



## 2015 SENATE BILL 3

January 16, 2015 - Introduced by Senators HARRIS DODD, C. LARSON, BEWLEY, CARPENTER, ERPENBACH, HANSEN, LASSA, MILLER, RINGHAND, RISSER, SHILLING, L. TAYLOR, VINEHOUT and WIRCH, cosponsored by Representatives POPE, BARNES, SINICKI, BARCA, BERCEAU, BILLINGS, BOWEN, BROSTOFF, CONSIDINE, DANOU, DOYLE, GENRICH, GOYKE, HEBL, HESSELBEIN, HINTZ, JOHNSON, JORGENSEN, KAHL, KESSLER, KOLSTE, MASON, MEYERS, MILROY, OHNSTAD, RIEMER, SARGENT, SHANKLAND, SPREITZER, STUCK, SUBECK, C. TAYLOR, WACHS, YOUNG, ZAMARRIPA and ZEPNICK. Referred to Committee on Education Reform and Government Operations.

1     **AN ACT** *to repeal* 118.60 (2) (bm), 118.60 (4) (bg), 118.60 (11) (d), 119.23 (4) (bg)  
2             1. and 119.23 (11) (d); *to renumber and amend* 118.016 (1) and 118.31 (1); *to*  
3             **amend** 115.28 (7) (b), 118.016 (1g), (1r) and (2), 118.19 (1), 118.30 (5m), 118.305  
4             (1) (h), 118.305 (3) (e), 118.31 (2), 118.31 (3) (intro.), 118.31 (4), 118.31 (5), 118.31  
5             (6), 118.60 (2) (a) (intro.), 118.60 (2) (a) 1. a., 118.60 (2) (c), 118.60 (3) (c), 118.60  
6             (4) (d) (intro.), 118.60 (4) (d) 2., 118.60 (4r) (a), 118.60 (7) (am) 1., 118.60 (7) (b)  
7             3m., 118.60 (7) (d) 1. b., 118.60 (10) (a) 3., 118.60 (10) (a) 7., 118.60 (10) (c), 119.23  
8             (2) (a) 1. a., 119.23 (2) (c), 119.23 (4) (d) (intro.), 119.23 (4) (d) 2., 119.23 (4r) (a),  
9             119.23 (7) (am) 1., 119.23 (7) (b) 3m., 119.23 (7) (d) 1. b., 119.23 (10) (a) 3., 119.23  
10            (10) (a) 7. and 119.23 (10) (c); *to repeal and recreate* 118.60 (4m) and 119.23  
11            (4m); and *to create* 118.016 (1) (b), 118.305 (1) (gm), 118.31 (1) (b), 118.33 (1)  
12            (f) 5., 118.60 (2) (a) 1. am., 118.60 (2) (a) 6m., 118.60 (2) (a) 9., 118.60 (2) (a) 10.,  
13            118.60 (2) (d), 118.60 (4) (bd), 118.60 (7) (b) 9., 118.60 (7) (d) 1. d., 118.60 (7) (i),  
14            118.60 (10) (a) 9., 118.60 (10) (a) 10., 118.60 (10) (bg), 118.60 (10) (br), 119.23 (2)

**SENATE BILL 3**

1 (a) 1. am., 119.23 (2) (a) 6m., 119.23 (2) (a) 9., 119.23 (2) (a) 10., 119.23 (2) (d),  
2 119.23 (4) (bd), 119.23 (7) (b) 9., 119.23 (7) (d) 1. d., 119.23 (7) (i), 119.23 (10) (a)  
3 9., 119.23 (10) (a) 10., 119.23 (10) (bg), 119.23 (10) (br) and 120.13 (1) (i) of the  
4 statutes; **relating to:** accountability provisions for private schools  
5 participating in a parental choice program and requiring the exercise of  
6 rule-making authority.

---

***Analysis by the Legislative Reference Bureau***

This bill makes a number of changes to the law governing the Milwaukee Parental Choice Program, the Racine Parental Choice Program, and the statewide parental choice program (parental choice programs). The changes are to take effect in the 2015–16 school year.

***Family income for pupil eligibility***

Current law permits a pupil to attend a participating private school under the Racine Parental Choice Program or the Milwaukee Parental Choice Program if the pupil resides in the Racine Unified School District (RUSD) or the Milwaukee Public School District (MPS), respectively, and the family income of the pupil does not exceed three times the federal poverty level. Current law also permits a pupil who resides in a school district other than RUSD or MPS to attend a participating private school if the family income of the pupil does not exceed 1.85 times the federal poverty level. Under each parental choice program, if the family income of a pupil who is attending a private school under the program increases, the pupil may continue to attend a private school under the program.

Under this bill, beginning in the 2015–16 school year, no pupil whose family income exceeds 1.85 times the federal poverty level may attend a participating private school under any of the parental choice programs. The bill makes no changes to the provisions governing a pupil who is attending a private school under the program and whose family income increases.

***Per pupil payments***

Under current law, in the 2014–15 school year, for each pupil enrolled in a private school under a parental choice program, the department must pay to the private school an amount equal to the the lesser of the private school's per pupil operating and debt service cost that is related to educational programming (educational costs) or \$7,210 for a pupil enrolled in a grade from kindergarten to 8 and to \$7,856 for a pupil enrolled in a grade from 9 to 12 (the maximum payment per pupil).

Under current law, if a private school enrolls pupils under a parental choice program in any grade from K to 8 and also in any grade from 9 to 12, current law prohibits the department from determining separate educational costs for pupils

**SENATE BILL 3**

enrolled in grades K to 8 and for pupils enrolled in grades 9 to 12. Instead, the maximum payment per pupil for that school would be an amount determined by: (a) multiplying the number of pupils enrolled in the school under a choice program in any grade from K to 8 by the maximum payment amount for those grades; (b) multiplying the number of pupils enrolled in the school under a choice program in any grade from 9 to 12 by the maximum payment amount for those grades; (c) adding those two amounts together; and (d) dividing that sum by the total number of pupils enrolled in the school under a parental choice program.

