



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0898/2
TKK:wlj:wj

2015 ASSEMBLY BILL 1

January 7, 2015 - Introduced by Representatives THIESFELDT, VOS, STEINEKE, RODRIGUEZ, KNODL, NYGREN, PETRYK, SCHRAA, MACCO, A. OTT, KLEEFISCH, GANNON, MURSAU, WEATHERSTON, ROHRKASTE, CZAJA, SWEARINGEN, KRUG, LOUDENBECK, VANDER MEER, BALLWEG, E. BROOKS, T. LARSON, R. BROOKS, KOOYENGA, KNUDSON, KULP, JARCHOW and SPIROS. Referred to Committee on Education.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 118.42, 118.60 (2) (ag) 3., 118.60 (7) (a), 118.60 (10) (a) 4., 119.23
2 (2) (ag) 3., 119.23 (7) (a), 119.23 (10) (a) 4. and 121.006 (2) (d); **to amend** 118.153
3 (1) (a) 5., 118.30 (2) (b) 3., 118.30 (2) (b) 4., 118.30 (2) (b) 5., 118.30 (2) (b) 6.,
4 118.33 (6) (a) 1., 118.33 (6) (b) 1., 118.33 (6) (c) 1., 118.33 (6) (cr) 1., 118.40 (2r)
5 (bm), 118.40 (2r) (d) 2., 118.60 (7) (e) and 119.23 (7) (e); and **to create** 15.07 (1)
6 (a) 6., 15.07 (3) (bm) 8., 15.375 (3), 20.255 (1) (fm), 115.28 (61), 115.28 (62),
7 115.385 (3), 115.39, 118.30 (8) and 118.40 (2r) (b) 1. e. of the statutes; **relating**
8 **to:** a school review system, providing an exemption from emergency rule
9 procedures, providing an exemption from rule-making procedures, granting
10 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

CURRENT LAW: SCHOOL AND SCHOOL DISTRICT ACCOUNTABILITY

Current law directs the Department of Public Instruction (DPI) to annually publish a school and school district accountability report that includes the following information about each school and school district, derived from data gathered in the previous school year:

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1. Multiple measures to determine a school's performance or a school district's improvement, including pupil achievement and growth in reading and mathematics; measures of college and career readiness; and gaps in pupil achievement and graduation rates categorized by various factors.

2. An index system to identify a school's level of performance and to annually place each school into one of five performance categories.

Current law requires DPI to prepare school accountability reports for independent charter schools and private schools participating in a parental choice program (PCP) one year after the independent charter school or PCP school begins using a student information system for the standardized collection of student data. Current law requires independent charter schools and PCP schools to begin using a student information system in the 2015–16 school year.

CURRENT LAW: LOW-PERFORMING SCHOOL DISTRICTS AND SCHOOLS; STATE SUPERINTENDENT INTERVENTIONS

Current law provides that if the state superintendent of public instruction determines that a school is in need of improvement for five consecutive school years or that a school district is in need of improvement for four consecutive school years, the state superintendent may direct the school board to, after seeking input from school district staff, do one or more of the following in the school or school district:

1. Implement a new curriculum.
2. Implement a new instructional design, including expanded school hours, additional pupil supports and services, and individual learning plans for pupils.
3. Implement professional development programs focused on improving pupil academic achievement.
4. Make personnel changes.
5. Adopt accountability measures to monitor the school district's finances or to monitor other interventions directed by the state superintendent.

Current law also authorizes the state superintendent to withhold state aid from any school district that fails to comply to the state superintendent's satisfaction with any of the above directives.

This bill repeals these provisions.

ACADEMIC REVIEW SYSTEM

This bill replaces the school and school district accountability system with an academic review system, to be created by the Academic Review Board (ARB), by rule, within 24 months after the effective date of the bill and to be implemented by DPI beginning in the 2017–18 school year. The academic review system will be applicable to public schools, independent charter schools, and private schools participating in a PCP.

RESPONSIBILITIES OF THE ACADEMIC REVIEW BOARD

In addition to requiring the ARB to establish the academic review system, the bill gives the ARB the authority to establish an independent charter school or initiate a contract with an individual or group to operate an independent charter school. The bill also gives the ARB a number of responsibilities, including the following:

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1. Annually review the review reports issued for schools subject to sanctions and determine whether any such school has made measurable progress towards the goals established by the school.

2. Develop the following by rule:

a. Incentives to be given to exceptional schools.

b. Incentives to be given to schools with a significant population of children at risk or of pupils receiving curriculum modifications or other alternative educational programming.

c. Consequences to be borne by failing schools.

d. Methods for evaluating and improving the collection of data from schools and developing and modifying when appropriate the criteria used to grade schools.

e. The qualifying score for each letter grade assigned by the state superintendent.

3. Develop alternative improvement plans to be implemented by schools subject to Step I sanctions, as discussed below.

4. Approve three of the alternative tests determined, as discussed below, by University of Wisconsin-Madison Value-Added Research Center (VARC) to be appropriate for statistical comparison with examinations adopted or approved by the state superintendent of public instruction (state superintendent).

Beginning in 2017 and in each odd-numbered year thereafter, the ARB must submit a report with certain recommendations to DPI, provide a copy to the appropriate standing committees of the legislature, and be prepared to make a presentation about its recommendations to a hearing or joint hearing of the legislature.

PUPIL ASSESSMENTS

Current law requires public schools, including independent charter schools, and private schools participating in a PCP to administer examinations adopted or approved by the state superintendent in the 4th, 8th, 9th, 10th, and 11th grades. This bill authorizes a public school, including an independent charter school, and a private school participating in a PCP to administer a test approved by the ARB in lieu of the examinations adopted or approved by the state superintendent. If the school elects to administer an alternative test, the school must cover the costs of the test and of administering the test.

