

2003 SENATE BILL 542

March 10, 2004 – Introduced by Senators MOORE, ROBSON, JAUCH, CARPENTER, COGGS, M. MEYER and ERPENBACH, cosponsored by Representatives SINICKI, RICHARDS, CULLEN, TAYLOR, J. LEHMAN, TURNER, YOUNG and ZEPNICK, by request of Governor James E. Doyle. Referred to Committee on Education, Ethics and Elections.

1 **AN ACT** *to repeal* 118.40 (2r) (c) 2., 118.43 (6) (c), 119.23 (2) (a) 2., 119.23 (7) (b)
2 and 121.85 (6) (am) 5.; *to renumber* 119.23 (1) (a) and 895.48 (1m); *to*
3 *renumber and amend* 118.40 (2r) (cm), 119.23 (7) (am) and 146.89 (1); *to*
4 *amend* 118.13 (2) (b), 118.13 (3) (a) 3., 118.13 (3) (b) 1., 118.13 (3) (b) 2., 118.13
5 (4), 118.30 (1g) (a) 1., 118.30 (1g) (c), 118.30 (2) (b) 1. and 2., 118.30 (6), 118.33
6 (1) (f) 3., 118.40 (2r) (c) 1., 118.43 (6) (b) (intro.), 118.43 (6) (b) 8., 118.43 (6) (d),
7 119.23 (2) (a) 1., 119.23 (2) (b), 121.85 (6) (am) 4. (intro.), 146.89 (2) (a), 146.89
8 (2) (c), 146.89 (2) (d), 146.89 (3) (b) (intro.), 146.89 (3) (c) and 146.89 (3) (d)
9 (intro.); and *to create* 118.13 (1m), 118.13 (2) (am), 118.30 (1g) (a) 3., 118.30
10 (1s), 118.30 (2) (b) 5., 118.33 (1) (f) 2m., 118.33 (6) (c), 118.40 (2r) (c) 3., 118.40
11 (2r) (c) 4., 118.40 (2r) (c) 5., 118.40 (2r) (cm) 2., 118.43 (6) (b) 9., 119.23 (1) (am),
12 119.23 (7) (am) 2. and 3., 119.23 (7) (d), 119.23 (7) (e), 119.23 (7m), 119.23 (9),
13 119.23 (10), 119.23 (11), 146.89 (1) (d), 146.89 (1) (g), 146.89 (1) (h), 146.89 (3s)
14 and 895.48 (1m) (b) of the statutes; **relating to:** the Volunteer Health Care

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1 Provider Program; independent charter schools; the Milwaukee Parental
2 Choice Program; the Student Achievement Guarantee in Education Program;
3 intradistrict transfer aid; granting rule-making authority; and making an
4 appropriation.

Analysis by the Legislative Reference Bureau***Volunteer Health Care Provider Program***

Under current law, if the Department of Administration (DOA) has approved a joint application of a health care provider and a nonprofit agency, the health care provider acting within the scope of his or her licensure or certification may provide, without charge to low-income, uninsured persons at the agency, diagnostic tests, health education, office visits, patient advocacy, prescriptions, information about available health care resources, referrals to health care specialists, and, for dentists, simple tooth extractions and necessary related suturing. The health care provider, for the provision of these services, is a state agent of the Department of Health and Family Services; as such, for a civil action arising out of an act committed in the lawful course of the health care provider's duties, certain time limitations for filing the action apply, legal counsel is provided to the health care provider, judgments against the health care provider are paid by the state, and amounts recoverable are capped at \$250,000.

This bill expands the Volunteer Health Care Provider Program to authorize provision of services, without charge, from four-year-old kindergarten to grade six in a public elementary school, a charter school, or a private school participating in the Milwaukee Parental Choice Program (MPCP), if DOA approves the joint application of a health care provider and a school board or the governing body of a charter school or a private school participating in MPCP. After providing to the school board or relevant governing body proof of satisfactory completion of any relevant competency requirements, the volunteer health care provider may provide without charge to students from four-year-old kindergarten to grade six of the school, regardless of income, diagnostic tests; health education; information about available health care resources; office visits; patient advocacy; referrals to health care specialists; first aid for illness or injury; in compliance with the written instructions of a pupil's parent or guardian, the administration of any drug, other than a contraceptive drug, that may lawfully be sold over the counter; health screenings; any other health care services designated by the Department of Public Instruction (DPI); and, for dentists, simple tooth extractions and necessary related suturing. However, the volunteer health care provider may not provide emergency medical services, hospitalization, or surgery, except as designated by DPI by rule, and may not provide abortion referrals, contraceptives, or pregnancy tests.

SENATE BILL 542***Milwaukee Parental Choice Program***

This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The changes include the following:

1. The bill requires a private school participating in the MPCP annually to conduct a criminal background check on all persons employed by the private school.

2. With certain exceptions, the bill prohibits a private school participating in the MPCP from employing a person as instructional staff who has been convicted of any of certain specified felonies for six years following the conviction.

3. The bill requires a private school to submit to the Department of Public Instruction (DPI), before the school begins participating in the MPCP, a copy of the school's certificate of occupancy issued by the city of Milwaukee, evidence of financial viability, and proof that the administrator of the school participated in a fiscal management training program approved by DPI. Annually, a private school participating in the MPCP must submit to DPI evidence of sound fiscal practices.