Finally, under current law, beginning in the 2015-16 school year, the maximum per pupil payment in any given school year is equal to the maximum per pupil payment in the previous school year plus the revenue limit per pupil adjustment, if positive, provided to school districts in the current year plus the change in total categorical aid funding per pupil, if positive, from the prior year to the current year.

This bill eliminates these methods for determining per pupil payments to participating private schools. Under this bill, beginning in the 2015-16 school year, for each pupil enrolled in a private school under a parental choice program, the department must pay the lesser of the following: a) the private school's per pupil educational costs; b) a rolling average of the tuition paid by a pupil attending the private school, but not under a parental choice program, in the current and two preceding school years; or c) \$6,442.

***Teacher licensure***

With certain exceptions, current law requires that the teachers and administrators employed by a private school participating in a parental choice program have at least a bachelor's degree from an accredited institution of higher education. The teachers and administrators are not required to be licensed by the department.

With certain exceptions, this bill requires that all instructional staff of private schools participating in a parental choice program hold a license or permit issued by the department. "Instructional staff" means all professional employees who have as part of their responsibility direct contact with pupils or with the private school's instructional program.

***Background investigations of teachers and administrators***

Under current law, the state superintendent of public instruction (state superintendent) must, with the assistance of the Department of Justice (DOJ), conduct a background investigation of each applicant for issuance or renewal of a license or permit. Current law requires the state superintendent to revoke a license issued to an individual (licensee) by the state superintendent for incompetency or immoral conduct on the part of the licensee; if the licensee is convicted of certain Class A, B, C, D, E, F, G, or H felonies or certain other crimes or violations, including sex offenses; or if the licensee is liable for delinquent taxes or is delinquent in making court-ordered payments of child or family support payments.

This bill requires each private school participating in a parental choice program to conduct a background check of each teacher and administrator employed by the private school on the effective date of the bill. The bill also requires each participating private school to conduct a background check prior to extending an

**SENATE BILL 3**

offer of employment to an individual who applies to teach in or serve as an administrator of the private school. Finally, the bill requires the private school to annually conduct a background check of each teacher and administrator employed by the private school. The bill prohibits a participating private school from employing a teacher or administrator who would not be eligible for employment in a public school for any of the reasons identified above. The bill also authorizes the state superintendent to immediately terminate a private school's participation in a parental choice program if the owner of the private school would not be eligible for employment for any of the reasons identified above or if the private school employs a teacher or administrator without conducting a background check or the teacher or administrator would be ineligible to be licensed for any of the reasons identified above.

***Reading readiness assessments of participating pupils***

Under current law, each school board and the governing body of each independent charter school must assess each pupil enrolled in four-year-old kindergarten to second grade for reading readiness.

This bill extends this requirement to private schools participating in a parental choice program. The requirement applies only to those pupils attending the private school under the program. The bill also authorizes the state superintendent of public instruction to issue an order barring a private school from participating in a parental choice program for the current school year if it violates the requirement described above.

***Criteria for awarding a high school diploma to participating pupils***

Current law requires the governing body of each private school participating in a parental choice program to develop a policy specifying criteria for granting a high school diploma to pupils attending the school under the program. The criteria must include the pupil's academic performance and the recommendations of teachers. The private school may not grant a high school diploma to any pupil attending the school under the program unless the pupil satisfies the criteria specified in the policy.

Beginning in the 2015-16 school year, this bill requires a private school participating in a parental choice program to include in its policy the requirements for granting a high school diploma applicable to public school pupils. These requirements include earning a specified minimum number of credits in certain subjects and, in grades 9 to 12, being enrolled in a class or participating in an activity approved by the school board during each class period of each school day.

The bill also authorizes the state superintendent of public instruction to issue an order barring a private school from participating in a parental choice program for the current school year if the private school fails to include these new requirements in its high school graduation policy.

***Corporal punishment of pupils enrolled in a participating private school***

Under current law, no official, employee, or agent of a school district (school employee) may subject a pupil enrolled in the school district to corporal punishment. Current law defines corporal punishment to mean "the intentional infliction of physical pain which is used as a means of discipline." Current law permits a school employee to use reasonable and necessary force under certain circumstances,

**SENATE BILL 3**

including to obtain possession of a weapon from a pupil, protect the safety of others, or quell a disturbance. Each school board must establish a policy to outline the circumstances in which a school employee may use reasonable and necessary force.

This bill extends these provisions regarding corporal punishment to private schools participating in a parental choice program, and permits the state superintendent to issue an order barring the private school from participating in a parental choice program for the current school year if the private school fails to comply with these provisions.

***Expulsion of pupils from participating private schools***

Under current law, a pupil may be expelled from a public school for repeatedly violating school rules; making a bomb threat; or endangering or threatening to endanger the property, health, or safety of others. A pupil who has a firearm at school must be expelled for at least one year. Before expelling a pupil, the school board must provide a hearing at which the pupil or his or her parent may be represented by an attorney. After the hearing, the school board must issue a written decision, which may be appealed to the state superintendent of public instruction.

This bill directs the department to promulgate rules establishing a procedure for the expulsion of pupils attending a private school under a parental choice program by the governing body of the private school. The rules must adhere as closely as feasible to the statutory provisions governing the expulsion of pupils from public schools.

The bill also authorizes the state superintendent to issue an order barring a private school from participating in a parental choice program for the current school year if the private school violates the rules described above.

***Regular building inspection of certain participating private schools***

Under current law, before a private school may participate in a parental choice program, the private school must submit to the department a copy of the certificate of occupancy (certificate) issued for the private school building by the municipality within which the private school is located. If the municipality does not issue certificates, the private school may submit either a certificate issued by a local or regional governmental unit with authority to issue such a certificate or a letter or form from the municipality that explains that the municipality does not issue certificates.

This bill requires a private school located in a municipality that does not issue certificates to annually obtain a building inspection of the school building.

***Miscellaneous other provisions***

Under current law, the department may only release data related to enrollment of, standardized test results for, and other information related to pupils participating in a parental choice program all at the same time, uniformly, and completely. This bill eliminates this requirement.

