

**Additional Questions
2011 Assembly Bill 110**

There are no protections for special education students who choose private schools under the bill and no recourse for parents.

- Did the bill's authors intend to remove all avenues available to parents for dispute resolution with a school? There is no language created in the bill to mirror the IDEA dispute resolution options for parents who disagree with decisions made by their child's public school district or individualized education plan (IEP) team. These options include mediation, facilitated IEPs, state IDEA complaints, and due process hearings. With very minor and narrow exceptions, these dispute resolution options are not available to parents of children with disabilities parentally placed in private schools.
- Did the bill's authors intend to remove all protections for special education students to receive needed services? There is no language created in the bill to mirror IDEA requirements for private schools. With the exception of child find, which includes evaluation, children with disabilities enrolled in private schools by their parents have *no individual* entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school. Moreover, there are no requirements in the bill that private schools offer the services outlined in the IEP as a condition of receiving the full voucher amount.
- What about nondiscrimination protections? AB 110 requires private schools participating in the voucher program to comply with federal law preventing discrimination on the basis of race, color or national origin (42 USC 2000 (d)). However, it does not require compliance with Wisconsin pupil nondiscrimination law which additionally protects against discrimination on the basis of a person's sex, religion, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. What recourse would be available to parents of children with disabilities attending private schools under vouchers if their child was being discriminated against, harassed or bullied for one of these reasons?
- What about segregation concerns? The department is deeply concerned with the potential under this bill for the creation of private schools that serve only special education students. This type of segregation flies in the face of what years of research and experience has taught us regarding educational outcomes for these students.
- How will the student, their parents, and the state be able to judge educational success? There is no requirement to take state tests, report on attendance, or dropout rates, or any other measure.
- What impetus is there for parents and resident school districts to work through issues?

The bill will significantly impact public school districts. The full impact is unknown given a lack of clarity as to how this program will work.

- What are the effects of the program on meeting the state's constitutional requirement under Article X that schools be as equitable as practicable? This bill would create a fourth sum sufficient program for

vouchers to attend public or private schools. The department is directed to take an unlimited amount of money from equalization aid allocations for public school districts across the state and redirect it to certain private or public schools. Poorer districts are generally less able to make up lost aid through property tax increases.

- There are more than 40 districts that receive little to no equalization aid. Is it reasonable to be taking all of a school districts' equalization aid?
- If districts don't have enough aid to take to pay for vouchers, is the department supposed to go after any categorical aid they have? Would we be required to place a lien on their future aid? Are they required to pay the state? Or is the state required to come up with the additional dollars out of the general fund as the program is sum sufficient?
- What if the school district doesn't have enough space for the incoming student? It appears districts are still required to take the student. This could result in districts being forced to hire new staff and/or create special education programs that are currently not in place.
- What about the costs school districts incur for staff they must continue to pay when a student leaves? Under the bill students can leave their resident school district at any time of the year. It is not uncommon for districts to hire someone just to work with one student. That person would still be under contract.
- Will school districts be able to make up the lost general equalization aid on their levy and what are the implications if they can't? Under current law, the department is required to notify all school districts of their general aid deduction for independent charter schools in Milwaukee/Racine as part of their October 15th general aid certification. It is unclear under the bill as to when the department would be required to notify resident districts of their general aid reduction under the bill. Given the bill provides that a child could enroll in a non-resident district or private school at anytime during the school year, a resident district could have a general aid reduction that would occur well after it has already set its tax levy (November 1st). Conversely, if the bill's timelines are changed so revenue can be made up, school boards will have to determine whether they can afford to raise property taxes.
- Is money received by nonresident school districts under the bill considered to be under or outside the revenue limit cap?
- How significant will the aid deduction be? The bill is clear that vouchers are to be based on costs associated with each individualized education plan. Costs vary widely and could fall anywhere between zero dollars and \$117,000. It will not be uncommon for districts to find they are paying out more money in a voucher than they received in aid.
- How will a school districts' federal aid for Medicaid and IDEA dollars be impacted?
- To what extent will school districts be paying twice for a student? AB 110 does not indicate whether a child attending a private school with a voucher would continue to be entitled to equitable participation in special education and related services. As such, the school district where the private school is located may also be responsible for expending Individuals with Disabilities in Education Act (IDEA) funds on these students, whether or not they are residents of the district. A resident district thus might be paying twice for some services a child receives – once via the reduction in state aid for the voucher, and once again via equitable services.

