

2013-15 Budget Issue Paper Special Needs Scholarships/Vouchers

[LFB 2013-15 Budget Summary: page 375, #6]

Governor's Proposal:

Provide funding of \$6,946,000 GPR in FY14 and \$13,903,500 GPR in FY15 and create a sum sufficient appropriation to provide vouchers to special education students to attend a nonresident public school, an independent charter school or a private school. The voucher amount will be the lesser of the cost of the pupil's education or the statewide cost per pupil plus the per pupil amount appropriated for special education aid in the previous year.

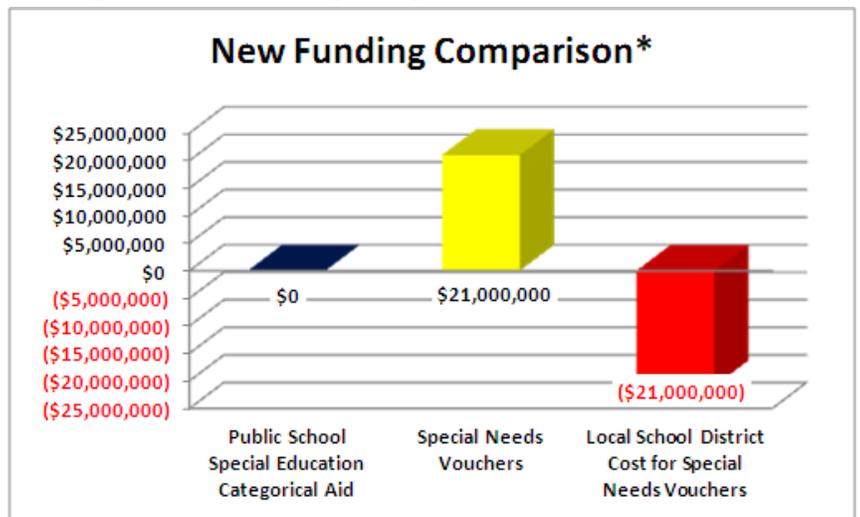
DPI Position:

DPI opposes this proposal and requests it be removed from the budget.

Rationale for Opposition:

❖ **The proposal can result in local school districts paying up to three times over for the same special education student.**

1. **The amount the school district was already spending on Student A:** Federal law, under the Individuals with Disabilities in Education Act (IDEA), requires school districts to maintain prior year spending levels on students with disabilities. This is referred to as the Maintenance of Effort (MOE) requirement. If a district doesn't maintain it they have to pay the federal government a cash penalty out of local funds.
2. **The voucher amount for Student A:** If a student attends a private school on a voucher under this proposal, school districts will have to increase their spending on special education. All voucher amounts count as special education expenditures. This means the money spent on vouchers becomes part of a school district's new (higher) maintenance of effort requirement.
3. **Equitable Services for Student A:** IDEA requires school districts to set aside funds to pay for special education services for private school students with disabilities. The services are determined by school districts and private schools in the district who agree on a services plan for these private school students with disabilities.



*This budget provides no new special education categorical aid for public schools. \$21,000,000 based on Governor's appropriation. 5% participation rate is \$90,000,000.

❖ **The proposal creates an unsustainable spending pattern for school districts over time.**

As special needs vouchers force school districts to spend more and more money on special education due to federal MOE and Equitable Services provisions, the impact on all students who remain in the district, in special and general education, will be significant.

❖ **Numerous protections under federal law for student with disabilities do not exist in private schools.**

Parents of students with disabilities who attend private schools would surrender their rights and legal protections under federal law IDEA. Additionally, private schools cannot be required to provide special education services or held accountable for student needs. The department opposes removing legal protections for students, eliminating recourse for parents, and lessening accountability.

Private schools lack the following protections for students with disabilities:

- state or federal mandate to accept students with disabilities
- requirement to keep students in the school for any period of time
- parental rights as guaranteed under IDEA, no dispute resolution processes
- requirement to provide special needs services
- requirement to determine if the student has a disability
- requirement to determine if the student has made progress
- requirement to evaluate different educational strategies for the student
- protections for IEPs
- required teacher special education training
- recourse if discrimination or harassment occurs based on a student's sex, religion, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability
- requirement to document voucher monies were used to provide special needs services
- requirement to keep a student safe from harmful and abusive practices like seclusion and restraint

❖ **Accountability data is not available for private schools.**

Accountability data for private schools is not collected and/or available to help families make informed decisions: state tests, attendance reporting, graduation rates and drop-out reporting. Parents need facts and access to the complete record of a school to make sound decisions. Voucher programs lack transparency.