This bill requires a private school participating in a parental choice program to permit public inspection and copying of any record of the private school that relates to pupils attending the private school under the program to the same extent as required of, and subject to the same terms and enforcement provisions that apply to, a school board. The bill authorizes the department to issue an order barring the

**SENATE BILL 3**

private school from participating in the parental choice program for the current school year if the private school violates this requirement.

This bill requires that a private school be located in this state in order to participate in a parental choice program.

This bill provides that a private school may participate in a parental choice program only if it has been in operation for the attendance of pupils for at least two school years. The bill also provides that no more than 49 percent of a private school's enrollment may consist of pupils attending the private school under a parental choice program.

Currently, a private school participating in a parental choice program must schedule two meetings each year at which members of the school's governing board will be present and at which pupils and prospective pupils and their parents may meet and communicate with the members of the governing board.

This bill requires a private school participating in a parental choice program to hold at least one such meeting each month. The bill requires that the meetings be open to the public and that the private school provide public notice of the meetings in the same manner as notice of meetings of governmental bodies is required to be provided. Finally, the bill authorizes the department to issue an order barring the private school from participating in the parental choice program for the current school year if the private school violates these requirements.

For further information see the *state* 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.** 115.28 (7) (b) of the statutes is amended to read:

2           115.28 (7) (b) Subject to the same rules and laws concerning qualifications of  
3 applicants and granting and revocation of licenses ~~or certificates~~ under par. (a), the  
4 state superintendent shall grant ~~certificates~~ and licenses to teachers in private  
5 schools and tribal schools, except that teaching experience requirements for such  
6 ~~certificates~~ and licenses may be fulfilled by teaching experience in public, private,  
7 or tribal schools. An applicant is not eligible for a license ~~or certificate~~ unless the  
8 state superintendent finds that the private school or tribal school in which the  
9 applicant taught offered an adequate educational program during the period of the  
10 applicant's teaching therein. ~~Private~~ Except as provided in ss. 118.60 (2) (a) 6m. and

**SENATE BILL 3**

1 119.23 (2) (a) 6m., private schools are not obligated to employ only licensed or  
2 certified teachers.

3 **SECTION 2.** 118.016 (1) of the statutes is renumbered 118.016 (1) (a) and  
4 amended to read:

5 118.016 (1) (a) In the 2013-14 school year, each school board and the ~~governing~~  
6 ~~body~~ operator of each charter school established under s. 118.40 (2r) shall, using the  
7 appropriate, valid, and reliable assessment of literacy fundamentals selected by the  
8 department, annually assess each pupil enrolled in 4-year-old kindergarten to first  
9 grade in the school district or in the charter school for reading readiness. Beginning  
10 in the 2014-15 school year, each school board and the ~~governing body~~ operator of  
11 each charter school established under s. 118.40 (2r) shall, using the appropriate,  
12 valid, and reliable assessment of literacy fundamentals selected by the department,  
13 annually assess each pupil enrolled in 4-year-old kindergarten to second grade in  
14 the school district or in the charter school for reading readiness.

15 (c) The department shall ensure that the assessment under this subsection  
16 evaluates whether a pupil possesses phonemic awareness and letter sound  
17 knowledge.

18 **SECTION 3.** 118.016 (1) (b) of the statutes is created to read:

19 118.016 (1) (b) In the 2015-16 school year, the governing body of each private  
20 school participating in a parental choice program under s. 118.60 or 119.23 shall,  
21 using the appropriate, valid, and reliable assessment of literacy fundamentals  
22 selected by the department, annually assess each pupil enrolled in 4-year-old  
23 kindergarten to first grade in the private school for reading readiness. Beginning in  
24 the 2016-17 school year, the governing body of each private school participating in  
25 a parental choice program under s. 118.60 or 119.23 shall, using the appropriate,

**SENATE BILL 3****SECTION 3**

1 valid, and reliable assessment of literacy fundamentals selected by the department,  
2 annually assess each pupil enrolled in 4-year-old kindergarten to second grade in  
3 the private school for reading readiness. This paragraph applies only to pupils  
4 attending the school under s. 118.60 or 119.23.

5 **SECTION 4.** 118.016 (1g), (1r) and (2) of the statutes are amended to read:

6 118.016 (1g) If a pupil is enrolled in a special education program under subch.  
7 V of ch. 115, the school board ~~or~~, operator of the charter school under s. 118.40 (2r),  
8 or governing body of the private school under s. 118.60 or 119.23 shall comply with  
9 s. 115.77 (1m) (bg).

10 (1r) The school board, operator of the charter school, or governing body of the  
11 ~~charter private~~ school shall report the results of a pupil's assessment under sub. (1)  
12 to the pupil's parent or guardian.

13 (2) The school board of the school district, operator of the charter school, or  
14 governing body of the ~~charter private~~ school in which the pupil is enrolled shall  
15 provide a pupil whose assessment under sub. (1) indicates that he or she is at risk  
16 of reading difficulty with interventions or remedial reading services, as described  
17 under s. 121.02 (1) (c).

18 **SECTION 5.** 118.19 (1) of the statutes is amended to read:

19 118.19 (1) Except as provided in s. 118.40 (8) (b) 2., any person seeking to teach  
20 in a public school, including a charter school, in a private school participating in a  
21 parental choice program under s. 118.60 or 119.23, or in a school or institution  
22 operated by a county or the state shall first procure a license or permit from the  
23 department.

24 **SECTION 6.** 118.30 (5m) of the statutes is amended to read:



**SENATE BILL 3**

1           118.30 (5m) When determining the percentage of pupils participating in the  
2 program under s. 119.23 who performed at designated proficiency levels on the  
3 examinations administered as required under sub. (1s), the department shall  
4 ~~consider only the pupils participating in the program under s. 119.23 to whom the~~  
5 ~~examinations were administered at each grade level, and shall not exclude from~~  
6 consideration those pupils participating in the program under s. 119.23 who were  
7 excused from taking the examinations under sub. (2) (b) 5.

8           **SECTION 7.** 118.305 (1) (gm) of the statutes is created to read:

9           118.305 (1) (gm) “Pupil” excludes pupils who are attending a private school  
10 participating in a parental choice program under s. 118.60 or 119.23 but not under  
11 the parental choice program.