4. The bill authorizes DPI to issue an order banning a private school from participating in the MPCP in the succeeding school year if DPI determines that the private school misrepresented information provided to DPI, failed to provide certain information to DPI by the date or within the period required, failed to refund overpayments to the state by the date required, or failed to meet at least one of the currently required academic or other standards by the required date.

5. The bill authorizes DPI to issue an order immediately terminating a private school's participation in the MPCP if DPI determines that conditions at the private school present an imminent danger to the health or safety of pupils or that the private school failed to provide certain information to DPI by the date or within the period required.

6. The bill authorizes DPI to withhold payment from a private school participating in the MPCP if the private school violates any law or administrative rule governing the MPCP.

7. Under current law, in order to participate in the MPCP, a pupil must be a member of a family with a total family income of no more than 1.75 times the federal poverty level. This bill allows a pupil to continue to attend an MPCP school if the pupil's family income does not exceed 2.2 times the federal poverty level. The bill also provides that siblings of pupils attending an MPCP school are subject to the higher limit.

8. This bill directs the Legislative Audit Bureau (LAB) to administer a 12-year longitudinal study of the MPCP if LAB receives sufficient moneys, other than general purpose revenue, for the study. The LAB must seek private sources of funding for the study. The bill directs the LAB to report the results of the study to the legislature annually; the first report is due by October 1, 2005.

9. Current law requires each school board to adopt either its own academic standards or the academic standards contained in the governor's executive order issued on January 13, 1998, and to administer fourth, eighth, and tenth grade examinations to fourth, eighth, and tenth grade pupils enrolled in the school district,

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including pupils enrolled in charter schools located in the school district (other than independent charter schools operated by the University of Wisconsin–Milwaukee, the University of Wisconsin–Parkside, the Milwaukee Area Technical College, and the city of Milwaukee). Identical provisions exist under current law for independent charter schools. Under current law, the fourth, eighth, and tenth grade examinations are not required to be administered to pupils participating in the MPCP.

This bill provides that the governing body of a private school participating in the MPCP must adopt academic standards and administer fourth, eighth, and tenth grade examinations to pupils enrolled in the private school. The governing body may either adopt the DPI examinations or develop its own.

10. Under current law, each school board must administer to all pupils enrolled in the school district in the third grade, including pupils enrolled in charter schools located in the school district (other than independent charter schools), a standardized reading test developed by DPI. The independent charter schools are required to administer this test to their third grade pupils. Private schools participating in the MPCP are not required to administer this test. This bill imposes this requirement on these private schools.

11. Under current law, each school board and the operator of each independent charter school must develop written policies specifying criteria for granting a high school diploma. Neither a school board nor the operator of an independent charter school may grant a high school diploma to any pupil unless the pupil has satisfied the criteria. Similarly, each school board and each independent charter school must adopt policies specifying criteria for promoting a pupil from the fourth grade to the fifth grade and from the eighth grade to the ninth grade. A pupil may not be promoted unless he or she satisfies the promotion criteria.

This bill imposes upon private schools participating in the MPCP the same prohibitions against graduation and promotion (for pupils attending the private school under the MPCP) that are imposed upon school boards and independent charter schools.

12. Current law prohibits public schools from discriminating against pupils on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability. In addition, each school board must adopt policies and procedures implementing this nondiscrimination requirement. This bill extends the nondiscrimination requirement to schools participating in the MPCP.

13. The bill subjects the MPCP schools to the same open meetings and open records requirements that are applicable to public bodies.

14. Under current law, a pupil may participate in the MPCP only if, in the previous school year, the pupil was enrolled in the Milwaukee Public Schools, was attending a private school under the MPCP, was enrolled in grades kindergarten to three in a private school located in the city of Milwaukee other than under the MPCP, or was not enrolled in school. This bill eliminates this eligibility requirement.

15. Under current law, no more than 15% of a school district's enrollment may attend private schools under the MPCP. This bill increases this limit to 15.5%.

SENATE BILL 542***Independent charter schools***

Under current law, school boards may enter into contracts with individuals, groups, businesses, or governmental bodies to establish charter schools, which operate with fewer constraints than traditional public schools. Current law also permits the University of Wisconsin–Milwaukee, the University of Wisconsin–Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to operate charter schools (independent charter schools) directly or to contract for the operation of charter schools.

For the University of Wisconsin–Parkside charter school, current law limits the enrollment to 400 pupils. This bill increases the limit to 480 pupils beginning in the 2004–05 school year.

Currently, only pupils who reside in the school district in which an independent charter school is located may attend the charter school. In order to be eligible to attend an independent charter school located in the Milwaukee school district, a pupil must also fall into one of the following categories:

1. In the previous school year, the pupil must have been enrolled in the Milwaukee Public Schools.
2. In the previous school year, the pupil must have attended a private school under the Milwaukee Parental Choice Program (MPCP).
3. In the previous school year, the pupil must have been enrolled in grades kindergarten to three in a private school located in the city of Milwaukee other than under the MPCP.
4. In the previous school year, the pupil must not have been enrolled in school.
5. In the previous school year, the pupil must have been enrolled in an independent charter school.

