded.

SECTION 11. 115.7915 (2) (c) 2. (intro.) of the statutes is created to read:

115.7915 (2) (c) 2. (intro.) If the eligible school participates in the program under this section in the 2019-20 school year, all of the following apply to the eligible school:

SECTION 12. 115.7915 (2) (c) 2. b. of the statutes is created to read:

115.7915 (2) (c) 2. b. Beginning with the 2020-21 school year and in each school year thereafter, if the eligible school continuously participates in the program under

this section, the eligible school complies with the accreditation requirements under sub. (6m).

SECTION 13. 115.7915 (2) (c) 2. c. of the statutes is created to read:

115.7915 (2) (c) 2. c. Beginning in the 2020-21 school year, if the eligible school does not participate in the program under this section in any school year, the eligible school participates in a parental choice program under s. 118.60 or 119.23 for the school year for which the scholarship is awarded.

SECTION 14. 115.7915 (4c) of the statutes is repealed.

SECTION 15. 115.7915 (4m) (a) 2. a. of the statutes is renumbered 115.7915 (4m) (a) 2. and amended to read:

115.7915 (4m) (a) 2. In the 2017-18 and 2018-19 school year years, the sum of the scholarship amount under this paragraph for the previous school year; the amount of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

***NOTE: This is reconciled s. 115.7915 (4m) (a) 2. This SECTION has been affected by drafts with the following LRB numbers: -01717/P1 and -2159/P2.

SECTION 16. 115.7915 (4m) (a) 2. b. of the statutes is repealed.

***NOTE: This is reconciled s. 115.7915 (4m) (a) 2. b. This SECTION has been affected by drafts with the following LRB numbers: -01717/P1 and -2159/P2.

SECTION 17. 115.7915 (4m) (a) 3. of the statutes is repealed.

***NOTE: This is reconciled s. 115.7915 (4m) (a) 3. This SECTION has been affected by drafts with the following LRB numbers: -01717/P1 and -2159/P2.

SECTION 18. 115.7915 (4m) (a) 4. of the statutes is created to read:

115.7915 (4m) (a) 4. Beginning in the 2019-20 school year, the sum of the scholarship amount under this subdivision for the previous school year; the amount

of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the per pupil amount under s. 115.437 (2) (a) between the previous school year and the current school year, if positive.

****NOTE: This is reconciled s. 115.7915 (4m) (a) 4. This SECTION has been affected by drafts with the following LRB numbers: -01717/P1 and -2159/P2.

SECTION 19. 115.7915 (4m) (cm) of the statutes is repealed.

****NOTE: This is reconciled s. 115.7915 (4m) (cm). This SECTION has been affected by drafts with the following LRB numbers: -01717/P1 and -2159/P2.

SECTION 20. 115.7915 (4m) (f) 1. a. of the statutes is amended to read:

115.7915 (4m) (f) 1. a. Determine the sum of the amount paid for each child number of pupils residing in the school district for whom a payment is made under par. (a) in that school year.

SECTION 21. 115.7915 (4m) (f) 1. b. of the statutes is created to read:

115.7915 (4m) (f) 1. b. Multiply the number of pupils under subd. 1. a. by the per pupil amount calculated under par. (a) for that school year.

SECTION 22. 115.7915 (4m) (f) 1. e. of the statutes is amended to read:

115.7915 (4m) (f) 1. e. Sum the amounts calculated under subd. 1. ~~a.~~ b., d., and dh.

SECTION 23. 115.7915 (4t) of the statutes is created to read:

115.7915 (4t) TUITION COSTS AND OTHER FEES. (a) Beginning in the 2020-21 school year, a private school participating in the program under this section may not charge or receive any additional tuition payment for a child participating in the program under this section, other than the payments the school receives under subs. (4m) and (4p), if any of the following applies:

1. The child is enrolled in a grade from kindergarten to 8.

2. The child is enrolled in a grade from 9 to 12 and the child is a member of a family that has total family income that does not exceed an amount equal to 2.2 times the poverty line, as defined in [42 USC 9902](#) (2). The child's family income shall be determined as provided in par. (b).

(b) 1. A private school participating in the program under this section shall determine whether the private school is prohibited from charging or receiving additional tuition for a child under par. (a) 2. The private school shall establish a process for accepting an appeal to the governing body of the private school of the determination made under this paragraph.

2. A private school participating in the program under this section shall obtain the names of the child's parents that reside in the same household as the child; whether and to whom the parents are married; the names of all of the other members of the child's family residing in the same household as the child; and the school year for which family income is being determined under this paragraph.

3. The department shall establish a process for a private school participating in the program under this section to use to determine whether the private school is prohibited from charging or receiving additional tuition for a child under par. (a) 2.