12           **SECTION 8.** 118.305 (1) (h) of the statutes is amended to read:

13           118.305 (1) (h) “School” means a public school, including a charter school, and  
14 a private school participating in a parental choice program under s. 118.60 or 119.23.

15           **SECTION 9.** 118.305 (3) (e) of the statutes is amended to read:

16           118.305 (3) (e) It does not constitute corporal punishment, as defined in s.  
17 118.31 (1) (a).

18           **SECTION 10.** 118.31 (1) of the statutes is renumbered 118.31 (1) (intro.) and  
19 amended to read:

20           118.31 (1) (intro.) In this section, ~~“corporal:~~

21           (a) “Corporal punishment” means the intentional infliction of physical pain  
22 which is used as a means of discipline. “Corporal punishment” includes, but is not  
23 limited to, paddling, slapping or prolonged maintenance of physically painful  
24 positions, when used as a means of discipline. “Corporal punishment” does not

**SENATE BILL 3**

1 include actions consistent with an individualized education program developed  
2 under s. 115.787 or reasonable physical activities associated with athletic training.

3 **SECTION 11.** 118.31 (1) (b) of the statutes is created to read:

4 118.31 (1) (b) "Private school" means a private school, as defined in s. 115.001  
5 (3r), that is participating in any parental choice program under ss. 118.60 and  
6 119.23.

7 **SECTION 12.** 118.31 (2) of the statutes is amended to read:

8 118.31 (2) Except as provided in sub. (3), no official, employee, or agent of a  
9 school board or of a private school may subject a pupil enrolled in the school district  
10 or in the private school to corporal punishment.

11 **SECTION 13.** 118.31 (3) (intro.) of the statutes is amended to read:

12 118.31 (3) (intro.) Subsection (2) does not prohibit an official, employee, or  
13 agent of a school board or of a private school from:

14 **SECTION 14.** 118.31 (4) of the statutes is amended to read:

15 118.31 (4) Each school board and each private school shall adopt a policy that  
16 allows any official, employee, or agent of the school board or private school to use  
17 reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining  
18 whether or not ~~a person~~ an official, employee, or agent of a school board or of a private  
19 school was acting within the exceptions in sub. (3), deference shall be given to  
20 reasonable, good faith judgments made by ~~an~~ the official, employee, or agent of a  
21 school board.

22 **SECTION 15.** 118.31 (5) of the statutes is amended to read:

23 118.31 (5) Except as provided in s. 939.61 (1), this section does not create a  
24 separate basis for civil liability of a school board or of a private school or their  
25 ~~officials, employees or agents~~ of an official, employee, or agent of the school board or

**SENATE BILL 3**

1 private school for damages arising out of claims involving allegations of improper or  
2 unnecessary use of force by a school employees official, employee, or agent against  
3 students a pupil.

4 **SECTION 16.** 118.31 (6) of the statutes is amended to read:

5 118.31 (6) Nothing in this section shall prohibit, permit, or otherwise affect any  
6 action taken by an official, employee, or agent of a school board or private school with  
7 regard to a person who is not a pupil enrolled in the school district or in the private  
8 school.

9 **SECTION 17.** 118.33 (1) (f) 5. of the statutes is created to read:

10 118.33 (1) (f) 5. Beginning in the 2015-16 school year, the governing body of  
11 each private school participating in a parental choice program under s. 118.60 or  
12 119.23 shall include in its policy under subd. 2m. or 2r. the requirements for granting  
13 a high school diploma specified in pars. (a) and (b), with the exceptions provided in  
14 pars. (d) and (e).

15 **SECTION 18.** 118.60 (2) (a) (intro.) of the statutes is amended to read:

16 118.60 (2) (a) (intro.) Subject to pars. (ag) and (ar), any pupil in grades  
17 kindergarten to 12 who resides within an eligible school district may attend any  
18 private school under this section and, subject to pars. (ag), (ar), (be), (~~bm~~), and (bs),  
19 any pupil in grades kindergarten to 12 who resides in a school district, other than  
20 an eligible school district or a 1st class city school district, may attend any private  
21 school under this section if all of the following apply:

22 **SECTION 19.** 118.60 (2) (a) 1. a. of the statutes is amended to read:

23 118.60 (2) (a) 1. a. Except as provided in ~~par. (bm)~~ subd. 1. am., the pupil is a  
24 member of a family that has a total family income that does not exceed an amount  
25 equal to 3.0 times the poverty level determined in accordance with criteria

**SENATE BILL 3**

1 established by the director of the federal office of management and budget. In this  
2 subdivision and sub. (3m), family income includes income of the pupil's parents or  
3 legal guardians. ~~The, and the~~ family income of the pupil shall be verified as provided  
4 in subd. 1. b. A pupil attending a private school under this section whose family  
5 income increases above the income level in this subd. 1. a. may continue to attend  
6 a private school under this section.

7 **SECTION 20.** 118.60 (2) (a) 1. am. of the statutes is created to read:

8 118.60 (2) (a) 1. am. Beginning in the 2015-16 school year, the pupil is a  
9 member of a family that has a total family income that does not exceed an amount  
10 equal to 1.85 times the poverty level determined in accordance with criteria  
11 established by the director of the federal office of management and budget. The  
12 family income of the pupil shall be verified as provided in subd. 1. b. A pupil  
13 attending a private school under this section whose family income increases above  
14 the income level in this subd. 1. am. may continue to attend a private school under  
15 this section.

16 **SECTION 21.** 118.60 (2) (a) 6m. of the statutes is created to read:

17 118.60 (2) (a) 6m. All instructional staff employed by the private school hold  
18 a license or permit to teach issued by the department. For purposes of this  
19 subdivision, "instructional staff" has the meaning given in the rules promulgated by  
20 the department under s. 121.02 (1) (a) 2.

21 **SECTION 22.** 118.60 (2) (a) 9. of the statutes is created to read:

22 118.60 (2) (a) 9. The private school has been in operation for the attendance of  
23 pupils for at least 2 school years.

24 **SECTION 23.** 118.60 (2) (a) 10. of the statutes is created to read:

25 118.60 (2) (a) 10. The private school is located in this state.

