



State of Wisconsin
2015 - 2016 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 1**

April 14, 2015 – Offered by Senator FARROW.

1 **AN ACT** *to repeal* 115.385 (1) (a), 118.42 (2), 118.42 (3) (b) and (c) and 118.42 (4)
2 and (5); *to renumber and amend* 118.42 (3) (a); *to amend* 115.385 (1) (a)
3 (intro.), 115.385 (1) (b), 115.385 (2), 118.42 (title), 118.42 (1) (intro.) and 121.006
4 (2) (d); and *to create* 13.94 (1) (n), 13.94 (1s) (c) 9., 115.385 (1) (am), 115.385 (1)
5 (c), 115.385 (1k), 115.385 (1m), 115.385 (3) and 118.57 of the statutes; **relating**
6 **to:** school and school district accountability reports, interventions for
7 low-performing school districts, providing an exemption from emergency rule
8 procedures, providing an exemption from rule-making procedures, and
9 granting rule-making authority.

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

10 **SECTION 1.** 13.94 (1) (n) of the statutes is created to read:
11 13.94 (1) (n) No later than January 1, 2019, and biennially thereafter, perform
12 a performance evaluation audit of the school and school district accountability report

1 system under s. 115.385, including an evaluation of whether the index system used
2 to identify a school or school district's performance is being consistently applied. The
3 legislative audit bureau shall file a copy of the report of the audit under this
4 paragraph with the distributees specified in par. (b).

5 **SECTION 2.** 13.94 (1s) (c) 9. of the statutes is created to read:

6 13.94 (1s) (c) 9. The department of public instruction for the cost of an audit
7 performed under sub. (1) (n).

8 **SECTION 3.** 115.385 (1) (a) (intro.) of the statutes is amended to read:

9 115.385 (1) (a) (intro.) ~~Multiple~~ For a school and school district accountability
10 report published for the 2015-16 school year or any previous school year, multiple
11 measures to determine a school's performance or a school district's improvement,
12 including all of the following:

13 **SECTION 4.** 115.385 (1) (a) of the statutes, as affected by 2015 Wisconsin Act ...
14 (this act), is repealed.

15 **SECTION 5.** 115.385 (1) (am) of the statutes is created to read:

16 115.385 (1) (am) Beginning with the school and school district accountability
17 report published for the 2016-17 school year, multiple measures to determine a
18 school's performance or a school district's improvement, as determined by the
19 department by rule.

20 **SECTION 6.** 115.385 (1) (b) of the statutes is amended to read:

21 115.385 (1) (b) An index system to identify a school's level of performance and
22 a school district's level of improvement and annually place each school and school
23 district into one of 5 performance categories.

24 **SECTION 7.** 115.385 (1) (c) of the statutes is created to read:

25 115.385 (1) (c) A definition for each of the 5 performance categories in par. (b).

1 **SECTION 8.** 115.385 (1k) of the statutes is created to read:

2 115.385 **(1k)** For purposes of sub. (1), a private school participating in a
3 program under s. 118.60 or 119.23 shall submit to the department data for pupils
4 attending the private school under the program under s. 118.60 or 119.23. A private
5 school participating in a program under s. 118.60 or 119.23 may also submit to the
6 department data for pupils attending the private school who are not attending under
7 a program under s. 118.60 or 119.23. If a private school submits data for all pupils
8 attending the private school, the department shall determine the private school's
9 performance twice in the school and school district accountability report under sub.
10 (1): once using the data for only pupils attending the private school under the
11 program under s. 118.60 or 119.23 and once using the data for all pupils attending
12 the private school. If a private school submits data for all pupils attending the
13 private school, the department shall also place the private school into a performance
14 category twice: once using the data for only pupils attending the private school under
15 the program under s. 118.60 or 119.23 and once using the data for all pupils attending
16 the private school. If a private school participating in a parental choice program
17 under s. 118.60 or 119.23 is included twice in a school and school district
18 accountability report, the department shall clearly identify which determination
19 and placement is based on data for only pupils attending the private school under a
20 parental choice program under s. 118.60 or 119.23 and which determination and
21 placement is based on data for all pupils attending the private school.