4. For purposes of this paragraph and par. (a) 2., all of the following apply:

a. "Family income" means federal adjusted gross income of the parents residing in the same household as the child for the tax year preceding the school year for which family income is being determined under this paragraph.

b. Family income includes income of the child's parents.

c. Family income for a family in which the child's parents are married shall be reduced by \$7,000 before the determination is made under this paragraph.

d. A child placed with a kinship care relative under s. 48.57 (3m), with a long-term kinship care relative under s. 48.57 (3n), in a foster home licensed under s. 48.62, or in a subsidized guardianship home under s. 48.623 is considered to have no family income.

(c) 1. Subject to subd. 2., beginning in the 2020-21 school year, a private school participating in the program under this section may recover the cost of providing any of the following items or services to a child participating in the program under this section through reasonable fees in an amount determined by the private school and charged to the child:

- a. Personal use items, such as uniforms, gym clothes, and towels.
- b. Social and extracurricular activities if not necessary to the private school's curriculum.
- c. Musical instruments.
- d. Meals consumed by children of the private school.
- e. High school classes that are not required for graduation and for which no credits toward graduation are given.
- f. Transportation.
- g. Before-school and after-school child care.
- h. Room and board at the private school.

2. A private school participating in the program under this section may not prohibit an eligible child from attending the private school, expel or otherwise discipline the child, or withhold or reduce the child's grades because the child or the child's parent cannot pay or has not paid fees charged under subd. 1.

SECTION 24. 115.7915 (6) (L) of the statutes is created to read:

115.7915 (6) (L) Allow a child attending the private school under this section to refrain from participating in any religious activity if the child's parent submits to the child's teacher or the private school's principal a written request that the child be exempt from such activities.

SECTION 25. 115.7915 (6m) of the statutes is created to read:

115.7915 (6m) PRIVATE SCHOOL ACCREDITATION REQUIREMENTS. If a private school does not participate in a parental choice program under s. 118.60 or 119.23 as provided under sub. (2) (c) 1. or 2. c., all of the following apply to the private school:

(a) If the private school is not accredited by an accrediting entity on August 1, 2019, the private school shall do all of the following:

1. Obtain preaccreditation by a preaccrediting entity by August 1, 2020. The eligible school may apply for and seek to obtain preaccreditation from only one preaccrediting entity.

2. Apply for accreditation by an accrediting entity by December 31, 2020, and obtain accreditation by an accrediting entity by December 31, 2023.

(b) If the private school is accredited by an accrediting entity to offer instruction in any elementary grade, but not any high school grade, and the private school seeks to offer instruction in any high school grade, the private school shall apply for accreditation by an accrediting entity by December 31 of the first school year in which the private school begins offering instruction in the additional grades and shall obtain accreditation by an accrediting entity by December 31 of the 3rd school year following the first school year in which the private school begins offering instruction in the additional grades.

(c) If the private school is accredited by an accrediting entity to offer instruction in any high school grade, but not any elementary grade, and the private school seeks

to offer instruction in any elementary grade, the private school shall apply for accreditation by an accrediting entity by December 31 of the first school year in which the private school begins offering instruction in the additional grades and shall obtain accreditation by an accrediting entity by December 31 of the 3rd school year following the first school year in which the private school begins offering instruction in the additional grades.

(d) If the private school is accredited, the governing body of the private school shall ensure that the private school continuously maintains the accreditation from an accrediting entity as long as the private school continues to participate in the program under this section.

(e) If the private school learns that an accrediting organization with which the private school is maintaining accreditation, as required under par. (d), is a disqualified organization, the private school shall immediately notify the department in writing of this fact and shall obtain accreditation from an accrediting entity no later than 3 years from the date on which the private school learns that the accrediting organization is a disqualified organization.

(f) The governing body of the private school shall annually, by August 1, provide the department with evidence demonstrating that the private school remains accredited for the current school year as required under par. (d), and the governing body of the private school shall immediately notify the department if the private school's accreditation status changes.

(g) If a preaccrediting entity or accrediting entity determines during the preaccrediting or accrediting process that the private school does not meet all of the requirements under s. 118.165 (1), the preaccrediting entity or accrediting entity shall report that failure to the department.

(h) If the state superintendent determines that any of the following occurs, the state superintendent may issue an order barring the private school from participating in the program under this section in the following school year:

1. The governing body of the private school does not comply with the requirements under par. (f).

2. An application by the private school for preaccreditation or accreditation is denied by the preaccrediting entity or accrediting entity.

3. The private school does not obtain preaccreditation by a preaccrediting entity or accreditation by an accrediting entity within the period allowed under par. (a), (b), (c), or (e).

(i) 1. If the state superintendent determines that the private school has failed to continuously maintain accreditation as required under par. (d), that the governing body of the private school has withdrawn the private school from the accreditation process, or that the private school's accreditation has been revoked, denied, or terminated by an accrediting entity, the state superintendent shall issue an order barring the private school's participation in the program under this section at the end of the current school year.