**SENATE BILL 3**

1           **SECTION 24.** 118.60 (2) (bm) of the statutes is repealed.

2           **SECTION 25.** 118.60 (2) (c) of the statutes is amended to read:

3           118.60 (2) (c) 1. Notwithstanding par. (a) 6. and 6m., a teacher employed by a  
4 private school participating in the program under this section who teaches only  
5 courses in rabbinical studies is not required to have a bachelor's degree or hold a  
6 license or permit to teach issued by the department.

7           2. Notwithstanding par. (a) 6. and 6m., an administrator of a private school  
8 participating in the program under this section that prepares and trains pupils  
9 attending the school in rabbinical studies is not required to have a bachelor's degree  
10 or hold a license or permit to teach issued by the department.

11           **SECTION 26.** 118.60 (2) (d) of the statutes is created to read:

12           118.60 (2) (d) No more than 49 percent of a private school's enrollment may  
13 consist of pupils attending the private school under this section and s. 119.23.

14           **SECTION 27.** 118.60 (3) (c) of the statutes is amended to read:

15           118.60 (3) (c) If a participating private school rejects an applicant who resides  
16 in a school district, other than an eligible school district or a 1st class city school  
17 district, because the private school has too few available spaces, the applicant may  
18 transfer his or her application to a participating private school that has space  
19 available. An applicant rejected under this paragraph may, subject to sub. (2) (a) 1.  
20 am. and (be) and (bm), be admitted to a private school participating in the program  
21 under this section for the following school year.

22           **SECTION 28.** 118.60 (4) (bd) of the statutes is created to read:

23           118.60 (4) (bd) Upon receipt from the pupil's parent or guardian of proof of the  
24 pupil's enrollment in the private school during a school term, the state  
25 superintendent shall pay to the private school in which the pupil is enrolled on behalf

**SENATE BILL 3**

1 of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fr), an  
2 amount equal to the lesser of the following:

3 1. The amount equal to the private school's operating and debt service cost per  
4 pupil that is related to educational programming, as determined by the department.

5 2. The average of the tuition paid by a pupil attending the private school, but  
6 not under the program under this section or the program under s. 119.23, in the  
7 current and 2 preceding school years.

8 3. \$6,442.

9 **SECTION 29.** 118.60 (4) (bg) of the statutes is repealed.

10 **SECTION 30.** 118.60 (4) (d) (intro.) of the statutes is amended to read:

11 118.60 (4) (d) (intro.) In determining a private school's operating and debt  
12 service cost per pupil under par. (bg) (bd) 1., the department shall do all of the  
13 following, but may not determine separate costs for pupils enrolled in grades  
14 kindergarten to 8 and for pupils enrolled in grades 9 to 12:

15 **SECTION 31.** 118.60 (4) (d) 2. of the statutes is amended to read:

16 118.60 (4) (d) 2. If legal title to the private school's buildings and premises is  
17 held in the name of the private school's parent organization or other related party,  
18 there is no other mechanism to include the private school's facilities costs in the  
19 calculation of its operating and debt service cost, and the private school requests that  
20 the department do so, include an amount equal to 10.5 percent of the fair market  
21 value of the school and its premises. ~~If legal title to the private school's buildings and~~  
22 ~~premises is held in the name of the private school's parent organization or other~~  
23 ~~related party but the private school was not permitted to include an amount equal~~  
24 ~~to 10.5 percent of the fair market value of the school and its premises in the 2012-13~~  
25 ~~school year, the private school may, beginning on July 2, 2013, request the~~

**SENATE BILL 3**

1     ~~department to include that amount.~~ A request made by a private school under this  
2     subdivision remains effective in subsequent school years and may not be withdrawn  
3     by the private school.

4             **SECTION 32.** 118.60 (4m) of the statutes is repealed and recreated to read:

5             118.60 **(4m)** In addition to the payment under sub. (4), the state  
6     superintendent shall pay to each private school participating in the program under  
7     this section, on behalf of the parent or guardian of each pupil attending the private  
8     school under this section, in the manner described in sub. (4) (c), the amount  
9     determined as follows:

10            (a) Determine the private school's operating and debt service cost per pupil in  
11     summer school that is related to educational programming.

12            (b) Multiply the amount under par. (a) by 0.40.

13            (c) Multiply the product under par. (b) by the quotient determined by dividing  
14     the summer choice average daily membership equivalent of the private school by the  
15     total number of pupils for whom payments are being made under sub. (4).

16            **SECTION 33.** 118.60 (4r) (a) of the statutes is amended to read:

17            118.60 **(4r)** (a) Multiply the amount determined under sub. (4) ~~(b)~~ (bd) by  
18     0.616.

19            **SECTION 34.** 118.60 (7) (am) 1. of the statutes is amended to read:

20            118.60 **(7)** (am) 1. An independent financial audit of the private school  
21     conducted by an independent certified public accountant, accompanied by the  
22     auditor's statement that the report is free of material misstatements and fairly  
23     presents pupil costs under sub. (4) ~~(b)~~ (bd) 1. The audit under this subdivision shall  
24     be limited in scope to those records that are necessary for the department to make  
25     payments under subs. (4) and (4m). The auditor shall conduct his or her audit,

**SENATE BILL 3**

1 including determining sample sizes and evaluating financial viability, in accordance  
2 with the auditing standards established by the American Institute of Certified  
3 Public Accountants. The department may not require an auditor to comply with  
4 standards that exceed the scope of the standards established by the American  
5 Institute of Certified Public Accountants. If a private school participating in the  
6 program under this section also accepts pupils under s. 119.23, the private school  
7 may submit one comprehensive financial audit to satisfy the requirements of this  
8 subdivision and s. 119.23 (7) (am) 1. The private school shall include in the  
9 comprehensive financial audit the information specified under s. 119.23 (7) (am) 1.