ANNUAL REVIEW OF SCHOOLS

The bill directs DPI to annually determine a school's performance in the following areas:

1. Pupil achievement in reading and mathematics.

2. Growth in pupil achievement in reading and mathematics, calculated using a value-added methodology.

3. Gap closure in growth in pupil achievement in reading and mathematics and, when available, in graduation rates.

4. Rates of attendance or of high school graduation.

DPI must determine the appropriate weight to be given each of the performance measures used to determine the letter grade assigned to a school. DPI must also determine each school's performance following a review of certain data from the

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preceding school year and must issue a review report for each school on which DPI assigns a letter grade to the school based upon that data. The bill directs DPI to determine the appropriate weight to be given to each measure reported for each school, and directs the ARB to determine the qualifying score for each letter grade by rule. The bill requires DPI to impose sanctions upon a school that receives a letter grade of “D” or “F” on the third review report of three consecutive review reports.

The bill specifies the information that DPI may use to measure the school’s performance in each of the above areas. Generally, schools submit the information through the student information system. The student information includes scores on reading and mathematics examinations administered to pupils attending the school; the disability status, grade level, race or ethnicity, English-language proficiency, and economic status of pupils taking the examinations; and information about the number of pupils who graduate from high school and the number of years within which the pupils obtain a diploma.

For a private school participating in a PCP, the bill directs DPI to use for each performance area only the information that pertains to pupils attending the private school under the PCP unless the private school also submits data about pupils who are not attending the private school under the PCP. DPI may assign two letter grades to PCP schools if the PCP schools submit data about pupils who are not attending the private school under a PCP. The first grade must be derived only from pupils attending the school under the PCP, and the second grade must be derived from all pupils attending the private school. If two grades are reported, DPI may impose sanctions upon a private school based only on the grade derived solely from pupils attending the private school under a PCP.

The bill provides that if DPI determines there is insufficient data about a school to grade its performance, or that a grade would be inappropriate because the mission of the school is to serve predominantly or exclusively children at risk, pupils with a disability, or pupils who have other special needs, DPI must issue a report card but must grade the school as “satisfactory” or “needs improvement.”

SANCTIONS FOR SCHOOLS RECEIVING A “D” OR “F”

The bill requires the state superintendent to increase the severity of sanctions imposed upon schools that receive failing grades in two steps: Steps I and II. The sanctions imposed upon public schools, including independent charter schools, differ in some respects from the sanctions imposed upon private schools participating in a PCP.

Step I sanctions

For a public school, or a private school at which at least 20 pupils attending the school are participating in a PCP, that receives a grade of “D” on the third review report of three consecutive review reports, the school must develop goals, implement a reform plan, and comply with the requirements imposed upon Title I focus schools for four consecutive years. The school may choose to comply with an alternative improvement plan approved by the ARB.

For a public school, or a private school at which at least 20 pupils attending the school are participating in a PCP, that receives a grade of “F” on the third review report of three consecutive review reports, the public school must develop goals,

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implement a reform plan, and comply with the requirements imposed upon Title I priority schools for four consecutive years. The school may choose to comply with an alternative improvement plan approved by the ARB.

A private school subject to Step I sanctions may choose to accept no new pupils under a PCP for two school years or to withdraw entirely from the PCP for four school years and to reapply to the program at the end of the two- or four-year period. If the private school chooses either of these options, the private school must implement the improvement plan to which the school would have been subject had the school not elected to withdraw from the PCP.

Step II sanctions

If the ARB determines that a school subject to Step I sanctions has not made adequate progress towards the improvement goals established under the Step I sanctions, the state superintendent may impose any of the following Step II sanctions:

1. For a public school other than an independent charter school, DPI must publish a request for proposals that directs interested applicants to submit a proposal to convert the public school to an independent charter school. DPI must forward any proposals to the ARB for its review. If the ARB finds a proposal acceptable, the ARB must authorize the conversion of the public school to an independent charter school.

2. For a public school described under item 1, if no proposal is acceptable, the school board must convert the school to a charter school under its authority.

3. For a public school that is an independent charter school, DPI must discontinue payments to the charter school as soon as practicable under the terms of the contract.

4. For a private school, the private school must fulfill any contractual or other requirements with DPI, and DPI must discontinue payments to the private school as soon as practicable. In addition, the private school may not accept any new pupils under a PCP for four school years. The private school may reapply to participate in a PCP after four school years. The private school would be subject to the same requirements imposed upon private schools withdrawing from a PCP under Step I sanctions.

Exiting sanctions

Under the bill, the state superintendent may release a school from sanctions if the ARB determines that the school has either demonstrated measurable progress towards the goals established by the school within four years or is on a trajectory to meet the goals within six years.

UNIVERSITY OF WISCONSIN-MADISON VALUE-ADDED RESEARCH CENTER

The bill requires VARC to statistically equate achievement data and scores derived from nationally recognized, norm-referenced tests to the scores obtained on standardized examinations adopted or approved by the state superintendent and required to be administered to pupils attending public schools in this state. The purpose of statistically equating the scores is to be able to measure the achievement and growth of pupils attending the school against the achievement and growth of

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pupils attending schools where the examinations adopted or approved by the state superintendent are administered.

Under the bill, VARC must also provide to the ARB a list of alternative tests determined by VARC to be acceptable for statistical comparison with the examinations adopted or approved by the state superintendent that may be administered by schools instead of the examinations adopted or approved by the state superintendent. Finally, the bill requires VARC to work with the ARB and DPI to review alternative tests proposed for administration by individual schools.

EDUCATIONAL OPTIONS

This bill directs each school board to annually inform the parent or guardian of each child between the ages of 3 and 18 who resides in the school district of the educational options available for the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.07 (1) (a) 6. of the statutes is created to read:

2 15.07 (1) (a) 6. Members of the academic review board appointed under s.
3 15.375 (3) shall be nominated as provided in that section, and with the advice of the
4 senate education committee and consent of the senate appointed, to serve for terms
5 prescribed by law.

6 **SECTION 2.** 15.07 (3) (bm) 8. of the statutes is created to read:

7 15.07 (3) (bm) 8. The academic review board shall meet at least 2 times each
8 year.

