2015 ASSEMBLY BILL 828

January 29, 2016 – Introduced by Representative KITCHENS, cosponsored by Senator OLSEN. Referred to Committee on Education.

AN ACT to repeal 115.385 (1g) (a), 115.385 (1g) (b), 118.60 (11) (bm) and 119.23 (11) (bm); to renumber and amend 118.33 (1m) (a) 2., 118.60 (7) (an) and 119.23 (7) (an); to amend 115.385 (1g) (c) 3. c., 118.60 (7) (am) 1m. and 119.23 (7) (am) 1m.; and to create 115.787 (2) (em), 118.33 (1m) (a) 2. b., 118.60 (7) (am) 3., 118.60 (7) (an) 1., 119.23 (7) (am) 3. and 119.23 (7) (an) 1. of the statutes; relating to: independent financial audits of private schools participating in a parental choice program, a civics exam as a condition for obtaining a high school diploma, and factors for determining school and school district performance on the school and school district accountability report.

Analysis by the Legislative Reference Bureau

This bill makes various changes to provisions related to primary and secondary education created in 2015 Wisconsin Act 55, the biennial budget act.

Civics exam as a condition for obtaining a high school diploma.

Current law requires that, beginning in the 2016–17 school year, before a school board, independent charter school, or private school participating in a parental choice program awards a high school diploma to a pupil, the pupil must receive a passing score on a civics exam that is identical to the civics exam required to be taken.
by persons seeking U.S. citizenship (mandatory civics exam). Current law provides an exception to this requirement for a pupil who has an IEP in effect. A pupil who has an IEP in effect must take the mandatory civics exam but is not required to receive a passing score as a condition of graduation. This bill expands this exception to apply to a parentally placed private school pupil with a disability.

This bill also requires an IEP team to include in a pupil’s IEP a statement about whether it is appropriate to administer the mandatory civics exam to the pupil. If a pupil’s IEP or services plan includes a statement that it is not appropriate to administer the mandatory civics exam to the pupil, completion of the mandatory civics exam may not be required as a condition of graduation for that pupil.

**Financial information about private schools participating in a parental choice program.**

This bill changes requirements created in 2015 Wisconsin Act 55 relating to independent financial audits of private schools participating in the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the statewide parental choice program (a parental choice program).

Under current law, each private school participating in a parental choice program must submit an annual independent financial audit to the department. This bill clarifies that, for purposes of the annual independent financial audit, in order for a cost to be an eligible education expense an independent auditor must test the cost and confirm that the cost is reasonable for the private school to achieve its educational purposes, as determined by the private school in a written policy. The bill also replaces the audit certification process created in 2015 Wisconsin Act 55 with a process and deadline for notifying a participating private school of whether or not it has satisfied the audit requirements.

Under the bill, a private school participating in a parental choice program must maintain a cash and investment balance that is at least equal to the private school’s reserve balance. In the event a private school ceases to participate in any parental choice program or is barred from participating in the parental choice programs, the private school must refund its reserve balance to the department.

**School and school district accountability report.**

This bill changes requirements created in 2015 Wisconsin Act 55 relating to how the department determines school and school district performance for purposes of the school and school district accountability report.

Current law requires the department to weight pupil test scores to account for the length of time pupils are enrolled in a school or school district before taking a test used for purposes of the accountability report and to exclude information about certain pupils who change schools for the ninth grade. This bill eliminates these requirements.

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_The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:_
SECTION 1. 115.385 (1g) (a) of the statutes, as created by 2015 Wisconsin Act 55, is repealed.

SECTION 2. 115.385 (1g) (b) of the statutes, as created by 2015 Wisconsin Act 55, is repealed.

SECTION 3. 115.385 (1g) (c) 3. c. of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

115.385 (1g) (c) 3. c. Add 3.35 3.33 to the result under subd. 3. b.

SECTION 4. 115.787 (2) (em) of the statutes is created to read:

115.787 (2) (em) A statement of whether it is appropriate to administer the civics test under s. 118.33 (1m) (a) to the child and, if it is appropriate, any accommodations that are necessary to measure the child’s knowledge of the information required to be tested on the civics test required under s. 118.33 (1m) (a).

SECTION 5. 118.33 (1m) (a) 2. of the statutes, as created by 2015 Wisconsin Act 55, is renumbered 118.33 (1m) (a) 2. a. and amended to read:

118.33 (1m) (a) 2. a. Except as provided in subd. 2. b., a school board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body of a private school participating in a program under s. 118.60 or 119.23 shall require a pupil for whom an individualized education program under s. 115.787 is in effect and a parentally placed child with a disability, as defined in 34 CFR 300.130, to complete the civics test described under subd. 1. but shall not condition graduation on the successful completion of the test.

SECTION 6. 118.33 (1m) (a) 2. b. of the statutes is created to read:

118.33 (1m) (a) 2. b. If a pupil’s individualized education program under s. 115.787 or a services plan, as defined in 34 CFR 300.37, includes a statement that it is not appropriate to administer the civics test under subd. 1. to the pupil, a school
board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body
of a private school participating in a program under s. 118.60 or 119.23 may not make
completion of the civics test described under subd. 1. a condition of graduation for
that pupil.

SECTION 7. 118.60 (7) (am) 1m. of the statutes, as created by 2015 Wisconsin
Act 55, is amended to read:

118.60 (7) (am) 1m. In this paragraph, “eligible education expenses” means all
direct and indirect costs associated with a private school’s educational programming
for pupils enrolled in grades kindergarten to 12 that are reasonable for the private
school to achieve its educational purposes, as determined by the governing body of
the private school in a written policy and reviewed tested by an independent auditor.
“Eligible education expenses” include expenses related to management, insurance,
transportation, extracurricular programming and activities, facility and equipment
costs, development expenses, and programming that provides child care services
before school, after school, or both before and after school. A cost is not an “eligible
education expense” if an independent auditor determines, after testing, that the cost
is not a cost associated with the private school’s educational programming for pupils
enrolled in grades kindergarten to 12 that is reasonable for the private school to
achieve its educational purposes, as determined by the governing body of the private
school in a written policy.