10 **SECTION 35.** 118.60 (7) (b) 3m. of the statutes is amended to read:

11 118.60 (7) (b) 3m. Annually, schedule ~~2 meetings~~ at least one meeting each  
12 month at which members of the governing body of the private school will be present  
13 and at which pupils, and the parents or guardians of pupils, applying to attend the  
14 private school or attending the private school may meet and communicate with the  
15 members of the governing body. The meetings shall be open to the public. The  
16 private school shall, within 30 days after the start of the school term, notify the  
17 department in writing of the scheduled meeting dates and shall, at least 30 days  
18 before the scheduled meeting date, notify in writing each pupil, or the parent or  
19 guardian of each minor pupil, applying to attend the private school or attending the  
20 private school of the meeting date, time, and place. The private school shall provide  
21 notice of the meetings in the manner provided in s. 19.84.

22 **SECTION 36.** 118.60 (7) (b) 9. of the statutes is created to read:

23 118.60 (7) (b) 9. Permit public inspection and copying of any record, as defined  
24 in s. 19.32 (2), of the private school to the same extent as required of, and subject to  
25 the same terms and enforcement provisions that apply to, a school board under



**SENATE BILL 3**

1 subch. II of ch. 19. This subdivision applies only to records that relate to pupils  
2 attending the private school under this section.

3 **SECTION 37.** 118.60 (7) (d) 1. b. of the statutes is amended to read:

4 118.60 (7) (d) 1. b. ~~A~~ Except as provided in subd. 1. c., a copy of the school's  
5 current certificate of occupancy issued by the municipality within which the school  
6 is located. If the private school moves to a new location, the private school shall  
7 submit a copy of the new certificate of occupancy issued by the municipality within  
8 which the school is located to the department before the attendance of pupils at the  
9 new location and before the next succeeding date specified in s. 121.05 (1) (a).

10 c. If the municipality within which the private school is located does not issue  
11 certificates of occupancy, ~~the private school may submit~~ a certificate of occupancy  
12 issued by the local or regional governmental unit with authority to issue certificates  
13 of occupancy or a letter or form from the municipality within which the private school  
14 is located that explains that the municipality does not issue certificates of occupancy.  
15 ~~A temporary certificate of occupancy does not meet the requirement of this~~  
16 ~~subdivision~~ private school to which this subd. 1. c. applies shall annually obtain a  
17 building inspection of the school building.

18 **SECTION 38.** 118.60 (7) (d) 1. d. of the statutes is created to read:

19 118.60 (7) (d) 1. d. A temporary certificate of occupancy does not satisfy the  
20 requirements of this subdivision.

21 **SECTION 39.** 118.60 (7) (i) of the statutes is created to read:

22 118.60 (7) (i) 1. Each private school participating in the program under this  
23 section shall annually conduct state and federal background checks of all teachers  
24 and administrators employed by the private school on the effective date of this  
25 subdivision .... [LRB inserts date].

**SENATE BILL 3**

1           2. Beginning on the effective date of this subdivision .... [LRB inserts date],  
2 each private school participating in the program under this section shall conduct  
3 state and federal background checks of each individual who applies to teach in or  
4 serve as an administrator of the private school prior to extending an offer of  
5 employment to that individual. The private school shall annually conduct state and  
6 federal background checks of each teacher or administrator investigated under this  
7 subdivision who is employed by the private school.

8           3. A participating private school may not employ a person as a teacher or  
9 administrator or contract with the person to serve as a teacher or administrator if  
10 the person would not be eligible to be employed, licensed, or permitted for any of the  
11 reasons specified under s. 115.31 (2g) or (6m) or 115.315.

12           **SECTION 40.** 118.60 (10) (a) 3. of the statutes is amended to read:

13           118.60 (10) (a) 3. Failed to refund to the state any overpayment made under  
14 s. 118.60 (4) (b), 2011 stats., or s. 118.60 (4) (bg), 2011 stats., or under sub. (4) (~~bg~~) (bd)  
15 or (4m) by the date specified by department rule.

16           **SECTION 41.** 118.60 (10) (a) 7. of the statutes is amended to read:

17           118.60 (10) (a) 7. Violated sub. (7) (b) 3m., 4., 5., or 9.

18           **SECTION 42.** 118.60 (10) (a) 9. of the statutes is created to read:

19           118.60 (10) (a) 9. Violated or employed a person who violated s. 118.016, 118.19  
20 (1), 118.305, 118.31, or 118.33 (1) (f) 5.

21           **SECTION 43.** 118.60 (10) (a) 10. of the statutes is created to read:

22           118.60 (10) (a) 10. Violated the rules promulgated under s. 120.13 (1) (i).

23           **SECTION 44.** 118.60 (10) (bg) of the statutes is created to read:

24           118.60 (10) (bg) The state superintendent may issue an order immediately  
25 terminating a private school's participation in the program under this section if he

**SENATE BILL 3**

1 or she determines that the owner of the private school would not be eligible or  
2 permitted to be employed, licensed, or permitted for any of the reasons specified  
3 under s. 115.31 (2g) or (6m) or 115.315.

4 **SECTION 45.** 118.60 (10) (br) of the statutes is created to read:

5 118.60 (10) (br) The state superintendent may issue an order immediately  
6 terminating a private school's participation in the program under this section if he  
7 or she determines that the private school has failed to comply with the requirements  
8 under sub. (7) (i) 1. or 2. or if the private school employs an individual in  
9 contravention of the prohibitions under sub. (7) (i) 3.

10 **SECTION 46.** 118.60 (10) (c) of the statutes is amended to read:

11 118.60 (10) (c) Whenever the state superintendent issues an order under par.  
12 (a), (am), (ar), or (b), (bg), or (br), he or she shall immediately notify the parent or  
13 guardian of each pupil attending the private school under this section.

14 **SECTION 47.** 118.60 (11) (d) of the statutes is repealed.

15 **SECTION 48.** 119.23 (2) (a) 1. a. of the statutes is amended to read:

16 119.23 (2) (a) 1. a. ~~The~~ Except as provided in subd. 1. a., the pupil is a member  
17 of a family that has a total family income that does not exceed an amount equal to  
18 3.0 times the poverty level determined in accordance with criteria established by the  
19 director of the federal office of management and budget. In this subdivision and sub.  
20 (3m), family income includes income of the pupil's parents or legal guardians. ~~The,~~  
21 and the family income of the pupil shall be verified as provided in subd. 1. b. A pupil  
22 attending a private school under this section whose family income increases above  
23 the income level in this subd. 1. a., including a pupil who attended a private school  
24 under this section in the 2010-11 school year and whose family income has  
25 increased, may continue to attend a private school under this section.