This bill eliminates all of these requirements for attending an independent charter school located in the Milwaukee school district. The bill also allows a pupil who resides outside of the Milwaukee school district to continue to attend Woodlands School (an independent charter school located in the city of Milwaukee), if the pupil attended Woodlands School during the 2003–04 school year and during the previous school year, or if the pupil's sibling attended Woodlands School in the 2003–04 school year and in the school year of the pupil's initial attendance. The bill also allows a pupil who resides outside of the Milwaukee school district to continue to attend Marva Collins Preparatory School of Wisconsin or D.L. Hines Academy if the pupil attended the school before the 2002–03 school year, or if the pupil's sibling attended the school before the 2002–03 school year and in the school year of the pupil's initial attendance.

The bill prohibits the city of Milwaukee, the University or Wisconsin–Milwaukee, or the Milwaukee Area Technical College from establishing a new charter school after this bill's effective date. Current law limits the University of Wisconsin–Parkside to only one charter school.

Student Achievement Guarantee in Education Program

Under the current Student Achievement Guarantee in Education Program (SAGE) DPI pays participating school districts \$2,000 for each low-income pupil, in exchange for the school district's meeting certain performance criteria and reducing

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class size in grades kindergarten to three. Beginning in the 2004–05 school year, this bill increases the payment to \$2,500 per pupil.

The bill also allows a school board to use unexpended moneys under a SAGE contract to assist other schools in satisfying the terms of a SAGE contract covering the other schools.

Intradistrict transfer aid

Under current law, a school district that participates in the intradistrict special transfer program, which allows pupils to attend public school outside their attendance area in order to reduce racial imbalance in the school district, is eligible for additional state aid. Beginning in the 2004–05 school year, a school district will suffer a loss in such aid if less than 100% of the parents or guardians of transferred pupils have given written consent for the transfer. This bill maintains the 95 percent level of compliance currently required; i.e., the school district will receive aid for all pupils transferred if at least 95% of the parents or guardians have provided written consent.

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.** 118.13 (1m) of the statutes is created to read:

2 118.13 **(1m)** No person who wishes to attend a private school under s. 119.23
3 may be denied admission to that school and no pupil who is attending a private school
4 under s. 119.23 may be denied participation in, be denied the benefits of, or be
5 discriminated against in any curricular, extracurricular, pupil services, recreational,
6 or other program or activity of that school because of the person's sex, race, religion,
7 national origin, ancestry, creed, pregnancy, marital or parental status, sexual
8 orientation, or physical, mental, emotional, or learning disability.

9 **SECTION 2.** 118.13 (2) (am) of the statutes is created to read:

10 118.13 **(2)** (am) Each private school participating in the program under s.
11 119.23 shall develop written policies and procedures to implement this section and
12 submit them to the state superintendent. The policies and procedures shall provide

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1 for receiving and investigating complaints regarding possible violations of this
2 section, for making determinations as to whether this section has been violated, and
3 for ensuring compliance with this section.

4 **SECTION 3.** 118.13 (2) (b) of the statutes is amended to read:

5 118.13 (2) (b) Any person who receives a negative determination under par. (a)
6 or (am) may appeal the determination to the state superintendent.

7 **SECTION 4.** 118.13 (3) (a) 3. of the statutes is amended to read:

8 118.13 (3) (a) 3. Include in the department's biennial report under s. 15.04 (1)
9 (d) information on the ~~status of school district compliance~~ of school districts and
10 private schools with this section and ~~school district~~ the progress made toward
11 providing reasonable equality of educational opportunity for all pupils in this state.

12 **SECTION 5.** 118.13 (3) (b) 1. of the statutes is amended to read:

13 118.13 (3) (b) 1. Periodically review school district and private school programs,
14 activities and services to determine whether the school boards and private schools
15 are complying with this section.

16 **SECTION 6.** 118.13 (3) (b) 2. of the statutes is amended to read:

17 118.13 (3) (b) 2. Assist school boards and private schools to comply with this
18 section by providing information and technical assistance upon request.

19 **SECTION 7.** 118.13 (4) of the statutes is amended to read:

20 118.13 (4) Any public school or private school official, employee or teacher who
21 intentionally engages in conduct which discriminates against a person or causes a
22 person to be denied rights, benefits or privileges, in violation of sub. (1) or (1m), may
23 be required to forfeit not more than \$1,000.

24 **SECTION 8.** 118.30 (1g) (a) 1. of the statutes is amended to read:

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1 118.30 (1g) (a) 1. By August 1, 1998, each school board shall adopt pupil
2 academic standards in mathematics, science, reading and writing, geography, and
3 history. ~~If the governor has issued~~ The school board may adopt the pupil academic
4 standards issued by the governor as an executive order under s. 14.23, the school
5 board may adopt those standards no. 326, dated January 13, 1998.

6 **SECTION 9.** 118.30 (1g) (a) 3. of the statutes is created to read:

7 118.30 (1g) (a) 3. The governing body of each private school participating in the
8 program under s. 119.23 shall adopt pupil academic standards in mathematics,
9 science, reading and writing, geography, and history. The governing body of the
10 private school may adopt the pupil academic standards issued by the governor as
11 executive order no. 326, dated January 13, 1998.

12 **SECTION 10.** 118.30 (1g) (c) of the statutes is amended to read:

13 118.30 (1g) (c) Each school board operating elementary grades and, each
14 operator of a charter school under s. 118.40 (2r) that operates elementary grades, and
15 the governing body of each private school participating in the program under s.
16 119.23 that operates elementary grades may develop or adopt its own examination
17 designed to measure pupil attainment of knowledge and concepts in the 4th grade
18 and may develop or adopt its own examination designed to measure pupil attainment
19 of knowledge and concepts in the 8th grade. If the school board ~~or~~, operator of the
20 charter school, or governing body of the private school develops or adopts an
21 examination under this paragraph, it shall notify the department.

22 **SECTION 11.** 118.30 (1s) of the statutes is created to read:

23 118.30 (1s) Annually the governing body of each private school participating
24 in the program under s. 119.23 shall do all of the following:

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1 (a) 1. Except as provided in sub. (6), administer the 4th grade examination
2 adopted or approved by the state superintendent under sub. (1) (a) to all pupils
3 attending the 4th grade in the private school under s. 119.23.

4 2. If the governing body of the private school has developed or adopted its own
5 4th grade examination, administer that examination to all pupils attending the 4th
6 grade in the private school under s. 119.23.

7 (am) 1. Except as provided in sub. (6), administer the 8th grade examination
8 adopted or approved by the state superintendent under sub. (1) (a) to all pupils
9 attending the 8th grade in the private school under s. 119.23.

10 2. If the governing body of the private school has developed or adopted its own
11 8th grade examination, administer that examination to all pupils attending the 8th
12 grade in the private school under s. 119.23.

13 (b) Administer the 10th grade examination to all pupils attending the 10th
14 grade in the private school under s. 119.23.

15 **SECTION 12.** 118.30 (2) (b) 1. and 2. of the statutes are amended to read:

16 118.30 (2) (b) 1. If a pupil is enrolled in a special education program under
17 subch. V of ch. 115, the school board or operator of the charter school under s. 118.40
18 (2r), or governing body of the private school participating in the program under s.
19 119.23 shall comply with s. 115.77 (1m) (bg).

20 2. According to criteria established by the state superintendent by rule, the
21 school board or operator of the charter school under s. 118.40 (2r), or governing body
22 of the private school participating in the program under s. 119.23 may determine not
23 to administer an examination under this section to a limited-English speaking
24 pupil, as defined under s. 115.955 (7), may permit the pupil to be examined in his or

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1 her native language or may modify the format and administration of an examination
2 for such pupils.

3 **SECTION 13.** 118.30 (2) (b) 5. of the statutes is created to read:

4 118.30 (2) (b) 5. Upon the request of a pupil's parent or guardian, the governing
5 body of a private school participating in the program under s. 119.23 shall excuse the
6 pupil from taking an examination administered under sub. (1s).

7 **SECTION 14.** 118.30 (6) of the statutes is amended to read:

8 118.30 (6) A school board ~~and~~, an operator of a charter school under s. 118.40
9 (2r), and the governing body of a private school participating in the program under
10 s. 119.23 is not required to administer the 4th and 8th grade examinations adopted
11 or approved by the state superintendent under sub. (1) if the school board ~~or~~, the
12 operator of the charter school, or the governing body of the private school administers
13 its own 4th and 8th grade examinations, the school board ~~or~~, operator of the charter
14 school, or governing body of the private school provides the state superintendent
15 with statistical correlations of those examinations with the examinations adopted or
16 approved by the state superintendent under sub. (1), and the federal department of
17 education approves.

18 **SECTION 15.** 118.33 (1) (f) 2m. of the statutes is created to read:

19 118.33 (1) (f) 2m. The governing body of each private school participating in the
20 program under s. 119.23 shall develop a policy specifying criteria for granting a high
21 school diploma to pupils attending the private school under s. 119.23. The criteria
22 shall include the pupil's academic performance and the recommendations of
23 teachers.

24 **SECTION 16.** 118.33 (1) (f) 3. of the statutes is amended to read:

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1 118.33 (1) (f) 3. Beginning on September 1, 2005, neither a school board nor an
2 operator of a charter school under s. 118.40 (2r) may grant a high school diploma to
3 any pupil unless the pupil has satisfied the criteria specified in the school board's or
4 charter school's policy under subd. 1. or 2. Beginning on September 1, 2005, the
5 governing body of a private school participating in the program under s. 119.23 may
6 not grant a high school diploma to any pupil attending the private school under s.
7 119.23 unless the pupil has satisfied the criteria specified in the governing body's
8 policy under subd. 2m.

9 **SECTION 17.** 118.33 (6) (c) of the statutes is created to read:

10 118.33 (6) (c) 1. The governing body of each private school participating in the
11 program under s. 119.23 shall adopt a written policy specifying criteria for promoting
12 a pupil who is attending the private school under s. 119.23 from the 4th grade to the
13 5th grade and from the 8th grade to the 9th grade. The criteria shall include the
14 pupil's score on the examination administered under s. 118.30 (1s) (a) or (am), unless
15 the pupil has been excused from taking the examination under s. 118.30 (2) (b); the
16 pupil's academic performance; the recommendations of teachers, which shall be
17 based solely on the pupil's academic performance; and any other academic criteria
18 specified by the governing body of the private school.

19 2. Beginning on September 1, 2005, the governing body of a private school
20 participating in the program under s. 119.23 may not promote a 4th grade pupil who
21 is attending the private school under s. 119.23 to the 5th grade, and may not promote
22 an 8th grade pupil who is attending the private school under s. 119.23 to the 9th
23 grade, unless the pupil satisfies the criteria for promotion specified in the governing
24 body's policy under subd. 1.

25 **SECTION 18.** 118.40 (2r) (c) 1. of the statutes is amended to read:

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1 118.40 (2r) (c) 1. Only Except as provided in subs. 3., 4., and 5., only pupils
2 who reside in the school district in which a charter school established under this
3 subsection is located may attend the charter school.

4 **SECTION 19.** 118.40 (2r) (c) 2. of the statutes is repealed.

5 **SECTION 20.** 118.40 (2r) (c) 3. of the statutes is created to read:

6 118.40 (2r) (c) 3. A pupil may attend Woodlands School, a charter school
7 established in the school district operating under ch. 119 under this subsection,
8 regardless of the pupil's school district of residence, if any of the following applies:

9 a. The pupil attended Woodlands School in the 2003–04 school year and,
10 beginning in the 2005–06 school year, in the previous school year.

11 b. The pupil's sibling attended Woodlands School in the 2003–04 school year
12 and in the school year of the pupil's initial attendance.

13 **SECTION 21.** 118.40 (2r) (c) 4. of the statutes is created to read:

14 118.40 (2r) (c) 4. A pupil may attend Marva Collins Preparatory School of
15 Wisconsin, a charter school established in the school district operating under ch. 119
16 under this subsection, regardless of the pupil's school district of residence, if any of
17 the following applies:

18 a. The pupil attended Marva Collins Preparatory School of Wisconsin before
19 the 2002–03 school year.

20 b. The pupil's sibling attended Marva Collins Preparatory School of Wisconsin
21 before the 2002–03 school year and in the school year of the pupil's initial attendance.

22 **SECTION 22.** 118.40 (2r) (c) 5. of the statutes is created to read:

23 118.40 (2r) (c) 5. A pupil may attend D.L. Hines Academy, a charter school
24 established in the school district operating under ch. 119 under this subsection,
25 regardless of the pupil's school district of residence, if any of the following applies:

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- 1 a. The pupil attended D.L. Hines Academy before the 2002–03 school year.
- 2 b. The pupil’s sibling attended D.L. Hines Academy before the 2002–03 school
- 3 year and in the school year of the pupil’s initial attendance.

4 **SECTION 23.** 118.40 (2r) (cm) of the statutes is renumbered 118.40 (2r) (cm) 1.

5 and amended to read:

6 118.40 **(2r)** (cm) 1. The chancellor of the University of Wisconsin–Parkside may

7 establish or enter into a contract for the establishment of only one charter school

8 under this subsection, which may not operate high school grades and which may not

9 accommodate more than 400 480 pupils.

10 **SECTION 24.** 118.40 (2r) (cm) 2. of the statutes is created to read:

11 118.40 **(2r)** (cm) 2. None of the entities under par. (b) 1. a., b., or d. may

12 establish, or enter into a contract for the establishment of, a new charter school after

13 the effective date of this subdivision [revisor inserts date].

14 **SECTION 25.** 118.43 (6) (b) (intro.) of the statutes is amended to read:

15 118.43 **(6)** (b) (intro.) From the appropriations under s. 20.255 (2) (cu) and (cv),

16 ~~subject to par. (c),~~ the department shall pay to each school district that has entered

17 into a contract with the department under this section an amount determined as

18 follows:

19 **SECTION 26.** 118.43 (6) (b) 8. of the statutes is amended to read:

20 118.43 **(6)** (b) 8. In the 2003–04 ~~and 2004–05~~ school years year, \$2,000

21 multiplied by the number of low–income pupils enrolled in grades eligible for funding

22 in each school in the school district covered by contracts under sub. (3) (ar) and by

23 renewals of contracts under sub. (2) (g).

24 **SECTION 27.** 118.43 (6) (b) 9. of the statutes is created to read:

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1 118.43 (6) (b) 9. In the 2004–05 school year and in each school year thereafter,
2 \$2,500 multiplied by the number of low–income pupils enrolled in grades eligible for
3 funding in each school in the school district covered by contracts under sub. (3) (ar)
4 and by renewals of contracts under sub. (2) (g).

5 **SECTION 28.** 118.43 (6) (c) of the statutes is repealed.

6 **SECTION 29.** 118.43 (6) (d) of the statutes is amended to read:

7 118.43 (6) (d) The school board shall use the aid under this section to satisfy
8 the terms of the contract, except that the school board may use any unexpended
9 moneys that are not necessary to satisfy the terms of the contract to assist other
10 schools to satisfy the terms of a contract covering the other schools.

11 **SECTION 30.** 119.23 (1) (a) of the statutes is renumbered 119.23 (1) (ar).

12 **SECTION 31.** 119.23 (1) (am) of the statutes is created to read:

13 119.23 (1) (am) “Instructional staff” means professional employees who have
14 as part of their responsibilities direct contact with pupils or with the instructional
15 program of the private school, and employees who supervise such employees.

16 **SECTION 32.** 119.23 (2) (a) 1. of the statutes is amended to read:

17 119.23 (2) (a) 1. The pupil is a member of a family that has a total family income
18 that does not exceed an amount equal to 1.75 times the poverty level determined in
19 accordance with criteria established by the director of the federal office of
20 management and budget. A pupil attending a private school under this section
21 whose family income increases may continue to attend a private school under this
22 section if the pupil is a member of a family that has a total family income that does
23 not exceed an amount equal to 2.2 times the poverty level determined in accordance
24 with criteria established by the director of the federal office of management and
25 budget. For purposes of admission to a private school under this section, siblings of

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1 pupils attending a private school under this section are subject to the higher income
2 limit. If a pupil attending a private school under this section ceases to attend a
3 private school under this section, the lower income limit applies unless the pupil is
4 a sibling of a pupil attending a private school under this section.

5 **SECTION 33.** 119.23 (2) (a) 2. of the statutes is repealed.

6 **SECTION 34.** 119.23 (2) (b) of the statutes is amended to read:

7 119.23 (2) (b) No more than 15% 15.5 percent of the school district's
8 membership may attend private schools under this section. If in any school year
9 there are more spaces available in the participating private schools than the
10 maximum number of pupils allowed to participate, the department shall prorate the
11 number of spaces available at each participating private school.

12 **SECTION 35.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am)
13 (intro.) and amended to read:

14 119.23 (7) (am) (intro.) Each private school participating in the program under
15 this section is subject to uniform financial accounting standards established by the
16 department ~~and annually.~~ Annually by September 1 following a school year in which
17 a private school participated in the program under this section, the private school
18 shall submit to the department an ~~an~~ all of the following:

19 1. An independent financial audit of the private school conducted by a certified
20 public accountant, accompanied by the auditor's statement that the report is free of
21 material misstatements and fairly presents pupil costs under sub. (4) (b) 1.

22 **SECTION 36.** 119.23 (7) (am) 2. and 3. of the statutes are created to read:

23 119.23 (7) (am) 2. Evidence of sound fiscal practices, as prescribed by the
24 department by rule.

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1 3. Certification by the auditor under subd. 1. that criminal background checks
2 of all employees were conducted as specified under par. (d) 2.

3 **SECTION 37.** 119.23 (7) (b) of the statutes is repealed.

4 **SECTION 38.** 119.23 (7) (d) of the statutes is created to read:

5 119.23 (7) (d) Each private school participating in the program under this
6 section shall submit to the department all of the following:

7 1. By August 1 before the first school term of participation in the program, or
8 by May 1 if the private school begins participating in the program during summer
9 school, all of the following:

10 a. A copy of the school's current certificate of occupancy issued by the city. If
11 the private school moves to a new location, the private school shall submit a copy of
12 the new certificate of occupancy issued by the city to the department before the
13 attendance of pupils at the new location and before the next succeeding date specified
14 in s. 121.05 (1) (a). A temporary certificate of occupancy does not meet the
15 requirement of this subd. 1. a.

16 b. Evidence of financial viability, as prescribed by the department by rule.

17 c. Proof that the private school's administrator has participated in a fiscal
18 management training program approved by the department.

19 2. Annually by February 1, a notarized statement by a person legally
20 authorized to act on behalf of the private school that the private school will conduct
21 a criminal background check through the department of justice on each individual
22 who will be employed by the private school in the following school year. If the
23 individual is a nonresident, the department of justice may provide for the submission
24 of information to the federal bureau of investigation for the purposes of verifying the

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1 identity of the individual and obtaining records of his or her criminal arrest and
2 conviction.

3 **SECTION 39.** 119.23 (7) (e) of the statutes is created to read:

4 119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in
5 subd. 2. a private school participating in the program under this section may not
6 employ as instructional staff an individual convicted of any Class A, B, C, D, E, F, G,
7 or H felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of any Class BC
8 felony under ch. 940 or 948, 1999 stats., for 6 years following the date of the
9 conviction, and may employ as instructional staff such an individual after 6 years
10 only if the individual establishes by clear and convincing evidence that he or she is
11 entitled to be employed.

12 2. A private school participating in the program under this section may employ
13 as instructional staff an individual convicted of a crime enumerated in subd. 1., prior
14 to the expiration of the 6-year period following the conviction, if the private school
15 receives from the court in which the conviction occurred a certificate stating that the
16 conviction has been reversed, set aside, or vacated.

17 **SECTION 40.** 119.23 (7m) of the statutes is created to read:

18 119.23 (7m) The governing body of each private school participating in the
19 program under this section shall do all of the following:

20 (a) Permit public inspection and copying of any record, as defined in s. 19.32
21 (2), of the private school to the same extent as is required of, and subject to the same
22 terms and enforcement provisions that apply to, an authority under subch. II of ch.
23 19.

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1 (b) Provide public access to its meetings to the same extent as is required of,
2 and subject to the same terms and enforcement provisions that apply to, a
3 governmental body under subch. V of ch. 19.

4 (c) Administer to the pupils attending the 3rd grade in the private school under
5 this section a standardized reading test developed by the department.

6 **SECTION 41.** 119.23 (9) of the statutes is created to read:

7 119.23 (9) The legislative audit bureau shall conduct a longitudinal study, of
8 up to 12 years in length, of the program under this section if the bureau receives
9 sufficient moneys, other than general purpose revenue, for the study. The study shall
10 use standardized examinations used by the school district operating under this
11 chapter, and shall review graduation rates and other indicators of academic
12 achievement of the pupils attending private schools under this section. The results
13 of the study shall be submitted to the joint legislative audit committee and to the
14 appropriate standing committees of the legislature annually over the 12-year period
15 in the manner provided under s. 13.172 (3), with the first report due by October 1,
16 2005, and with a comprehensive review and interim report due by October 1, 2010.

17 **SECTION 42.** 119.23 (10) of the statutes is created to read:

18 119.23 (10) (a) The state superintendent may issue an order barring a private
19 school from participating in the program under this section in the succeeding school
20 year if the state superintendent determines that the private school has done any of
21 the following:

- 22 1. Misrepresented information required under sub. (7) (d).
- 23 2. Failed to provide the notice required under sub. (2) (a) 3., or the information
24 required under sub. (7) (am), by the date or within the period specified.

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1 3. Failed to refund to the state any overpayment made under sub. (4) (b) or (4m)
2 by the date specified by department rule.

3 4. Failed to meet at least one of the standards under sub. (7) (a) by the date
4 specified by department rule.

5 (b) The state superintendent may issue an order immediately terminating a
6 private school's participation in the program under this section if he or she
7 determines that conditions at the private school present an imminent threat to the
8 health or safety of pupils or that the private school has failed to provide the
9 information required under sub. (7) (d) by the date or within the period specified.

10 (c) Whenever the state superintendent issues an order under par. (a) or (b), he
11 or she shall immediately notify the parent or guardian of each pupil attending the
12 private school under this section.

13 (d) The state superintendent may withhold payment from a parent or guardian
14 under subs. (4) and (4m) if the private school attended by the child of the parent or
15 guardian violates this section.

16 **SECTION 43.** 119.23 (11) of the statutes is created to read:

17 119.23 (11) The department shall promulgate rules to implement and
18 administer this section.

19 **SECTION 44.** 121.85 (6) (am) 4. (intro.) of the statutes is amended to read:

20 121.85 (6) (am) 4. (intro.) In the 2003–04 school year and in each school year
21 thereafter:

22 **SECTION 45.** 121.85 (6) (am) 5. of the statutes is repealed.

23 **SECTION 46.** 146.89 (1) of the statutes, as affected by 2003 Wisconsin Act 92,
24 is renumbered 146.89 (1) (intro.) and amended to read:

25 146.89 (1) (intro.) In this section, "~~volunteer~~;

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1 (r) “Volunteer health care provider” means an individual who is licensed as a
2 physician under ch. 448, dentist or dental hygienist under ch. 447, registered nurse,
3 practical nurse, or nurse–midwife under ch. 441, optometrist under ch. 449, or
4 physician assistant under ch. 448 or who is certified as a dietitian under subch. V of
5 ch. 448 and who receives no income from the practice of that health care profession
6 or who receives no income from the practice of that health care profession when
7 providing services at the nonprofit agency or school specified under sub. (3).

8 **SECTION 47.** 146.89 (1) (d) of the statutes is created to read:

9 146.89 (1) (d) “Governing body” means the governing body of any of the
10 following:

11 1. A charter school, as defined in s. 115.001 (1).

12 2. A private school, as defined in s. 115.001 (3r), that participates in the
13 Milwaukee Parental Choice Program under s. 119.23.

14 **SECTION 48.** 146.89 (1) (g) of the statutes is created to read:

15 146.89 (1) (g) “School” means any of the following:

16 1. A public elementary school.

17 2. A charter school, as defined in s. 115.001 (1).

18 3. A private school, as defined in s. 115.001 (3r), that participates in the
19 Milwaukee Parental Choice Program under s. 119.23

20 **SECTION 49.** 146.89 (1) (h) of the statutes is created to read:

21 146.89 (1) (h) “School board” has the meaning given in s. 115.001 (7).

22 **SECTION 50.** 146.89 (2) (a) of the statutes is amended to read:

23 146.89 (2) (a) A volunteer health care provider may participate under this
24 section only if he or she submits a joint application with a nonprofit agency, school
25 board, or governing body to the department of administration and that department

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1 approves the application. If the volunteer health care provider submits a joint
2 application with a school board or governing body, the application shall include a
3 statement by the school board or governing body that certifies that the volunteer
4 health care provider has received materials that specify school board or governing
5 body policies concerning the provision of health care services to students and has
6 agreed to comply with the policies. The department of administration shall provide
7 application forms for use under this paragraph.

8 **SECTION 51.** 146.89 (2) (c) of the statutes is amended to read:

9 146.89 (2) (c) The department of administration shall notify the volunteer
10 health care provider and the nonprofit agency, school board, or governing body of the
11 department's decision to approve or disapprove the application.

12 **SECTION 52.** 146.89 (2) (d) of the statutes is amended to read:

13 146.89 (2) (d) Approval of an application of a volunteer health care provider is
14 valid for one year. If a volunteer health care provider wishes to renew approval, he
15 or she shall submit a joint renewal application with a nonprofit agency, school board,
16 or governing body to the department of administration. The department of
17 administration shall provide renewal application forms that are developed by the
18 department of health and family services and that include questions about the
19 activities that the individual has undertaken as a volunteer health care provider in
20 the previous 12 months.

21 **SECTION 53.** 146.89 (3) (b) (intro.) of the statutes is amended to read:

22 146.89 (3) (b) (intro.) The Under this section, the nonprofit agency may provide
23 the following health care services:

24 **SECTION 54.** 146.89 (3) (c) of the statutes is amended to read:

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1 146.89 (3) (c) ~~The~~ Under this section, the nonprofit agency may not provide
2 emergency medical services, hospitalization, or surgery, except as provided in par.
3 (b) 8.

4 **SECTION 55.** 146.89 (3) (d) (intro.) of the statutes is amended to read:

5 146.89 (3) (d) (intro.) ~~The~~ Under this section, the nonprofit agency shall provide
6 health care services primarily to low-income persons who are uninsured and who are
7 not recipients of any of the following:

8 **SECTION 56.** 146.89 (3s) of the statutes is created to read:

9 146.89 (3s) All of the following apply to a volunteer health care provider whose
10 joint application with a school board or relevant governing body is approved under
11 sub. (2):

12 (a) Before providing health care services in a school, the volunteer health care
13 provider shall provide to the school board or relevant governing body proof of
14 satisfactory completion of any competency requirements that are relevant to the
15 volunteer health care provider, as specified by the department of public instruction
16 by rule.

17 (b) Under this section, the volunteer health care provider may provide only to
18 students from 4-year-old kindergarten to grade 6 the following health care services:

19 1. Except as specified in par. (c), the health care services specified in sub. (3)

20 (b) 1. to 5., 7., and 8.

21 2. First aid for illness or injury.

22 3. Except as specified in par. (c), the administration of drugs, as specified in s.
23 118.29 (2) (a) 1. to 3.

24 4. Health screenings.

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1 5. Any other health care services designated by the department of public
2 instruction by rule.

3 (c) Under this section, the volunteer health care provider may not provide any
4 of the following:

- 5 1. Emergency medical services.
- 6 2. Hospitalization.
- 7 3. Surgery, except as provided in par. (b) 2. and 5.
- 8 4. A referral for abortion, as defined in s. 48.375.
- 9 5. A contraceptive article, as defined in s. 450.155 (1) (a).
- 10 6. A pregnancy test.

11 (d) Any health care services provided under par. (b) shall be provided without
12 charge at the school and shall be available to all students from 4-year-old
13 kindergarten to grade 6 regardless of income.

14 **SECTION 57.** 895.48 (1m) of the statutes, as affected by 2003 Wisconsin Act 33,
15 is renumbered 895.48 (1m) (a).

16 **SECTION 58.** 895.48 (1m) (b) of the statutes is created to read:

17 **895.48 (1m) (b)** This subsection does not apply to health care services provided
18 by a volunteer health care provider under s. 146.89.

19 **SECTION 59. Nonstatutory provisions.**

20 (1) **CRIMINAL BACKGROUND CHECKS.** Notwithstanding section 119.23 (7) (d) 2. of
21 the statutes, as created by this act, the first notarized statement required under that
22 subdivision is due within 60 days after the effective date of this subsection.

23 (2) **LEGISLATIVE AUDIT BUREAU POSITIONS.** The authorized FTE positions for the
24 legislative audit bureau, funded from the appropriation under section 20.765 (3) (g)

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1 of the statutes, are increased by 3.0 PR positions to conduct the study under section
2 119.23 (9) of the statutes, as created by this act.

3 **SECTION 60. Appropriation changes; public instruction.**

4 (1) ACHIEVEMENT GUARANTEE CONTRACTS. In the schedule under section 20.005
5 (3) of the statutes for the appropriation to the department of public instruction under
6 section 20.255 (2) (cu) of the statutes, as affected by the acts of 2003, the dollar
7 amount is increased by \$23,782,700 for fiscal year 2004–05 to increase funding for
8 the purpose for which the appropriation is made.

9 **SECTION 61. Initial applicability.**

10 (1) MILWAUKEE PARENTAL CHOICE PROGRAM.

11 (a) The treatment of sections 119.23 (2) (b), (7) (b), (d) and (e), (10), and (11) of
12 the statutes, the renumbering of section 119.23 (7) (am) of the statutes, and the
13 creation of section 119.23 (7) (am) 2. of the statutes first apply to private schools that
14 participate in the Milwaukee Parental Choice Program under section 119.23 of the
15 statutes, and to pupils who attend a private school under section 119.23 of the
16 statutes, in the 2004–05 school year.

17 (b) The treatment of section 119.23 (7) (am) 3. of the statutes first applies to
18 certifications under that subdivision that are due by September 1, 2005.

19 (c) The treatment of section 118.13 (1m) and 119.23 (2) (a) 1. and 2. of the
20 statutes first applies to persons who apply to attend a private school under section
21 119.23 of the statutes in the 2004–05 school year.

22 (2) VOLUNTEER HEALTH CARE PROVIDER PROGRAM. The treatment of sections
23 146.89 (2) (a), (c), and (d), (3) (b) (intro.), (c), and (d) (intro.), and (3s), the renumbering
24 of sections 146.89 (1) and 895.48 (1m) of the statutes, and the creation of sections
25 146.89 (1) (d), (g), and (h) and 895.48 (1m) (b) of the statutes first apply to

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1 applications submitted under section 146.89 (2) (a) of the statutes, as affected by this
2 act, on the effective date of this subsection.

3 (3) UNIVERSITY OF WISCONSIN-PARKSIDE. The treatment of section 118.40 (2r)
4 (cm) 1. of the statutes first applies in the 2004–05 school year.

5 (END)