SECTION 8. 118.60 (7) (am) 3. of the statutes is created to read:

118.60 (7) (am) 3. a. By no later than February 15 or 120 days after the date
on which the audit under subd. 2m. a. is received by the department, whichever is
later, the department shall notify a private school participating in the program under
this section whether or not additional information is required for the department to
complete its review of the audit. Subject to subd. 3. b., the department may request that an auditor provide additional information if the request is related to the department reviewing the audit. The department shall determine whether a private school participating in the program under this section has provided the information and met the requirements required under subd. 2m. a. by April 1.

b. Before April 1, the department may contact the auditor who prepared the audit under subd. 2m. a. only regarding matters that may impact the private school’s financial statement by an amount that is greater than 1 percent of the total amount the private school received under this section for the previous school year and any items or information the department determines are missing from the audit.

c. Notwithstanding subd. 3. a. and b., the department may communicate with an auditor as necessary for the purpose of assessing the financial viability of a private school participating in the program under this section.

d. An auditor who receives a written communication under this subdivision shall respond to the department within 10 school days of receiving the written communication.

Section 9. 118.60 (7) (an) of the statutes, as created by 2015 Wisconsin Act 55, is renumbered 118.60 (7) (an) 2. and amended to read:

118.60 (7) (an) 2. If a private school participating in the program under this section has a cash or investment reserve balance that is greater than 50 percent of the total amount the private school received under this section in the previous school year, the governing body of the private school shall approve a plan for how it will use the amount of the cash or investment reserve balance that exceeds 50 percent of the total amount the private school received under this section in the previous school year.
**SECTION 10.** 118.60 (7) (an) 1. of the statutes is created to read:

118.60 (7) (an) 1. A private school participating in the program under this section shall maintain a cash and investment balance that is at least equal to its reserve balance. If a private school ceases to participate in or is barred from the program under this section and s. 119.23 and the private school’s reserve balance is positive, the private school shall refund the reserve balance to the department.

**SECTION 11.** 118.60 (11) (bm) of the statutes, as created by 2015 Wisconsin Act 55, is repealed.

**SECTION 12.** 119.23 (7) (am) 1m. of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

119.23 (7) (am) 1m. In this paragraph, “eligible education expenses” means all direct and indirect costs associated with a private school’s educational programming for pupils enrolled in grades kindergarten to 12 that are reasonable for the private school to achieve its educational purposes, as determined by the governing body of the private school in a written policy and tested by an independent auditor. “Eligible education expenses” include expenses related to management, insurance, transportation, extracurricular programming and activities, facility and equipment costs, development expenses, and programming that provides child care services before school, after school, or both before and after school. A cost is not an “eligible education expense” if an independent auditor determines, after testing, that the cost is not a cost associated with the private school’s educational programming for pupils enrolled in grades kindergarten to 12 that is reasonable for the private school to achieve its educational purposes, as determined by the governing body of the private school in a written policy.

**SECTION 13.** 119.23 (7) (am) 3. of the statutes is created to read:
119.23 (7) (am) 3. a. By no later than February 15 or 120 days after the date on which the audit under subd. 2m. a. is received by the department, whichever is later, the department shall notify a private school participating in the program under this section whether or not additional information is required for the department to complete its review of the audit. Subject to subd. 3. b., the department may request that an auditor provide additional information if the request is related to the department reviewing the audit. The department shall determine whether a private school participating in the program under this section has provided the information and met the requirements required under subd. 2m. a. by April 1.

b. Before April 1, the department may contact the auditor who prepared the audit under subd. 2m. a. only regarding matters that may impact the private school’s financial statement by an amount that is greater than 1 percent of the total amount the private school received under this section for the previous school year and any items or information the department determines are missing from the audit.

c. Notwithstanding subd. 3. a. and b., the department may communicate with an auditor as necessary for the purpose of assessing the financial viability of a private school participating in the program under this section.

d. An auditor who receives a written communication under this subdivision shall respond to the department within 10 school days of receiving the written communication.

Section 14. 119.23 (7) (an) of the statutes, as created by 2015 Wisconsin Act 55, is renumbered 119.23 (7) (an) 2. and amended to read:

119.23 (7) (an) 2. If a private school participating in the program under this section has a cash or investment reserve balance that is greater than 50 percent of the total amount the private school received under this section in the previous school...
year, the governing body of the private school shall approve a plan for how it will use
the amount of the cash or investment reserve balance that exceeds 50 percent of the
total amount the private school received under this section in the previous school
year.

SECTION 15. 119.23 (7) (an) 1. of the statutes is created to read:

119.23 (7) (an) 1. A private school participating in the program under this
section shall maintain a cash and investment balance that is at least equal to its
reserve balance. If a private school ceases to participate in or is barred from the
program under this section and s. 118.60 and the private school’s reserve balance is
positive, the private school shall refund the reserve balance to the department.

SECTION 16. 119.23 (11) (bm) of the statutes, as created by 2015 Wisconsin Act
55, is repealed.

SECTION 17. Initial applicability.

(1) INDEPENDENT FINANCIAL AUDITS OF PRIVATE SCHOOLS PARTICIPATING IN A
PARENTAL CHOICE PROGRAM. The treatment of sections 118.60 (7) (am) 1m. and 3. and
(11) (bm) and 119.23 (7) (am) 1m. and 3. and (11) (bm) of the statutes first applies to
a financial audit of the 2015–16 school year.

(END)