



## 2005 ASSEMBLY BILL 700

September 26, 2005 - Introduced by Representatives RHOADES, KLEEFISCH, MONTGOMERY, PETTIS, ALBERS, MUSSER, SEIDEL, DAVIS, TOWNSEND, KRAWCZYK, OWENS, GRONEMUS, WOOD, FREESE, TOWNS, McCORMICK, GUNDERSON, ZEPNICK, MURSAU, KREIBICH, NISCHKE, HINES, KESTELL, STEINBRINK, PRIDEMORE, OTT and BERCEAU, cosponsored by Senators KANAVAS, HARSDFORF and LEIBHAM. Referred to Committee on Education.

1     **AN ACT to create** 115.85, 121.05 (1) (a) 4. and 121.81 (2) (br) of the statutes;  
2             **relating to:** creating the Autism Scholarship Program and granting  
3             rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill directs the Department of Public Instruction (DPI) to award scholarships in the 2006-07 and 2007-08 school years to the parents of eligible autistic children. An autistic child is eligible if the child's school district has identified the child as autistic and has an individualized education program (IEP) in effect for the child, and the child was enrolled in public school in the previous school year or is eligible to enter public school in the school year in which a scholarship is first sought for the child.

The scholarship may be used only to pay tuition for the child to attend a special education program that implements the child's IEP and that is operated by a school district other than the school district that the child is attending or in which the child resides, by another public entity, or by a private provider approved by DPI. DPI must establish standards for the approval of private providers. The bill prohibits DPI from approving a private provider unless the person providing special education holds the appropriate DPI license. The amount of a scholarship is \$15,000 or the actual tuition charged by the special education program, whichever is less. No more than 200 pupils may receive a scholarship in either school year. The bill specifies that the parent or guardian of the pupil is responsible for transporting the pupil to and from the special education program the pupil attends under the scholarship.

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The bill directs the school district in which a pupil who is awarded a scholarship resides to count the pupil in its enrollment for state aid purposes. The bill directs DPI to decrease each school district's state aid payment by the amount of scholarships awarded to such pupils.

Finally, the bill directs the Legislative Audit Bureau to conduct a financial and performance audit of the Autistic Scholarship Program after the 2006–07 school year and to file a report by December 31, 2007.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 115.85 of the statutes is created to read:

2           **115.85 Autism Scholarship Program. (1)** In this section, “eligible autistic  
3 child” means a child with a disability to whom all the following apply:

4           (a) The school district in which the child resides or that the child is attending  
5 has identified the child as autistic.

6           (b) The school district in which the child resides or that the child is attending  
7 has in effect for the child an individualized education program.

8           (c) The child was enrolled in public school in the school year prior to the school  
9 year in which a scholarship under this section is first sought for the child, or the child  
10 is eligible to enter public school in the school year in which a scholarship under this  
11 section is first sought for the child.

12           **(2)** (a) Except as provided in par. (b), in the 2006–07 and 2007–08 school years,  
13 upon receipt of an application from the parent of an eligible autistic child, the  
14 department shall award a scholarship to the child. The scholarship may be used only  
15 to pay tuition for the child to attend a special education program that implements  
16 the child's individualized education program and that is operated by a school district  
17 other than the school district that the child is attending or in which the child resides,

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1 by another public entity, or by a private provider approved by the department under  
2 sub. (3). The amount of the scholarship shall be \$15,000 or the actual tuition charged  
3 by the special education program, whichever is less.

4 (b) No more than 200 scholarship may be awarded under this section in any  
5 school year.

6 (3) The department shall establish standards for the approval of private  
7 providers for the purpose of sub. (2). The department may not approve a private  
8 provider unless the person providing special education or related services holds the  
9 appropriate license issued by the department.

10 (4) (a) The department annually shall decrease each school district's state aid  
11 payment under s. 121.08 by an amount equal to the aggregate amount of  
12 scholarships awarded under this section to pupils included in the school district's  
13 membership under s. 121.05 (1) (a) 4. If the state aid payment under s. 121.08 is  
14 insufficient to cover the reduction, the department shall decrease other state aid  
15 payments made by the department to the school district by the remaining amount.

16 (b) The department shall ensure that the aid reduction under par. (a) does not  
17 affect the amount determined to be received by a school district as state aid under  
18 s. 121.08 for any other purpose.

19 (5) The department shall promulgate rules to implement and administer this  
20 section, including procedures and deadlines for scholarship applications, payment  
21 schedules for scholarships, and standards for the approval of private providers under  
22 sub. (3).

23 **SECTION 2.** 121.05 (1) (a) 4. of the statutes is created to read:

**ASSEMBLY BILL 700****SECTION 2**

1           121.05 (1) (a) 4. Pupils residing in the school district who are attending a  
2 special education program operated by another school district, another public entity,  
3 or a private provider as a result of receiving a scholarship under s. 115.85.

4           **SECTION 3.** 121.81 (2) (br) of the statutes is created to read:

5           121.81 (2) (br) Notwithstanding pars. (a) and (b), if a pupil awarded a  
6 scholarship under s. 115.85 attends a school district other than his or her school  
7 district of residence under that section, all of the following apply:

8           1. The application need not be accompanied by a written declaration regarding  
9 establishing residence in the school district.

10          2. The school district may not waive or refund tuition for the pupil.

11          3. The pupil shall not be considered a resident pupil in computing general aid  
12 under subch. II.

13           **SECTION 4. Nonstatutory provisions.**

14          (1) **AUDIT.** The legislative audit bureau is requested to perform a financial and  
15 performance audit of the Autism Scholarship Program established by this act based  
16 on the data from the 2006–07 fiscal year. If the bureau performs the audit, it shall  
17 file its report as described in section 13.94 (1) (b) of the statutes by December 31,  
18 2007.

19          (2) **RULES.** Using the procedure under section 227.24 of the statutes, the  
20 department of public instruction shall promulgate the rules required under section  
21 115.85 (5) of the statutes, as created by this act, for the period before the effective date  
22 of the permanent rule promulgated under that section, but not to exceed the period  
23 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
24 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required  
25 to provide evidence that promulgating a rule under this subsection as an emergency

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1 rule is necessary for the preservation of the public peace, health, safety, or welfare  
2 and is not required to provide to a finding of emergency for a rule promulgated under  
3 this subsection.

4 (END)