2. A private school whose participation in the program under this section is barred under subd. 1. may not participate in the program under this section until the governing body of the private school demonstrates to the satisfaction of the department that the private school has obtained accreditation from any of the following:

a. If the private school failed to continuously maintain accreditation, an accrediting entity other than the entity with which the private school failed to continuously maintain accreditation.

b. If the private school withdrew from the accreditation process, an accrediting entity other than the entity from whose process the private school withdrew.

c. If the private school's accreditation was revoked, denied, or terminated, an accrediting entity other than the entity that revoked, denied, or terminated the private school's accreditation.

SECTION 26. 115.7915 (8) (a) 5. of the statutes is created to read:

115.7915 (8) (a) 5. Failed to comply with the eligibility criteria under sub. (2) (c).

SECTION 27. 115.7915 (8) (a) 6. of the statutes is created to read:

115.7915 (8) (a) 6. Failed to comply with the requirement under sub. (6) (L).

SECTION 28. 115.7915 (11) of the statutes is created to read:

115.7915 (11) SUNSET. Beginning in the 2020-21 school year, the department may not provide a scholarship under this section to a child with a disability to attend a private school unless the child attended a private school under a scholarship under this section in the 2019-20 school year. If the child does not attend a private school under a scholarship under this section in any school year after the 2019-20 school year, the department may not provide a scholarship under this section to the child for any school year after that school year.

SECTION 29. 118.60 (2) (a) 1. a. of the statutes is amended to read:

118.60 (2) (a) 1. a. Except as provided in par. (bm), the pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level ~~determined in accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902](#)~~ (2). In this subdivision and sub. (3m), family income includes income of the pupil's parents or legal guardians. Except as provided in subd. 1. c. and d., the family

income of the pupil shall be verified as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases may continue to attend a private school under this section.

SECTION 30. 118.60 (2) (bm) of the statutes is amended to read:

118.60 (2) (bm) No pupil who resides in a school district, other than an eligible school district or a 1st class city school district, may attend a participating private school under this section unless the pupil is a member of a family that has a total family income that does not exceed an amount equal to 2.2 times the poverty level, ~~determined in accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902 \(2\)](#).~~ In this paragraph and sub. (3m), family income includes income of the pupil's parents or legal guardians. Except as provided in par. (a) 1. c., the family income of the pupil shall be verified as provided in par. (a) 1. b. A pupil attending a private school under this section whose family income increases may continue to attend a private school under this section.

SECTION 31. 118.60 (3m) (a) 2. of the statutes is amended to read:

118.60 (3m) (a) 2. The pupil is enrolled in a grade from 9 to 12 and the family income of the pupil, as determined under sub. (2) (a) 1., does not exceed an amount equal to 2.2 times the poverty level ~~determined in accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902 \(2\)](#).~~

SECTION 32. 118.60 (3m) (b) 2. of the statutes is amended to read:

118.60 (3m) (b) 2. The family income of the pupil, as determined under sub. (2) (a) 1., exceeds an amount equal to 2.2 times the poverty level ~~determined in~~

~~accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902 \(2\)](#).~~

SECTION 33. 119.23 (2) (a) 1. a. of the statutes is amended to read:

119.23 (2) (a) 1. a. The pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level ~~determined in accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902 \(2\)](#).~~ In this subdivision and sub. (3m), family income includes income of the pupil's parents or legal guardians. Except as provided in subd. 1. d., the family income of the pupil shall be verified as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases, including a pupil who attended a private school under this section in the 2010-11 school year and whose family income has increased, may continue to attend a private school under this section.

SECTION 34. 119.23 (3m) (a) 2. of the statutes is amended to read:

119.23 (3m) (a) 2. The pupil is enrolled in a grade from 9 to 12 and the family income of the pupil, as determined under sub. (2) (a) 1., does not exceed an amount equal to 2.2 times the poverty level ~~determined in accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902 \(2\)](#).~~

SECTION 35. 119.23 (3m) (b) 2. of the statutes is amended to read:

119.23 (3m) (b) 2. The family income of the pupil, as determined under sub. (2) (a) 1., exceeds an amount equal to 2.2 times the poverty level ~~determined in accordance with criteria established by the director of the federal office of management and budget line, as defined in [42 USC 9902 \(2\)](#).~~

SECTION 9134. Nonstatutory provisions; Public Instruction.

(1) SPECIAL NEEDS SCHOLARSHIP PAYMENTS BASED ON ACTUAL COSTS; 2019-20 SCHOOL YEAR. If before the effective date of this subsection, the department of public instruction made a scholarship payment to a private school for a child with a disability the amount of which is based on a financial statement submitted to the department under s. 115.7915 (4c), 2017 stats., the department of public instruction shall consider the amount paid to the private school as an installment payment of the amount for the 2019-20 school year under s. 115.7915 (4m) (a) 4. The department of public instruction shall adjust the remaining installment payments under s. 115.7915 (4m) (b) to ensure that the private school receives the total scholarship amount for the 2019-20 school year under s. 115.7915 (4m) (a) 4. for the child with a disability for whom the private school submitted a financial statement under s. 115.7915 (4c), 2017 stats., in the 2018-19 school year.

(END)