❖ **Special education students who move between public and private schools may have a gap in services.**

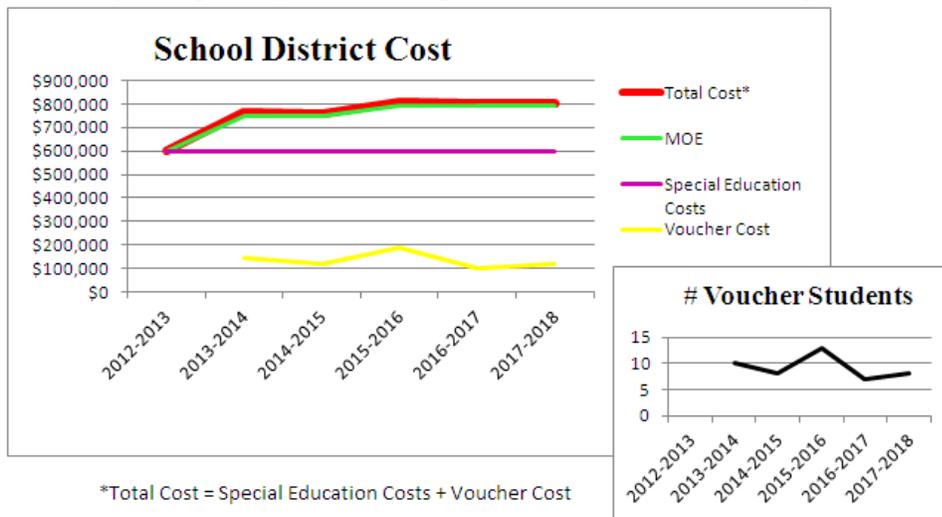
Any student who reenters a public school district after attending a private school will, under federal law, have to go back through a special education evaluation process to determine appropriate services to be provided. Depending on timelines, the student may need to go through a reevaluation to determine eligibility for special education. This will be time lost in terms of interventions and services.

❖ **Numerous provisions of the bill are not enforceable or implementable.**

1. A child's IEP ceases to exist as an enforceable legal document once a child leaves to attend a private school on a voucher. Thus, a school district can't reevaluate a child for special education as required under the bill, nor can anyone enforce provisions of the IEP in the private school setting.
2. While there are two ways to calculate a voucher amount, the voucher will always be the first standard amount, which equates to \$14,658 per pupil using the most recent audited data for 2011-2012. The second method related to eligible school costs, uses data elements DPI does not have for private schools.
3. DPI will be unable to enforce many of the private school duties. The bill conditions enforcement of private school duties [see 115.7915(6)] requiring DPI to prove a school "Routinely failed to comply" or "Intentionally and substantially misrepresented" duties. Legally these would be difficult to prove.
4. DPI is unable to prorate the voucher amount for students attending a private school for less than a full school term as DPI does not have school term data for private schools.
5. It is unclear when DPI is to pay the private school a voucher amount. If DPI is meant to prorate the amount then payment is unable to be made until after the school year ends.

❖ **This proposal will not reduce most school districts current special education costs.**

Private schools under this proposal have no obligation to accept all students with disabilities. Few students with significant disabilities (physical and/or cognitive) will be accepted into or be able to afford private schools. Most special needs voucher students will have minimal needs. The result is school districts will have a higher percentage of students with significant disabilities compared to their current population and will not have a reduction in costs. Special needs vouchers are a new expense added to the district's current cost structure for which they are not allowed to levy.



❖ **This proposal results in other new costs for school districts.**

Increased legal costs: School districts will incur increased legal costs due to disputes over IEP eligibility. The voucher provides incentive for parents to consider pursuing legal options when the IEP team determines the child is not eligible for special education services.

An increased cost of servicing special needs students who return to the public school: If children return to public school due to their needs not being met at the private school, the public school may be providing more or more intensive services than they would have provided had the child not attended the private school to restore the child to prior functioning levels.

❖ **The proposal represents a new \$90,351,912 cut to public school districts.**

If the bill's cap for participation is retained at five percent of students with disabilities (6,164) then the cut to school districts' equalization aid will be \$90,351,912 using the standard formula amount. This is money that is not allowed to be recouped under revenue limits.

❖ **This proposal does not reduce the amount of special education categorical aids needed going forward.**

Because most special needs voucher students will have minimal needs and school district special education costs will not decrease, this voucher program will not reduce the amount of special education categorical aids necessary to support public school special needs students.

❖ **The proposal creates a sum sufficient draw on the general fund.**

In instances where a school district does not have any equalization aid left to deduct to pay for the voucher, the state general fund would pay for the voucher amount. Other programs that require DPI to deduct from a district's equalization aid are open enrollment and independent charter schools. Currently 2 districts receive no equalization aid, 7 receive between \$1 and \$15,000, 6 receive between \$15,001 and \$50,000, and 7 receive between \$50,001 and \$100,000.

❖ **This proposal's standard voucher amount of \$14,658 is more than double the average of other states special needs voucher programs.**

❖ **This proposal could result in a private school receiving more state aid than a public school district.**