- Do school districts ever get a chance to revisit the voucher awarded? If a student moves out of their resident district the district is still the one paying. There is never a requirement to revisit whether special education services are still needed, as required in public schools through reevaluation, or if associated costs are still relevant, until the student graduates.

The implementation issues for the department are substantial potentially rendering the program unworkable.

- How will the department calculate the amount of each student's voucher? The bill requires DPI to calculate the amount of the voucher based on the cost to the pupil's school district of residence to provide regular instruction, instructional and pupil support services, special education and related services, and supplementary aids and services. The bill provides no direction on how DPI should determine the costs, which vary tremendously among school districts in the state. DPI is also to determine the cost to the nonresident public school or eligible private school. Moreover, the bill also provides for a child who attended an out-of-state school to be eligible for a voucher. It would be extremely difficult for DPI to determine the cost of education based on another state's IEP.
- How does the department calculate the private school cost as required under the bill if we can't share a student's IEP?
- How quickly is the application approved and the voucher amount determined?
- When does the department share the child's IEP with the nonresident school district or private school?
- How long do they have to respond so the department can complete the application?
- What happens if a resident school district does not provide an IEP in three days?
- Are home schooled students allowed to participate? This appears to be the case, but the department is unsure how to calculate the voucher in these instances.
- What does "attended a public school" mean? To be eligible a child has to have attended a public school in the prior year. Is that for one day? One month? One Year? If it is less than an entire school year, then how does DPI make the calculation on page 5 for the resident district?
- Without a definition of attend in the prior year, how will the state prevent parents of currently enrolled private school students from attending a public school for a short amount of time to qualify for the voucher?
- When does the department have to make payments to the non-resident school district/private school and when would the department be required to lapse funds from the resident school district?
- How are appeals related to the amount of the voucher, who receives a voucher, which schools can participate, and other matters to be handled by the department? As there is nothing in the bill to address appeals the department would likely have to follow Chapter 227, Wis. Stats., in regard to due process. The related costs in doing so could be substantial.
- The department is unable to implement the bill without additional staff. The following additional duties will be imposed:
 - Implementing the program (creating applications, forms, etc.);

- Notifying school districts of student applications and requiring them to provide IEPs within three days;
- Reviewing hundreds to thousands of IEPs annually;
- Obtaining information from public school districts, both as a resident and non-resident district, and private schools to complete calculations for each voucher (including doing so on a prorated basis);
- Notifying hundreds to thousands of parents annually of the voucher amount and providing an explanation of the calculation to each one;
- Determining whether private schools are eligible to participate in this specific program and reviewing the private school's annual financial reports.
- Paying and processing the voucher to each public school district and private school; and
- Ensuring all calculations to the \$4.6 billion general school aid formula are conducted accurately and in a timely manner.

The current DPI special education staff is 100 percent federally funded. Managing this program is outside the activities funded by IDEA so this work would have to be funded with GPR dollars. DPI estimates needing 2 education consultants and 2 education specialists to administer the program at a cost of \$343,900 for salaries, fringe benefits, fixed costs, and supplies and services.

Other questions.

- Did the bill's authors want to include independent charter schools authorized by the City of Milwaukee, UW Milwaukee, and UW Parkside? Currently the bill does not allow for vouchers for students coming from those entities or allow students who live in the district in which those charters are located to transfer into those schools.
- Why is there no geographical limit on the location of private schools? Under the bill parents have the unilateral authority to enroll the child in any nonresident public or private school, including an out-of-state school, and apply voucher funds toward the total cost.
- Are there constitutional issues surrounding the issuance of a check directly to religious schools?
- Why is there no income limit present as there is for the Milwaukee Parental Choice Program? The department opposes taking away equalization aid dollars from public schools to subsidize the costs of private school for those who can already afford it. Furthermore, the bill does not prohibit schools from charging tuition above the amount of the voucher.
- Are private schools allowed to deny students who want to enroll under this program?
- Is it right that we will have individual private schools in the state receiving more state aid than entire public school districts?