



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #592

### **Open Enrollment Aid Transfer Amount -- Special Education (DPI -- Choice, Charter, and Open Enrollment)**

[LFB 2019-21 Budget Summary: Page 350, #19]

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#### **CURRENT LAW**

Under the open enrollment program, a pupil may attend a public school located outside his or her school district of residence if the pupil's parent or guardian complies with certain application dates and procedures.

The district of residence counts an open enrollment pupil in its pupil membership for revenue limits and general aids. A statutorily-determined amount of general aid is transferred from the resident district to the nonresident district for each pupil. In 2018-19, the aid transfer amount is \$7,379 for a regular education pupil and \$12,431 for a special education pupil. These amounts are indexed annually to the per pupil revenue limit adjustment for the current year, if positive, plus the statewide change in categorical aid funding per pupil between the previous year and the current year, if positive. A district that has a net gain in pupils under open enrollment would receive a net positive aid transfer that is outside the district's revenue limit. A district with a net loss of pupils would receive a net negative aid transfer and would not be able to increase its property tax levy under revenue limits to compensate for the aid loss.

Under the 2017-19 budget act, a process was created under which the open enrollment aid transfer amount for a special education pupil could be adjusted. Beginning in the 2018-19 school year, at the end of a school year in which a special education pupil has participated in the program, a nonresident district may submit a financial statement to DPI that shows the actual costs the district incurred to provide a free appropriate public education to the pupil during that year. DPI is required to provide the resident district with a copy of any financial statement it receives. Beginning in the 2019-20 school year, the aid transfer amount for a pupil for whom the nonresident district does not submit a financial statement will equal the standard amount described above. The

aid transfer amount for a pupil for whom the nonresident district has submitted a financial statement will be the amount shown on the financial statement for that child for the previous school year, up to a maximum of \$30,000.

## **GOVERNOR**

Delete the provisions of the 2017-19 budget act modifying the aid transfer amount for special education students in the open enrollment program and restore prior law under which the single aid transfer amount applied to all of these students.

## **DISCUSSION POINTS**

1. Prior to 2016-17, the resident district was required to pay tuition to the nonresident district for a special education pupil under open enrollment. Under federal special education law, the payment was limited to the sum of the regular education open enrollment transfer amount and any actual, additional special education costs the district would incur to educate the student.

2. Under the 2015-17 budget act, since 2016-17, funding for special education pupils has been provided in the manner similar to the aid transfer mechanism that had always been used for regular education pupils. That act specified that the aid transfer amount for special education pupil would be \$12,000 per pupil in 2016-17 and would be adjusted each year by the same indexing mechanism described above. That act also eliminated the requirement that the nonresident district provide the resident district with an estimate of the cost to provide special education services for an applicant, as well as the ability of a resident district to deny an application on the basis of undue financial burden.

3. The uniform transfer amount was intended to approximate the statewide average education costs for special education students at the time. Switching from the tuition payment to the aid transfer system also meant that the nonresident district would receive the categorical special education aid, including high-cost special education aid, for costs associated with these pupils.

4. In 2017-18, 60,820 pupils transferred under the open enrollment program, of which 6,442 were special education pupils. A total of \$419.3 million in aid was transferred in 2017-18, of which \$70.0 million was attributable to the special education pupils.

5. Given that districts can first submit financial statements at the end of the 2018-19 school year, there is currently no data available on the effect of this provision. A scope statement has been published in the Administrative Register for emergency and permanent rules under which DPI would detail the eligible costs that could be reported on the financial statement and the timeline for submitting a statement to the Department.

6. Similar provisions modifying the per pupil payment under the special needs scholarship program were also enacted in the 2017-19 budget act. Beginning in 2018-19, a private school in the program may submit a financial statement and supporting documentation to DPI showing the actual costs that the private school incurred to implement a participating pupil's most recent individualized

education program or services plan. The statement must be submitted at the end of the school year, and must be provided to the pupil's resident school board. If a school submits a financial statement for a pupil, the costs described in the statement are used to calculate the per pupil payment for that pupil in the following year. Schools would be fully reimbursed for any portion of costs up to 150% of the statutory per pupil payment, while costs in excess of 150% of the per pupil payment would be reimbursed at a 90% rate.

7. The Governor proposed to delete the provisions allowing private schools in the special needs scholarship program to submit the financial statements and to restore the uniform payment amount under the program. Under prior Committee action, these bill provisions were deleted, thus maintaining current law.

8. A number of arguments could be made in favor of the bill provision to maintain a uniform aid transfer amount. To the extent that nonresident districts utilize the option, the unique transfer amounts for a number of special education students would add a level of complexity to open enrollment program financing. Also, because there is no statutory provision for audit or review of the nonresident district statements, it is unclear how the resident district or the Department could correct any errors or inconsistencies in the statements. Finally, given that there is no way to reduce the transfer amount for lower-cost special education open enrollment pupils, the current law provision could be viewed as overcompensating nonresident districts in the aggregate for these pupils.

9. However, given that the Committee has chosen to maintain current law allowing schools in the special needs scholarship program to submit financial statements and receive a higher payment for higher cost pupils, it could be viewed as consistent to maintain the same policy for nonresident school districts in the open enrollment program. This would allow additional resources to go to nonresident districts that choose to submit a statement because of any higher costs associated with particular pupils.

## **ALTERNATIVES**

1. Approve the Governor's recommendation to delete the provisions of the 2017-19 budget act modifying the aid transfer amount for special education students in the open enrollment program and restore prior law under which a single aid transfer amount applied to all of these students.

2. Take no action.

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