9 **SECTION 3.** 15.375 (3) of the statutes is created to read:

10 15.375 (3) ACADEMIC REVIEW BOARD. (a) There is created an academic review
11 board, attached to the department of public instruction under s. 15.03, consisting of
12 the following members appointed as specified for staggered 4-year terms:

13 1. The state superintendent or his or her designee.

14 2. One principal of a public school, nominated by the state superintendent.

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1 3. One representative of a college or university in the University of Wisconsin
2 System, nominated by the state superintendent.

3 4. One individual employed as instructional staff, as defined in s. 118.40 (2r)
4 (a), by a charter school established under s. 118.40 (2r), nominated by the state
5 superintendent.

6 5. One administrator, as defined in s. 115.39 (1) (a), of a private school
7 participating in a parental choice program, as defined in s. 115.39 (1) (d), nominated
8 by the state superintendent.

9 6. One teacher employed by a private school, participating in a parental choice
10 program under s. 118.60 or 119.23, nominated by the state superintendent.

11 7. One representative of a technical college located in this state, nominated by
12 the state superintendent.

13 8. One representative of a private college or university in this state, nominated
14 by the governor.

15 9. One individual nominated by the governor.

16 10. One principal of a charter school established under s. 118.40 (2r),
17 nominated by the minority leader of the assembly.

18 11. One individual nominated by the speaker of the assembly.

19 12. One teacher employed by a school district, nominated by the senate
20 minority leader.

21 13. One individual nominated by the senate majority leader.

22 (b) The academic review board may appoint nonvoting members to serve on the
23 board in an advisory capacity.

24 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
25 the following amounts for the purposes indicated:

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20.255 Public instruction, department of

2

(1) EDUCATIONAL LEADERSHIP

3

(fm) Value-Added Research Center GPR A -0- -0-

4

SECTION 5. 20.255 (1) (fm) of the statutes is created to read:

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20.255 (1) (fm) *Value-Added Research Center*. The amounts in the schedule to pay the costs of the University of Wisconsin-Madison Value-Added Research Center under s. 115.39 (4) (e).

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SECTION 6. 115.28 (61) of the statutes is created to read:

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115.28 (61) EDUCATIONAL OPTIONS. Annually, in January, inform the parent or guardian of each child who is at least 3 years old but not yet 18 years old who resides in the school district of the educational options available to the child, including public schools, private schools participating in a parental choice program, charter schools, full-time open enrollment, youth options, and course options.

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SECTION 7. 115.28 (62) of the statutes is created to read:

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115.28 (62) ALTERNATIVE TESTS. Publish on the department's Internet site a list of alternative tests approved by the academic review board under s. 115.39 (9) (a) 6.

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SECTION 8. 115.385 (3) of the statutes is created to read:

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115.385 (3) This section does not apply after September 30, 2017.

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SECTION 9. 115.39 of the statutes is created to read:

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115.39 School review system. (1) DEFINITIONS. In this section:

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(a) "Administrator" means the superintendent, supervising principal, executive director, or other person who acts as the administrative head of a private school participating in a parental choice program.

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1 (b) “Child at risk” has the meaning given in s. 118.153 (1) (a).

2 (c) “Focus school” means a Title I public school identified as a focus school by
3 the department or by the school district as eligible to receive funding under 20 USC
4 6303 (g) for the purpose of developing and implementing a school reform plan.

5 (d) “Parental choice program” means the program under s. 118.60 or 119.23.

6 (e) “Priority school” means a Title I public school identified as a priority school
7 by the department or by the school district as eligible to receive funding under 20
8 USC 6303 (g) for the purpose of implementing rigorous interventions in the school.

9 (f) “Research center” means the University of Wisconsin–Madison
10 Value–Added Research Center.

11 (g) “Review board” means the academic review board.

12 (h) “School” means a public school, including a charter school, and a private
13 school participating in a parental choice program.

14 (i) “Title I” means Title I of the federal Elementary and Secondary Education
15 Act of 1965.

16 **(2) REVIEW SYSTEM; EVALUATION AND GRADES.** No later than 24 months after the
17 effective date of this subsection [LRB inserts date], the review board shall
18 establish, by rule, a comprehensive school review system to be implemented by the
19 department beginning in the 2017–18 school year. The review board shall include
20 all of the following components in the review system:

21 (a) 1. Subject to subds. 2. and 3., multiple measures to determine a school’s
22 performance, including all of the following categorized by English language
23 proficiency, disability, income level, and race or ethnicity:

24 a. Pupil achievement in reading and mathematics.

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1 b. Growth in pupil achievement in reading and mathematics, calculated using
2 a value-added methodology that includes demographic controls.

3 c. Gap closure in growth in pupil achievement in reading and mathematics and,
4 when available, in graduation rates.

5 d. Rates of attendance or of high school graduation. The measure under this
6 subd. 1. d. shall include a measure of improvement in addition to a measure of
7 attainment.

8 2. Beginning 4 years after the effective date of this subdivision [LRB inserts
9 date], and once every 2 years thereafter, the review board shall review the measures
10 under subd. 1. to determine whether the measures sufficiently and accurately reflect
11 the performance of a school. The review board shall prepare and furnish to the
12 governor, the speaker of the assembly, the senate majority leader, and the
13 department a report summarizing the findings under this subdivision.

14 3. The department shall determine the appropriate weight to be given each of
15 the measures under this paragraph for the grades under par. (c).

16 (b) Measures to ensure that all applicable data elements collected and
17 calculations performed are done consistently and in a uniform manner for all schools.

18 (c) A grading system to rate a school's level of performance. The department
19 shall use the following grading system consisting of a letter grade:

20 1. "A".

21 2. "B".

22 3. "C".

23 4. "D".

24 5. "F".

25 **(3) REVIEW REPORT.** The department shall do all of the following:

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1 (a) Beginning with data collected from the 2015-16 school year for a public
2 school other than a charter school established under s. 118.40 (2r), and with data
3 collected from the 2016-17 school year for a private school participating in a parental
4 choice program and a charter school established under s. 118.40 (2r), except as
5 provided in sub. (5) (c), annually grade the performance of each school using the
6 grading system under sub. (2) (c) and issue a review report for the school that is clear
7 and easily understandable. Except with regard to pupil achievement and attendance
8 and high school graduation status, the department shall base the grade issued for
9 each school year on data derived from the preceding school year.

10 (b) Collect and disseminate the best practices from schools, except that the
11 department may not collect information for this purpose from a private school
12 participating in a parental choice program without the private school's consent.

13 (c) On the review report for a private school participating in a parental choice
14 program, specify the percentage of pupils attending the private school under a
15 parental choice program and comply with one of the following:

16 1. For a private school that submits achievement data only for those pupils
17 attending the private school under the parental choice program, identify the grade
18 derived from data about those pupils as a choice pupil grade.

19 2. Notwithstanding sub. (5) (b), for a private school that submits achievement
20 data under sub. (4) (a) or (e) for those pupils attending the private school under the
21 parental choice program and for all other pupils attending the private school,
22 identify the grade derived from data about pupils attending the school under a
23 parental choice program as a choice pupil grade. The department shall also identify
24 a 2nd grade, derived from data about all pupils attending the private school
25 including pupils attending the private school under the parental choice program, as

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1 the private school grade. The department may use only the choice pupil grade
2 identified under this subdivision in determining when a sanction may be imposed
3 under this section.

4 (d) Include a data component in a school review report for a school year only
5 if the component includes data from at least 20 pupils in that school year.

6 (e) At least 30 days before issuing a review report for a school under this section,
7 provide the school an opportunity to review a preliminary version of the report and
8 correct errors.

9 (f) Annually provide the review board with a copy of the review report.

10 **(4) DATA USED TO EVALUATE SCHOOL PERFORMANCE.** Subject to sub. (5) (b), the
11 department may use only the following information for each measure specified in
12 sub. (2) (a):

13 (a) For measuring pupil achievement in reading and mathematics under sub.

14 (2) (a) 1. a.:

15 1. Scores on the reading and mathematics examinations administered under
16 s. 118.30, including scores on the alternate reading and mathematics examinations
17 administered to children with significant cognitive disabilities.

18 2. The disability status of pupils taking the examinations under s. 118.30.

19 3. The grade level of pupils taking the examinations under s. 118.30.

20 4. The race or ethnicity of pupils taking the examinations under s. 118.30.

21 5. The English proficiency status of pupils taking the examinations under s.
22 118.30.

23 6. The economic status of pupils taking the examinations under s. 118.30.

24 (b) For measuring growth in pupil achievement in reading and mathematics
25 under sub. (2) (a) 1. b., the information under par. (a).

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1 (c) For measuring gap closure in growth in pupil achievement in reading and
2 mathematics and in graduation rates under sub. (2) (a) 1. c., the information under
3 par. (d). When measuring gap closure, the department shall ensure that a subgroup
4 with a sufficient number of pupils within a school is compared to the statewide
5 performance of pupils who are not in that subgroup.

6 (d) For measuring rates of attendance and of high school graduation under sub.
7 (2) (a) 1. d.:

8 1. The information under par. (a).

9 2. Attendance data.

10 3. Data about pupils who graduate from high school with a regular diploma
11 within 4 school years, within 5 school years, and within 6 school years.

12 4. Data about pupils identified in sub. (5) (c) 1. who graduate from high school
13 with a regular diploma within 6 school years.

14 (e) If a school administers a nationally recognized, norm-referenced test that
15 has been approved by the review board under sub. (9) (a) 6. or 7. to pupils attending
16 the school, achievement data derived from the test. The department shall submit the
17 data to the research center, which shall statistically equate the scores so that the
18 data may be used to measure the achievement and growth of pupils attending the
19 school. The department shall then use the data to do so. The department shall pay
20 the center's costs from the appropriation under s. 20.255 (1) (fm).

21 **(5) DATA TO EVALUATE PERFORMANCE; SOURCES AND SPECIAL CIRCUMSTANCES.** (a)
22 To the extent practicable, the department shall use data obtained through the
23 student information system under s. 115.383 for the purposes of this section and
24 shall develop data submittal and collection procedures that reduce the

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1 administrative burden and cost for private schools participating in a parental choice
2 program.

3 (b) For a private school participating in a parental choice program, the
4 department may use for each measure specified in sub. (2) (a) only the information
5 in this subsection that pertains to pupils attending the private school under the
6 program unless the private school submits achievement data under sub. (4) (a) or (e)
7 for pupils attending the private school other than under the parental choice program.

8 (c) 1. If the department determines that there is insufficient data about a school
9 to grade its performance under sub. (3) (a) or that a grade under sub. (2) (c) is
10 inappropriate because the mission of the school is to serve predominantly or
11 exclusively pupils in any of the following categories, the department shall issue a
12 review report for the school but grade the school as “satisfactory” or “needs
13 improvement”:

14 a. A child at risk.

15 b. A pupil for whom an individualized education program or individualized
16 family service plan is in effect.

17 c. A pupil who has provided the school with a letter from a physician, a
18 psychologist licensed under s. 455.04, or a professional counselor licensed under s.
19 457.12 that specifies the pupil’s special needs and the accommodations necessary in
20 order to enable the pupil to take standardized assessments.

21 2. If sub. (4) (e) applies to a private school participating in a parental choice
22 program, but at which fewer than 20 pupils are attending the private school under
23 the program, the private school may direct the department to display on the school’s
24 review report the percentile rank of pupil scores on the test instead of a grade under
25 sub. (2) (c).

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1 3. If the department determines that the percentage of pupils in a school who
2 participate in the examinations administered under s. 118.30 is inadequate, the
3 department may use that as a factor in determining the school's grade under sub. (3)
4 (a).

