

# State of Wisconsin



2015 Senate Bill 640

Date of enactment: **March 1, 2016**  
Date of publication\*: **March 2, 2016**

## 2015 WISCONSIN ACT 212

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.

*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**SECTION 1.** 115.385 (1g) (a) of the statutes, as created by [2015 Wisconsin Act 55](#), is repealed.

**SECTION 2.** 115.385 (1g) (b) of the statutes, as created by [2015 Wisconsin Act 55](#), is repealed.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. ~~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 may 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

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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 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 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.