22 **SECTION 9.** 115.385 (1m) of the statutes is created to read:

23 115.385 **(1m)** Annually, by January 15, all of the following shall mail a letter
24 to the parent or guardian of each pupil enrolled in a school that was placed in the
25 lowest performance category in the most recent school and school district

1 accountability report to notify the parent or guardian of the school's placement in
2 that report:

3 (a) For a public school other than a charter school established under s. 118.40
4 (2r), the school board of the school district in which the public school is located.

5 (b) For a charter school established under s. 118.40 (2r), the operator of the
6 charter school.

7 (c) For a private school participating in a parental choice program under s.
8 118.60 or 119.23, the governing body of the private school.

9 **SECTION 10.** 115.385 (2) of the statutes is amended to read:

10 115.385 (2) ~~Beginning one year after a charter school established under s.~~
11 ~~118.40 (2r) or a private school participating in a parental choice program under s.~~
12 ~~118.60 or 119.23 begins using the student information system under s. 115.28 (12)~~
13 ~~(b), or begins using a system that is interoperable with that system, the~~ with the
14 report published for the 2015-16 school year, the department shall include the school
15 in its annual school accountability report under sub. (1) charter schools established
16 under s. 118.40 (2r) and private schools participating in a parental choice program
17 under s. 118.60 or 119.23. The department shall use the same criteria to measure
18 the performance of all schools included in the annual school accountability report.

19 **SECTION 11.** 115.385 (3) of the statutes is created to read:

20 115.385 (3) Within 90 days of publishing the school and school district
21 accountability report for the 2019-20 school year and at least once every four years
22 thereafter, the department shall review the measures promulgated by rule under
23 sub. (1) (am) and evaluate whether the measures accurately reflect school
24 performance and school district improvement. The department shall report the

1 results of its review to the appropriate standing committees of the legislature under
2 s. 13.172 (3).

3 **SECTION 12.** 118.42 (title) of the statutes is amended to read:

4 **118.42 (title) Low-performing school districts and schools; state**
5 **superintendent interventions.**

6 **SECTION 13.** 118.42 (1) (intro.) of the statutes is amended to read:

7 118.42 (1) (intro.) ~~If the state superintendent determines that a~~ A school
8 ~~district has been in need of improvement that is placed in the lowest performance~~
9 ~~category under s. 115.385 for 4~~ 3 consecutive school years, ~~the school board shall do~~
10 ~~all of the following:~~

11 **SECTION 14.** 118.42 (2) of the statutes is repealed.

12 **SECTION 15.** 118.42 (3) (a) of the statutes is renumbered 118.42 (2m), and 118.42
13 (2m) (intro.) and (e), as renumbered, are amended to read:

14 118.42 (2m) (intro.) ~~If the state superintendent determines that a school~~
15 ~~district has been in need of improvement for 4 consecutive~~ is placed in the lowest
16 performance category under s. 115.385 for 3 consecutive school years, the state
17 superintendent may, after consulting with the school board, and the school district
18 superintendent, ~~and representatives of each labor organization representing school~~
19 ~~district employees,~~ direct the school board to do one or more of the following in the
20 school district:

21 (e) Adopt accountability measures to monitor the school district's finances or
22 to monitor other interventions directed by the state superintendent under ~~subds. 1.~~
23 ~~to 4~~ pars. (a) to (d).

24 **SECTION 16.** 118.42 (3) (b) and (c) of the statutes are repealed.

25 **SECTION 17.** 118.42 (4) and (5) of the statutes are repealed.

1 **SECTION 18.** 118.57 of the statutes is created to read:

2 **118.57 Notice of educational options.** Annually, by January 31, a school
3 board shall post on its Internet site the educational options available to children who
4 reside in the school district and are at least 3 years old but not yet 18 years old,
5 including public schools, private schools participating in a parental choice program,
6 charter schools, full-time open enrollment, youth options, and course options.

7 **SECTION 19.** 121.006 (2) (d) of the statutes is amended to read:

8 121.006 (2) (d) Comply with a directive issued by the state superintendent
9 under s. 118.42 (3) (a) ~~or (b)~~ (2m).

10 **SECTION 20. Nonstatutory provisions.**

11 (1) ACCOUNTABILITY REPORT; REVIEW OF CURRENT MEASURES. Before promulgating
12 rules under section 115.385 (1) (am) of the statutes, as created by this act, the
13 department of public instruction shall review the most recent school and school
14 district accountability report. When reviewing the most recent school and school
15 district accountability report, the state superintendent of public instruction shall
16 consider all of the following:

17 (a) Pupil achievement in reading and mathematics.

18 (b) Growth in pupil achievement in reading and mathematics, calculated using
19 a value-added methodology.

20 (c) Gap closure in pupil achievement in reading and mathematics and, when
21 available, rates of graduation.

22 (d) The amount of time a pupil is enrolled in a school or school district before
23 data used for a measure is collected.

24 (e) The impact of poverty on pupil achievement and growth, including the
25 percentage of pupils enrolled in the school or school district who satisfy the income

1 eligible criteria for a free or reduced-price lunch under 42 USC 1758 (b) or any other
2 measure of poverty determined by the department of public instruction.

3 (f) Career and technical education readiness for high school pupils and
4 indications that elementary pupils are on track for career and technical education
5 readiness.

6 (2) ACCOUNTABILITY REPORT MEASURES; RULES.

7 (a) *Emergency rules.* Using the procedure under section 227.24 of the statutes,
8 the department of public instruction shall promulgate rules under section 115.385
9 (1) (am) of the statutes, as created by this act, for the period before the effective date
10 of the rules submitted under paragraph (b), but not to exceed the period authorized
11 under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24
12 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the
13 statutes, the department of public instruction is not required to provide evidence
14 that promulgating a rule under this paragraph as an emergency rule is necessary for
15 the preservation of the public peace, health, safety, or welfare and is not required to
16 provide a finding of emergency for a rule promulgated under this paragraph.
17 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department of
18 public instruction is not required to prepare a statement of the scope of the rules
19 promulgated under this paragraph or present the rules to the governor for approval.
20 The department of public instruction shall promulgate the rules under this
21 paragraph no later than December 15, 2015.

22 (b) *Submission to legislative council.* The department of public instruction
23 shall submit in proposed form the rules required under section 115.385 (1) (am) of
24 the statutes, as created by this act, to the legislative council staff under section

1 227.15 (1) of the statutes no later than the first day of the 9th month beginning after
2 the effective date of this paragraph.

3 (c) *Scope statement.* Notwithstanding section 227.135 (2) of the statutes, the
4 department of public instruction is not required to present the statement of the scope
5 of the rules required under section 115.385 (1) (am) of the statutes, as created by this
6 act, to the governor for approval.

7 (d) *Economic impact analysis.* Notwithstanding section 227.137 (2) of the
8 statutes, the department of public instruction is not required to prepare an economic
9 impact report for the rules required under section 115.385 (1) (am) of the statutes,
10 as created by this act. Notwithstanding sections 227.14 (2g) and 227.19 (3) (e) of the
11 statutes, the department of public instruction is not required to submit the proposed
12 rules required under section 115.385 (1) (am) of the statutes, as created by this act,
13 to the small business regulatory review board and is not required to prepare a final
14 regulatory flexibility analysis for those rules.

15 (e) *Approval of rules in final draft form.* Notwithstanding section 227.185 of
16 the statutes, the department of public instruction is not required to present the rules
17 required under section 115.385 (1) (am) of the statutes, as created by this act, in final
18 draft form to the governor for approval.

19 **SECTION 21. Initial applicability.**

20 (1) NOTICE TO PARENTS. The treatment of section 115.385 (1m) of the statutes
21 first applies to notice that a pupil's school was placed in the lowest performance
22 category in the school and school district accountability report published for the
23 2016–17 school year.

1 (2) DATA FOR SCHOOLS PARTICIPATING IN A PARENTAL CHOICE PROGRAM. The
2 treatment of sections 115.385 (1k) of the statutes first applies to the school and school
3 district accountability report published in the 2015-16 school year.

4 **SECTION 22. Effective date.** This act takes effect on the day after publication,
5 except as follows:

6 (1) ACCOUNTABILITY REPORT; MEASURES. The repeal of section 115.385 (1) (a) of
7 the statutes takes effect on October 1, 2016.

8 (2) NOTICE TO PARENTS. The treatment of section 115.385 (1m) of the statutes
9 takes effect on January 1, 2017.

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(END)