5 **(6) SANCTIONS - STEP I.** (a) Beginning with an accountability report received
6 under s. 115.385 for the 2015-16 school year for a public school other than a charter
7 school established under s. 118.40 (2r), and with a review report received in the
8 2016-17 school year for a charter school established under s. 118.40 (2r), if a public
9 school, including a charter school, receives under sub. (3) (a) or s. 115.385 a grade of
10 "D" in the 3rd school year of any 3 consecutive school years, the state superintendent
11 shall require the school board or operator of the charter school to immediately
12 undertake one of the following measures for improving the performance of the school:

13 1. a. Develop goals, implement a reform plan, and, subject to subd. 1. b., comply
14 for 4 school years with requirements imposed on a focus school.

15 b. If the public school subject to sanctions under subd. 1. a. is designated a focus
16 school or a priority school at the time the state superintendent requires action under
17 this paragraph, at the end of the 4-school-year period described under subd. 1. a.,
18 the public school shall be required to comply with any requirements in effect at the
19 time action is required under this paragraph if those requirements have not been
20 satisfied.

21 2. Implement for 4 school years an alternative improvement plan approved by
22 the review board.

23 (b) Beginning with an accountability report received under s. 115.385 for the
24 2015-16 school year for a public school other than a charter school established under
25 s. 118.40 (2r), and with a review report received in the 2016-17 school year for a

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1 charter school established under s. 118.40 (2r), if a public school, including a charter
2 school, receives under sub. (3) (a) or s. 115.385 a grade of “F” in the 3rd school year
3 of any 3 consecutive school years, the state superintendent shall require the school
4 board or operator of the charter school to immediately undertake one of the following
5 measures for improving the performance of the school:

6 1. a. Develop goals, implement a reform plan, and, subject to subd. 1. b., comply
7 for 4 school years with requirements imposed on a priority school.

8 b. If the public school subject to sanctions under subd. 1. a. is designated a focus
9 school or a priority school at the time the state superintendent requires action under
10 this paragraph, at the end of the 4-school-year period described under subd. 1. a.,
11 the public school shall be required to comply with any requirements in effect at the
12 time action is required under this paragraph if those requirements have not been
13 satisfied.

14 2. Implement for 4 school years an alternative improvement plan approved by
15 the review board.

16 (c) 1. Beginning with a review report received in the 2016-17 school year, if the
17 state superintendent determines that a private school that has 20 or more pupils
18 participating in a parental choice program has received under sub. (3) (a) a grade of
19 “D” in the 3rd school year of any 3 consecutive school years in which the school has
20 participated in a parental choice program, the state superintendent shall require the
21 private school to immediately undertake one of the following measures for improving
22 the performance of the private school as a condition for continued participation in a
23 parental choice program:

24 a. Develop goals, implement a reform plan, and comply for 4 years with
25 requirements imposed on a focus school.

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1 b. Implement for 4 school years an alternative improvement plan approved by
2 the review board.

3 c. Choose to accept no additional pupils under a parental choice program for
4 the next 2 consecutive school years following the state superintendent's
5 determination under this paragraph. At the end of the 2-year period, a private
6 school may reapply to participate in a parental choice program but shall be required
7 to comply with the requirements under subd. 1. a. or b.

8 d. Withdraw from the parental choice program and fulfill any contractual
9 requirements with the department as soon as practicable.

10 2. If a private school subject to this paragraph elects to withdraw from the
11 parental choice program as provided in subd. 1. d., the private school may not reapply
12 to participate in a parental choice program for the 4 school years following the state
13 superintendent's determination under this paragraph. If the private school elects
14 to reapply to participate in a parental choice program at the end of the 4 school years,
15 the private school shall be required to comply with the requirements under subd. 1.
16 a. or b.

17 (d) 1. Beginning with a review report received in the 2016-17 school year, if the
18 state superintendent determines that a private school that has 20 or more pupils
19 participating in a parental choice program has received under sub. (3) (a) a grade of
20 "F" in the 3rd school year of any 3 consecutive school years in which the school has
21 participated in a parental choice program, the state superintendent shall require the
22 private school to undertake one of the following measures for improving the
23 performance of the private school as a condition for continued participation in a
24 parental choice program:

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1 a. Develop goals, implement a reform plan, and comply for 4 years with
2 requirements imposed on a priority school. The private school may apply payments
3 received under ss. 118.60 (4) (bg) and (4m) and 119.23 (4) (bg) and (4m) towards the
4 cost of the reform plan implemented under this subd. 1. a.

5 b. Implement for 4 school years an alternative improvement plan approved by
6 the review board. The private school may apply payments received under ss. 118.60
7 (4) (bg) and (4m) and 119.23 (4) (bg) and (4m) towards the cost of the alternative
8 improvement plan implemented under this subd. 1. b.

9 c. Choose to accept no additional pupils a under a parental choice program for
10 the next 2 consecutive school years following the state superintendent's
11 determination under this paragraph. At the end of the 2-year period, a private
12 school may reapply to participate in a parental choice program, but shall be required
13 to comply with the requirements under subd. 1. a.

14 d. Withdraw from the parental choice program and fulfill any contractual
15 requirements with the department as soon as practicable.

16 2. If a private school subject to this paragraph elects to withdraw from the
17 parental choice program as provided in subd. 1. d., the private school may not reapply
18 to participate in a parental choice program for the 4 school years following the state
19 superintendent's determination under this paragraph. If the private school elects
20 to reapply to participate in a parental choice program at the end of the 4 school years,
21 the private school shall be required to comply with the requirements under subd. 1.

22 a.

23 **(7) SANCTIONS - STEP II.** (a) If the review board determines that a public school
24 subject to sanctions under sub. (6) (a) or (b) has failed to make adequate progress
25 towards the goals developed under sub. (6) (a) 1. or (b) 1., or, for a school that

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1 implements an alternative improvement plan, has failed to improve its performance
2 consistent with that plan, the school shall immediately be subject to any of the
3 following:

4 1. For a public school, other than a charter school established under s. 118.40
5 (2r), the department shall publish a request for proposals that directs interested
6 applicants to submit a proposal to convert the public school to a charter school under
7 the authority of the review board under s. 118.40 (2r) (b) 1. e. The department shall
8 submit any proposal it receives to the review board for review. If the review board
9 finds the proposal acceptable, the review board shall authorize the conversion of the
10 public school to a charter school under s. 118.40 (2r).

11 2. Notwithstanding s. 118.40 (2) (b) 2. and (2m) (b), if the review board
12 determines that no proposal submitted under subd. 1. is acceptable, the school board
13 shall convert the school to a charter school under s. 118.40 (2m).

14 3. For a public school that is a charter school established under s. 118.40 (2r),
15 the department shall discontinue payments to the charter school under s. 118.40 (2r)
16 (e) as soon as practicable under the terms of the contract.

17 (b) If the review board determines that a private school subject to sanctions
18 under sub. (6) (c) or (d) has failed to make adequate progress towards the goals
19 developed under sub. (6) (c) 1. or (d) 1., or, for a school that implements an alternative
20 improvement plan, has failed to improve its performance consistent with that plan,
21 the private school shall fulfill any contractual or other requirements with the
22 department as soon as practicable, and the department shall discontinue payments
23 to the private school as soon as practicable. The private school may not accept any
24 new pupils under a parental choice program for 4 school years. The private school
25 may reapply to participate in a parental choice program at the end of the 4 school

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1 years following the review board's determination under this paragraph. If the
2 private school elects to reapply to participate in a parental choice program at the end
3 of the 4 school years, a private school that had been subject to sanctions under sub.
4 (6) (c) shall be required to comply with the requirements under sub. (6) (c) 1. a. or b.,
5 and a private school that had been subject to sanctions under sub. (6) (d) shall be
6 required to comply with the requirements under sub. (6) (d) 1. a. or b.

7 **(8) ANNUAL REVIEW; EXITING SANCTIONS.** (a) For each school subject to sanctions
8 under sub. (6) or (7), the review board shall annually review the review report issued
9 for the school to determine whether the school is making progress towards any goals
10 established for the school under sub. (6) (a) 1., (b) 1., (c) 1., or (d) 1. or, for a school
11 that implements an alternative improvement plan, if the school is improving
12 performance consistent with that plan.

13 (b) The state superintendent, with the advice of the review board, may release
14 a school subject to sanctions under sub. (6) or (7) from the requirements imposed
15 upon the school by sub. (6) or (7) if either of the following applies:

16 1. The review board determines that the school has demonstrated measurable
17 progress towards the goals established by the school under sub. (6) within the 48
18 months immediately following the imposition of sanctions under sub. (6).

19 2. The review board determines that the school is on a trajectory to meet the
20 goals established by the school under sub. (6) within the 72 months immediately
21 following the imposition of sanctions under sub. (6).

22 **(9) RESPONSIBILITIES OF THE ACADEMIC REVIEW BOARD.** (a) The review board shall
23 advise the department on the implementation, evaluation, and improvement of the
24 school review system under this section. To accomplish the objectives of this
25 paragraph, the review board shall do all of the following:

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- 1 1. Develop, by rule, incentives to be given to exceptional schools.
- 2 2. Develop, by rule, incentives to be given to schools with a significant
- 3 population of children at risk or of pupils receiving curriculum modifications under
- 4 s. 118.15 (1) (d) and to schools offering technical educational programming under s.
- 5 118.33 (1) (g) or eligible for career and technical education grants under s. 115.367.
- 6 3. Develop, by rule, consequences to be borne by failing schools.
- 7 4. Develop, by rule, methods for evaluating and improving the collection of data
- 8 from schools and developing and modifying when appropriate the criteria used to
- 9 grade schools under sub. (3) (a).
- 10 5. Develop alternative improvement plans to be used by schools subject to
- 11 sanctions under sub. (6).
- 12 6. Within 30 days after the effective date of this subdivision [LRB inserts
- 13 date], request from the research center a list of alternative tests determined by the
- 14 research center to be acceptable for statistical comparison with examinations
- 15 adopted or approved under s. 118.30 (1). The review board shall evaluate and
- 16 approve 3 of the tests, and shall provide the list of approved tests to the department.
- 17 7. In consultation with the department and the research center, establish, by
- 18 rule, a procedure for the review and approval by the review board of applications by
- 19 schools seeking to administer an alternative test not already approved under subd.
- 20 6. A test approved under this subdivision may be administered only by the school
- 21 that applies to administer the test. The review board may approve under this
- 22 subdivision only those tests that the research center has determined are consistent
- 23 with the following parameters:
- 24 a. The test aligns sufficiently with content standards established for
- 25 examinations adopted or approved under s. 118.30 (1).

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1 b. The test is comprised of a variety of testing methodologies, including
2 multiple choice and short answer, to assess a range of student skills.

3 c. The test includes accommodations or alternative assessments for students
4 enrolled in a special education program under subch. V of ch. 115.

5 d. The test provider makes available translations for limited-English
6 proficient pupils, as defined in s. 115.955 (7).

7 e. The test may be administered in a variety of modes, including with paper and
8 pencil, in an online format, in a fixed form format, and in an adaptive format.

9 f. The test has internal consistency reliability coefficients of at least 0.8.

10 8. Develop, by rule, the qualifying score for each grade under sub. (2) (c).

11 (b) Beginning in 2017, in each odd-numbered year, no later than 60 days after
12 the department issues review reports for schools under sub. (3) (a), the review board
13 shall make recommendations to the department, provide a copy of the
14 recommendations to the appropriate standing committees of the legislature under
15 s. 13.172 (3), and be prepared to make a presentation to a hearing or joint hearing
16 of the appropriate standing committees of the legislature on all of the following:

17 1. How the grade of a school should be affected when a pupil is excused from
18 taking an examination under s. 118.30 (2) (b) 3. to 6.

19 2. Policies that address appropriate accommodations on statewide
20 assessments for a pupil attending a private school participating in a parental choice
21 program who is a child with a disability, a limited-English proficient pupil, or
22 economically disadvantaged, as defined in federal law, that are similar to the
23 accommodations made for such pupils attending public schools.

24 3. Refining the information to be used by the department under sub. (4) for each
25 measure specified in sub. (2) (a).

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1 4. The methodology for measuring the performance of schools under this
2 section.

3 5. The appropriate weight to be given each of the measures under sub. (2) (a)
4 for the grades under sub. (2) (c).

5 6. The qualifying score for each grade under sub. (2) (c).

6 7. A list of nationally recognized, norm-referenced tests appropriate for
7 approval by the review board under par. (a) 6. and 7.

8 8. Sanctions imposed upon, or lifted from, schools by the state superintendent
9 under subs. (6), (7), and (8).

10 9. Actions, if any, taken by the state superintendent pursuant to the
11 recommendations under subd. 8.

12 **(10) VALUE-ADDED RESEARCH CENTER.** Within 90 days after the effective date
13 of this subsection [LRB inserts date], the research center shall submit to the
14 review board a list of alternative examinations determined by the research center to
15 be acceptable for statistical comparison with examinations adopted or approved
16 under s. 118.30 (1).

17 **SECTION 10.** 118.153 (1) (a) 5. of the statutes is amended to read:

18 118.153 (1) (a) 5. Eighth grade pupils whose score in each subject area on the
19 examination administered under s. 118.30 (1m) (am) 1. or (8) was below the basic
20 level, 8th grade pupils who failed the examination administered under s. 118.30 (1m)
21 (am) 2. or (8), and 8th grade pupils who failed to be promoted to the 9th grade.

22 **SECTION 11.** 118.30 (2) (b) 3. of the statutes is amended to read:

23 118.30 (2) (b) 3. Upon the request of a pupil's parent or guardian, the school
24 board shall excuse the pupil from taking an examination administered under sub.
25 (1m) or (8).

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1 **SECTION 12.** 118.30 (2) (b) 4. of the statutes is amended to read:

2 118.30 (2) (b) 4. Upon the request of a pupil's parent or guardian, the operator
3 of a charter school under s. 118.40 (2r) shall excuse the pupil from taking an
4 examination administered under sub. (1r) or (8).

5 **SECTION 13.** 118.30 (2) (b) 5. of the statutes is amended to read:

6 118.30 (2) (b) 5. Upon the request of a pupil's parent or guardian, the governing
7 body of a private school participating in the program under s. 119.23 shall excuse the
8 pupil from taking an examination administered under sub. (1s) (a) to (cm) or (8).

9 **SECTION 14.** 118.30 (2) (b) 6. of the statutes is amended to read:

10 118.30 (2) (b) 6. Upon the request of a pupil's parent or guardian, the governing
11 body of a private school participating in the program under s. 118.60 shall excuse the
12 pupil from taking an examination administered under sub. (1t) (a) to (cm) or (8).

13 **SECTION 15.** 118.30 (8) of the statutes is created to read:

14 118.30 (8) Notwithstanding subs. (1m), (1r), (1s), and (1t), a school board, an
15 operator of a charter school under s. 118.40 (2r), and the governing body of a private
16 school participating in a program under s. 118.60 or 119.23 is not required to
17 administer an examination adopted or approved by the state superintendent under
18 sub. (1) in any grade for which an examination is required to be administered under
19 this section if the school board, operator, or governing body administers instead an
20 alternative test approved by the academic review board under s. 115.39 (9) (a) 6. or
21 7. If a school elects to administer an alternative test approved by the academic
22 review board, the school board, operator, or governing body of the school shall be
23 responsible for the costs of the test and of administering the test.

24 **SECTION 16.** 118.33 (6) (a) 1. of the statutes is amended to read:

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1 118.33 (6) (a) 1. Each school board shall adopt a written policy specifying the
2 criteria for promoting a pupil from the 4th grade to the 5th grade and from the 8th
3 grade to the 9th grade. The criteria shall include the pupil's score on the examination
4 administered under s. 118.30 (1m) (a) or (am) or (8), unless the pupil has been
5 excused from taking the examination under s. 118.30 (2) (b); the pupil's academic
6 performance; the recommendations of teachers, which shall be based solely on the
7 pupil's academic performance; and any other academic criteria specified by the
8 school board. Except as provided in par. (b) 1. and 3., the criteria apply to pupils
9 enrolled in charter schools located in the school district.

10 **SECTION 17.** 118.33 (6) (b) 1. of the statutes is amended to read:

11 118.33 (6) (b) 1. Each operator of a charter school under s. 118.40 (2r) shall
12 adopt a written policy specifying the criteria for promoting a pupil from the 4th grade
13 to the 5th grade and from the 8th grade to the 9th grade. The criteria shall include
14 the pupil's score on the examination administered under s. 118.30 (1r) (a) or (am) or
15 (8), unless the pupil has been excused from taking the examination under s. 118.30
16 (2) (b); the pupil's academic performance; the recommendations of teachers, which
17 shall be based solely on the pupil's academic performance; and any other academic
18 criteria specified by the operator of the charter school.

19 **SECTION 18.** 118.33 (6) (c) 1. of the statutes is amended to read:

20 118.33 (6) (c) 1. The governing body of each private school participating in the
21 program under s. 119.23 shall adopt a written policy specifying criteria for promoting
22 a pupil who is attending the private school under s. 119.23 from the 4th grade to the
23 5th grade and from the 8th grade to the 9th grade. The criteria shall include the
24 pupil's score on the examination administered under s. 118.30 (1s) (a) or (b) or (8),
25 unless the pupil has been excused from taking the examination under s. 118.30 (2)

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1 (b); the pupil's academic performance; the recommendations of teachers, which shall
2 be based solely on the pupil's academic performance; and any other academic criteria
3 specified by the governing body of the private school.

4 **SECTION 19.** 118.33 (6) (cr) 1. of the statutes is amended to read:

5 118.33 (6) (cr) 1. The governing body of each private school participating in the
6 program under s. 118.60 shall adopt a written policy specifying criteria for promoting
7 a pupil who is attending the private school under s. 118.60 from the 4th grade to the
8 5th grade and from the 8th grade to the 9th grade. The criteria shall include the
9 pupil's score on the examination administered under s. 118.30 (1t) (a) or (b) or (8),
10 unless the pupil has been excused from taking the examination under s. 118.30 (2)
11 (b); the pupil's academic performance; the recommendations of teachers, which shall
12 be based solely on the pupil's academic performance; and any other academic criteria
13 specified by the governing body of the private school.

14 **SECTION 20.** 118.40 (2r) (b) 1. e. of the statutes is created to read:

15 118.40 (2r) (b) 1. e. The academic review board under s. 115.39 (7) (a).

16 **SECTION 21.** 118.40 (2r) (bm) of the statutes is amended to read:

17 118.40 (2r) (bm) The common council of the city of Milwaukee and the
18 Milwaukee area technical college district board may establish or enter into a contract
19 for the establishment of a charter school located only in the school district operating
20 under ch. 119. The chancellor of the University of Wisconsin-Milwaukee may
21 establish or enter into a contract for the establishment of a charter school located
22 only in Milwaukee County or in an adjacent county. The chancellor of the University
23 of Wisconsin-Parkside may only establish or enter into a contract for the
24 establishment of a charter school located in a unified school district that is located
25 in the county in which the University of Wisconsin-Parkside is situated or in an

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1 adjacent county. The academic review board under s. 115.39 (7) (a) 1. may establish
2 or enter into a contract for the establishment of a charter school under this
3 paragraph only for a public school subject to sanctions under s. 115.39 (7) (a) 1.

4 **SECTION 22.** 118.40 (2r) (d) 2. of the statutes is amended to read:

5 118.40 (2r) (d) 2. Administer the examinations under ss. 118.30 (~~1r~~) and 121.02
6 (1) (r) to pupils enrolled in charter schools under this subsection.

7 **SECTION 23.** 118.42 of the statutes is repealed.

8 **SECTION 24.** 118.60 (2) (ag) 3. of the statutes is repealed.

9 **SECTION 25.** 118.60 (7) (a) of the statutes is repealed.

10 **SECTION 26.** 118.60 (7) (e) of the statutes is amended to read:

11 118.60 (7) (e) Each private school participating in the program under this
12 section shall administer the examinations required under s. 118.30 (~~1t~~) to pupils
13 attending the school under the program. The private school may administer
14 additional standardized tests to such pupils.

15 **SECTION 27.** 118.60 (10) (a) 4. of the statutes is repealed.

16 **SECTION 28.** 119.23 (2) (ag) 3. of the statutes is repealed.

17 **SECTION 29.** 119.23 (7) (a) of the statutes is repealed.

18 **SECTION 30.** 119.23 (7) (e) of the statutes is amended to read:

19 119.23 (7) (e) Each private school participating in the program under this
20 section shall administer the examinations required under s. 118.30 (~~1s~~) to pupils
21 attending the school under the program. The private school may administer
22 additional standardized tests to such pupils.

23 **SECTION 31.** 119.23 (10) (a) 4. of the statutes is repealed.

24 **SECTION 32.** 121.006 (2) (d) of the statutes is repealed.

25 **SECTION 33. Nonstatutory provisions.**

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1 (1) ACADEMIC REVIEW BOARD; INITIAL MEMBERSHIP. Notwithstanding section
2 15.375 (3) of the statutes, as created by this act, the initial members appointed to the
3 academic review board under section 15.375 (3) of the statutes, as created by this act,
4 shall be appointed as follows:

5 (a) The members appointed under section 15.375 (3) (a) 2., 4. and 13. of the
6 statutes, as created by this act, shall be appointed no later than 180 days after the
7 effective date of this paragraph for a term expiring on May 1, 2017.

8 (b) The members appointed under section 15.375 (3) (a) 3., 7. and 9. of the
9 statutes, as created by this act, shall be appointed no later than 180 days after the
10 effective date of this paragraph for a term expiring on May 1, 2018.

11 (c) The members appointed under section 15.375 (3) (a) 6., 8. and 10. of the
12 statutes, as created by this act, shall be appointed no later than 180 days after the
13 effective date of this paragraph for a term expiring on May 1, 2019.

14 (d) The members appointed under section 15.375 (3) (a) 5., 11. and 12. of the
15 statutes, as created by this act, shall be appointed no later than 180 days after the
16 effective date of this paragraph for a term expiring on May 1, 2020.

17 (2) ACADEMIC REVIEW BOARD; RULES.

18 (a) *Submission to legislative council.* The academic review board shall submit
19 in proposed form the rules required under section 115.39 of the statutes, as created
20 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
21 later than the first day of the 13th month beginning after the effective date of this
22 paragraph.

23 (b) *Scope statement.* Notwithstanding section 227.135 (2) of the statutes, the
24 academic review board is not required to present the statement of the scope of the
25 rules required under section 115.39 of the statutes, as created by this act, to the

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1 governor for approval. Notwithstanding section 227.135 (2) of the statutes, the
2 academic review board is not required to present the statement of scope, as provided
3 in section 227.135 (2) of the statutes, to the state superintendent of public instruction
4 for approval.

5 (c) *Emergency rules.* Using the procedure under section 227.24 of the statutes,
6 the academic review board may promulgate rules under section 115.39 of the
7 statutes, as created by this act, for the period before the effective date of the rules
8 submitted under paragraph (a), but not to exceed the period authorized under section
9 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the
10 statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the
11 academic review board is not required to provide evidence that promulgating a rule
12 under this paragraph as an emergency rule is necessary for the preservation of the
13 public peace, health, safety, or welfare and is not required to provide a finding of
14 emergency for a rule promulgated under this paragraph.

SECTION 34. Effective date.

15
16 (1) This act takes effect on the day after publication, or on the 2nd day after
17 publication of the 2015-17 biennial budget act, whichever is later.

18 (END)