**SENATE BILL 3**

1           **SECTION 49.** 119.23 (2) (a) 1. am. of the statutes is created to read:

2           119.23 (2) (a) 1. am. Beginning in the 2015-16 school year, the pupil is a  
3 member of a family that has a total family income that does not exceed an amount  
4 equal to 1.85 times the poverty level determined in accordance with criteria  
5 established by the director of the federal office of management and budget. The  
6 family income of the pupil shall be verified as provided in subd. 1. b. A pupil  
7 attending a private school under this section whose family income increases above  
8 the income level in this subd. 1. am. may continue to attend a private school under  
9 this section.

10           **SECTION 50.** 119.23 (2) (a) 6m. of the statutes is created to read:

11           119.23 (2) (a) 6m. All instructional staff employed by the private school hold  
12 a license or permit to teach issued by the department. For purposes of this  
13 subdivision, "instructional staff" has the meaning given in the rules promulgated by  
14 the department under s. 121.02 (1) (a) 2.

15           **SECTION 51.** 119.23 (2) (a) 9. of the statutes is created to read:

16           119.23 (2) (a) 9. The private school has been in operation for the attendance of  
17 pupils for at least 2 school years.

18           **SECTION 52.** 119.23 (2) (a) 10. of the statutes is created to read:

19           119.23 (2) (a) 10. The private school is located in this state.

20           **SECTION 53.** 119.23 (2) (c) of the statutes is amended to read:

21           119.23 (2) (c) 1. Notwithstanding par. (a) 6. and 6m., a teacher employed by a  
22 private school participating in the program under this section who teaches only  
23 courses in rabbinical studies is not required to have a bachelor's degree or hold a  
24 license or permit to teach issued by the department.

**SENATE BILL 3**

1           2. Notwithstanding par. (a) 6. and 6m., an administrator of a private school  
2 participating in the program under this section that prepares and trains pupils  
3 attending the school in rabbinical studies is not required to have a bachelor's degree  
4 or hold a license or permit to teach issued by the department.

5           **SECTION 54.** 119.23 (2) (d) of the statutes is created to read:

6           119.23 (2) (d) No more than 49 percent of a private school's enrollment may  
7 consist of pupils attending the private school under this section and s. 118.60.

8           **SECTION 55.** 119.23 (4) (bd) of the statutes is created to read:

9           119.23 (4) (bd) Upon receipt from the pupil's parent or guardian of proof of the  
10 pupil's enrollment in the private school during a school term, the state  
11 superintendent shall pay to the private school in which the pupil is enrolled on behalf  
12 of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fu), an  
13 amount equal to the lesser of the following:

14           1. The amount equal to the private school's operating and debt service cost per  
15 pupil that is related to educational programming, as determined by the department.

16           2. The average of the tuition paid by a pupil attending the private school, but  
17 not under the program under this section or the program under s. 118.60, in the  
18 current and 2 preceding school years.

19           3. \$6,442.

20           **SECTION 56.** 119.23 (4) (bg) 1. of the statutes is repealed.

21           **SECTION 57.** 119.23 (4) (d) (intro.) of the statutes is amended to read:

22           119.23 (4) (d) (intro.) In determining a private school's operating and debt  
23 service cost per pupil under par. ~~(bg)~~ (bd) 1., the department shall do all of the  
24 following, but may not determine separate costs for pupils enrolled in grades  
25 kindergarten to 8 and for pupils enrolled in grades 9 to 12:

**SENATE BILL 3**

1           **SECTION 58.** 119.23 (4) (d) 2. of the statutes is amended to read:

2           119.23 (4) (d) 2. If legal title to the private school's buildings and premises is  
3 held in the name of the private school's parent organization or other related party,  
4 there is no other mechanism to include the private school's facilities costs in the  
5 calculation of its operating and debt service cost, and the private school requests that  
6 the department do so, include an amount equal to 10.5 percent of the fair market  
7 value of the school and its premises. ~~If legal title to the private school's buildings and~~  
8 ~~premises is held in the name of the private school's parent organization or other~~  
9 ~~related party but the private school was not permitted to include an amount equal~~  
10 ~~to 10.5 percent of the fair market value of the school and its premises in the 2012-13~~  
11 ~~school year, the private school may, beginning on July 2, 2013, request the~~  
12 ~~department to include that amount.~~ A request made by a private school under this  
13 subdivision remains effective in subsequent school years and may not be withdrawn  
14 by the private school.

15           **SECTION 59.** 119.23 (4m) of the statutes is repealed and recreated to read:

16           119.23 (4m) In addition to the payment under sub. (4), the state  
17 superintendent shall pay to each private school participating in the program under  
18 this section, on behalf of the parent or guardian of each pupil attending the private  
19 school under this section, in the manner described in sub. (4) (c), the amount  
20 determined as follows:

21           (a) Determine the private school's operating and debt service cost per pupil in  
22 summer school that is related to educational programming.

23           (b) Multiply the amount under par. (a) by 0.40.

**SENATE BILL 3**

1 (c) Multiply the product under par. (b) by the quotient determined by dividing  
2 the summer choice average daily membership equivalent of the private school by the  
3 total number of pupils for whom payments are being made under sub. (4).

4 **SECTION 60.** 119.23 (4r) (a) of the statutes is amended to read:

5 119.23 (4r) (a) Multiply the amount determined under sub. (4) ~~(b)~~ (bd) by  
6 0.616.

7 **SECTION 61.** 119.23 (7) (am) 1. of the statutes is amended to read:

8 119.23 (7) (am) 1. An independent financial audit of the private school  
9 conducted by an independent certified public accountant, accompanied by the  
10 auditor's statement that the report is free of material misstatements and fairly  
11 presents pupil costs under sub. (4) ~~(b)~~ (bd) 1. The audit under this subdivision shall  
12 be limited in scope to those records that are necessary for the department to make  
13 payments under subs. (4) and (4m). The auditor shall conduct his or her audit,  
14 including determining sample sizes and evaluating financial viability, in accordance  
15 with the auditing standards established by the American Institute of Certified  
16 Public Accountants. The department may not require an auditor to comply with  
17 standards that exceed the scope of the standards established by the American  
18 Institute of Certified Public Accountants. If a private school participating in the  
19 program under this section also accepts pupils under s. 118.60, the private school  
20 may submit one comprehensive financial audit to satisfy the requirements of this  
21 subdivision and s. 118.60 (7) (am) 1. The private school shall include in the  
22 comprehensive financial audit the information specified under s. 118.60 (7) (am) 1.

23 **SECTION 62.** 119.23 (7) (b) 3m. of the statutes is amended to read:

24 119.23 (7) (b) 3m. Annually, schedule ~~two meetings~~ at least one meeting each  
25 month at which members of the governing body of the private school will be present

**SENATE BILL 3**

1 and at which pupils, and the parents or guardians of pupils, applying to attend the  
2 private school or attending the private school may meet and communicate with the  
3 members of the governing body. The meetings shall be open to the public. The  
4 private school shall, within 30 days after the start of the school term, notify the  
5 department in writing of the scheduled meeting dates and shall, at least 30 days  
6 before the scheduled meeting date, notify in writing each pupil, or the parent or  
7 guardian of each minor pupil, applying to attend the private school or attending the  
8 private school of the meeting date, time, and place. The private school shall provide  
9 notice of the meetings in the manner provided in s. 19.84.

10 **SECTION 63.** 119.23 (7) (b) 9. of the statutes is created to read:

11 119.23 (7) (b) 9. Permit public inspection and copying of any record, as defined  
12 in s. 19.32 (2), of the private school to the same extent as required of, and subject to  
13 the same terms and enforcement provisions that apply to, a school board under  
14 subch. II of ch. 19. This subdivision applies only to records that relate to pupils  
15 attending the private school under this section.

16 **SECTION 64.** 119.23 (7) (d) 1. b. of the statutes is amended to read:

17 119.23 (7) (d) 1. b. ~~-A~~ Except as provided in subd. 1. c., a copy of the school's  
18 current certificate of occupancy issued by the municipality within which the school  
19 is located. If the private school moves to a new location, the private school shall  
20 submit a copy of the new certificate of occupancy issued by the municipality within  
21 which the school is located to the department before the attendance of pupils at the  
22 new location and before the next succeeding date specified in s. 121.05 (1) (a).

23 c. If the municipality within which the private school is located does not issue  
24 certificates of occupancy, ~~the private school may submit~~ a certificate of occupancy  
25 issued by the local or regional governmental unit with authority to issue certificates



**SENATE BILL 3**

1 of occupancy or a letter or form from the municipality within which the private school  
2 is located that explains that the municipality does not issue certificates of occupancy.  
3 ~~A temporary certificate of occupancy does not meet the requirement of this~~  
4 ~~subdivision~~ private school to which this subd. 1. c. applies shall annually obtain a  
5 building inspection of the school building.

6 **SECTION 65.** 119.23 (7) (d) 1. d. of the statutes is created to read:

7 119.23 (7) (d) 1. d. A temporary certificate of occupancy does not satisfy the  
8 requirements of this subdivision.

9 **SECTION 66.** 119.23 (7) (i) of the statutes is created to read:

10 119.23 (7) (i) 1. Each private school participating in the program under this  
11 section shall annually conduct state and federal background checks of all teachers  
12 and administrators employed by the private school on the effective date of this  
13 subdivision .... [LRB inserts date].

14 2. Beginning on the effective date of this subdivision .... [LRB inserts date],  
15 each private school participating in the program under this section shall conduct  
16 state and federal background checks of each individual who applies to teach in or  
17 serve as an administrator of the private school prior to extending an offer of  
18 employment to that individual. The private school shall annually conduct state and  
19 federal background checks of each teacher or administrator investigated under this  
20 subdivision who is employed by the private school.

21 3. A participating private school may not employ a person as a teacher or  
22 administrator or contract with the person to serve as a teacher or administrator if  
23 the person would not be eligible to be employed, licensed, or permitted for any of the  
24 reasons specified under s. 115.31 (2g) or (6m) or 115.315.

25 **SECTION 67.** 119.23 (10) (a) 3. of the statutes is amended to read:

**SENATE BILL 3**

1           119.23 (10) (a) 3. Failed to refund to the state any overpayment made under  
2           s. 119.23 (4) (b), 2011 stats., or s. 119.23 (4) (bg), 2011 stats., or under sub. (4) ~~(bg)~~ (bd)  
3           or (4m) by the date specified by department rule.

4           **SECTION 68.** 119.23 (10) (a) 7. of the statutes is amended to read:

5           119.23 (10) (a) 7. Violated sub. (7) (b) 3m., 4., 5., or 9.

6           **SECTION 69.** 119.23 (10) (a) 9. of the statutes is created to read:

7           119.23 (10) (a) 9. Violated or employed a person who violated s. 118.016, 118.19  
8           (1), 118.305, 118.31, or 118.33 (1) (f) 5.

9           **SECTION 70.** 119.23 (10) (a) 10. of the statutes is created to read:

10          119.23 (10) (a) 10. Violated the rules promulgated under s. 120.13 (1) (i).

11          **SECTION 71.** 119.23 (10) (bg) of the statutes is created to read:

12          119.23 (10) (bg) The state superintendent may issue an order immediately  
13          terminating a private school's participation in the program under this section if he  
14          or she determines that the owner of the private school would not be eligible or  
15          permitted to be employed, licensed, or permitted for any of the reasons specified  
16          under s. 115.31 (2g) or (6m) or 115.315.

17          **SECTION 72.** 119.23 (10) (br) of the statutes is created to read:

18          119.23 (10) (br) The state superintendent may issue an order immediately  
19          terminating a private school's participation in the program under this section if he  
20          or she determines that the private school has failed to comply with the requirements  
21          under sub. (7) (i) 1. or 2. or if the private school employs an individual in  
22          contravention of the prohibitions under sub. (7) (i) 3.

23          **SECTION 73.** 119.23 (10) (c) of the statutes is amended to read:

