

# 18A:46-19.8

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2010                      **CHAPTER:** 71

**NJSA:** 18A:46-19.8 (Clarifies school district eligibility to receive State funding for special education evaluation services for children enrolled in New Jersey nonpublic school and living out-of-State.)

**BILL NO:** A2300 (Substituted for S1762)

**SPONSOR(S)** Wagner and Others

**DATE INTRODUCED:** February 25, 2010

**COMMITTEE:**                      **ASSEMBLY:** Education  
Appropriation

**SENATE:** ---

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                      **ASSEMBLY:** June 28, 2010

**SENATE:** June 28, 2010

**DATE OF APPROVAL:** September 9, 2010

### **FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Introduced version of bill enacted)

#### **A2300**

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill)                      Yes

**COMMITTEE STATEMENT:**    **ASSEMBLY:**                      Yes                      Education  
Appropriation

**SENATE:**    No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**    No

**LEGISLATIVE FISCAL ESTIMATE:**    Yes

#### **S1762**

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill)                      Yes

**COMMITTEE STATEMENT:**    **ASSEMBLY:**                      No

**SENATE:**    Yes                      Education  
Budget

**FLOOR AMENDMENT STATEMENT:**    No

**LEGISLATIVE FISCAL ESTIMATE:**    Yes

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Wagner bill to ease unfunded special ed mandate on school districts becomes law",  
Assembly Democrats News Release, 9/13/10

LAW/KR

# ASSEMBLY, No. 2300

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 25, 2010

**Sponsored by:**

**Assemblywoman CONNIE WAGNER**

**District 38 (Bergen)**

**Assemblyman SCOTT T. RUMANA**

**District 40 (Bergen, Essex and Passaic)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

**Assemblywoman Rodriguez, Assemblyman Ramos, Assemblywomen Jasey, Vainieri Huttle, Voss, Assemblyman Johnson and Senator Gordon**

**SYNOPSIS**

Clarifies school district eligibility to receive State funding for special education evaluation services for children enrolled in New Jersey nonpublic school and living out-of-State.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2010)**

A2300 WAGNER, RUMANA

2

1 AN ACT concerning State funding for certain children enrolled in  
2 nonpublic schools and amending P.L.1977, c.193.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 14 of P.L.1977, c.193 (C.18A:46-19.8) is amended  
8 to read as follows:

9 14. a. On November 5 of each year, each board of education  
10 shall report the number of nonpublic school children who attended a  
11 nonpublic school located within the district who were identified as  
12 eligible to receive examination, classification, and speech  
13 correction services pursuant to this act during the previous school  
14 year. The number of these pupils requiring an initial evaluation or  
15 reevaluation for examination and classification shall be multiplied  
16 by \$990.73. The number of these pupils requiring an annual review  
17 for examination and classification shall be multiplied by \$297.06.  
18 The number requiring speech correction shall be multiplied by  
19 \$786.70. These products shall be added to determine the estimated  
20 cost for providing examination, classification, and speech  
21 corrections services to nonpublic school children during the next  
22 school year. Each board of education shall report the number of  
23 nonpublic school children who attended a nonpublic school located  
24 within the district, who were identified as eligible for  
25 supplementary instruction services during the preceding school  
26 year. The number of these pupils shall be multiplied by \$752.41.  
27 This product shall be added to the estimated cost for providing  
28 examination, classification and speech correction services.

29 In preparing its annual budget, each board of education shall  
30 include as an expenditure the estimated cost of providing services to  
31 nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-  
32 19.1 et al.).

33 In preparing its annual budget, each board of education shall  
34 include as a revenue State aid in an amount equal to the estimated  
35 cost of providing services to nonpublic school children pursuant to  
36 P.L.1977, c.193 (C.18A:46-19.1 et al.).

37 During each school year, each district shall receive an amount of  
38 State aid equal to 10% of the estimated cost on the first day in  
39 September and on the first day of each month during the remainder  
40 of the school year. If a board of education requires funds prior to  
41 September, the board shall file a written request with the  
42 Commissioner of Education stating the need for the funds. The  
43 commissioner shall review each request and forward those for  
44 which need has been demonstrated to the appropriate officials for  
45 payment. In the event the expenditures incurred by any district are

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 less than the amount of State aid received, the district shall refund  
2 the unexpended State aid after completion of the school year. The  
3 refunds shall be paid no later than December 1. In any year, a  
4 district may submit a request for additional aid pursuant to  
5 P.L.1977, c.193 (C.18A:46-19.1 et al.). If the request is approved  
6 and funds are available from refunds of the prior year, payment  
7 shall be made in the current school year.

8 b. For the purposes of the report provided pursuant to  
9 subsection a. of this section, a board of education shall include a  
10 pupil enrolled in a nonpublic school located within the district who  
11 does not reside in the State in the number of pupils requiring an  
12 initial evaluation or reevaluation for examination and classification  
13 or requiring an annual review for examination and classification.

14 Notwithstanding the provisions of N.J.S.18A:46-6,  
15 N.J.S.18A:46-8, or any other section of law to the contrary, a school  
16 district may use State aid received pursuant to the provisions of  
17 P.L.1977, c.193 (C.18A:46-19.1 et al.) for the initial evaluation or  
18 reevaluation for examination and classification or annual review for  
19 examination and classification of a nonpublic school pupil who is  
20 not a resident of the State.

21 (cf: P.L.1996, c.138, s.75)

22

23 2. This act shall take effect immediately.

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#### STATEMENT

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28 This bill clarifies that a school district is eligible to receive and  
29 use chapter 193 State funding to provide special education  
30 evaluation services to nonpublic school pupils who are not residents  
31 of the State. Federal law requires that a school district provide such  
32 services to pupils enrolled in a nonpublic school located in the  
33 district, even if the pupils' permanent residence is in another state.  
34 However, the Department of Education interprets current State law  
35 in a manner that renders a nonpublic school pupil who resides in  
36 another state ineligible for State aid for evaluation services.  
37 Consequently, a school district must pay for such costs using local  
38 property taxes or federal special education funding intended to  
39 support the services provided to public school pupils. This bill  
40 ensures that districts will receive financial assistance to provide the  
41 federally required services to these nonpublic school pupils.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2300**

**STATE OF NEW JERSEY**

DATED: JUNE 14, 2010

The Assembly Education Committee favorably reports Assembly Bill No. 2300.

This bill clarifies that a school district is eligible to receive and use chapter 193 State funding to provide special education evaluation services to nonpublic school pupils who are not residents of the State. Federal law requires that a school district provide such services to pupils enrolled in a nonpublic school located in the district, even if the pupils' permanent residence is in another state. However, the Department of Education interprets current State law in a manner that renders a nonpublic school pupil who resides in another state ineligible for State aid for evaluation services. Consequently, a school district must pay for such costs using local property taxes or federal special education funding intended to support the services provided to public school pupils. This bill ensures that districts will receive financial assistance to provide the federally required services to these nonpublic school pupils.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2300

# STATE OF NEW JERSEY

DATED: JUNE 17, 2010

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2300.

The bill clarifies that a school district is eligible to receive and use chapter 193 State funding to provide special education evaluation services to nonpublic school pupils who are not residents of the State. Federal law requires that a school district provide such services to pupils enrolled in a nonpublic school located in the district, even if the pupils' permanent residence is in another state. However, the Department of Education interprets current State law in a manner that renders a nonpublic school pupil who resides in another state ineligible for State aid for evaluation services. Consequently, a school district must pay for such costs using local property taxes or federal special education funding intended to support the services provided to public school pupils. This bill ensures that districts will receive financial assistance to provide the federally required services to these nonpublic school pupils.

#### FISCAL IMPACT:

This bill would lead to an increase in State expenditures and a corresponding increase in revenue in school districts; however, the Office of Legislative Services (OLS) is not able to estimate the cost, as the OLS does not have data on the number of nonpublic school students who are not residents of the State and require an evaluation or annual review. It should be noted that section 14 of P.L.1977, c.193 (C.18A:46-19.8) provides \$990.73 per pupil for an initial evaluation or reevaluation and \$297.06 per pupil for an annual review. To the extent that the statute does not provide for an inflationary increase of these aid amounts, the annual appropriations acts generally include language providing higher pupil amounts. The FY 2010 Appropriations Act provided \$1,326.17 per pupil for initial evaluations and reevaluations and \$380 per pupil for annual reviews.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 2300**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JULY 23, 2010

**SUMMARY**

**Synopsis:** Clarifies school district eligibility to receive State funding for special education evaluation services for children enrolled in New Jersey nonpublic school and living out-of-State.

**Type of Impact:** Increased General Fund Expenditure

**Agencies Affected:** Department of Education, local school districts

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Indeterminate – See comments below		
<b>Local Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) notes that Assembly Bill No. 2300 of 2010 will lead to an increase in State expenditures and a corresponding increase in revenue to local school districts. However, the OLS is not able to estimate the additional State expenditures or local revenue, as data are not available regarding the number of out-of-State students enrolled in a New Jersey nonpublic school who would require an initial evaluation or reevaluation or annual review.
- It should be noted that section 14 of P.L.1977, c.193 (C.18A:46-19.8) provides \$990.73 per nonpublic school pupil for an initial evaluation or reevaluation for examination and classification. The same section of law provides \$297.06 per pupil requiring an annual review for examination and classification. The law does not provide for an inflationary adjustment of these figures; as such, these per pupil amounts are routinely augmented in the annual appropriations acts. The FY 2010 Appropriations Act provided \$1,326.17 per pupil for initial evaluation and reevaluation services and \$380 per pupil for annual reviews.

**BILL DESCRIPTION**

Assembly Bill No. 2300 of 2010 clarifies that a school district may receive and use State aid for a student enrolled in a nonpublic school who is not a New Jersey resident and requires an initial evaluation or reevaluation or annual review for special education classification. Under the



federal Individuals with Disabilities Education Act, a school district is required to perform such assessments for students attending a nonpublic school in the district. School districts receive State aid, pursuant to P.L.1977, c.193 (C.18A:46-19.1 et seq.) for this purpose for students who are New Jersey residents. However, the Department of Education has interpreted the law in a manner such that aid is not awarded and cannot be used for students who do not reside in the State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that Assembly Bill No. 2300 of 2010 will lead to an increase in State expenditures and a corresponding increase in revenue to local school districts. However, the OLS is not able to estimate the additional State expenditures and local revenue, as data are not available regarding the number of out-of-State nonpublic school students who would require an initial evaluation or reevaluation or annual review. It should be noted that section 14 of P.L.1977, c.193 (C.18A:46-19.8) provides \$990.73 per pupil for an initial evaluation or reevaluation for evaluation and classification. The same section of law provides \$297.06 per pupil requiring an annual review for examination and classification. The law does not provide for an inflationary adjustment of these figures; as such, these per pupil amounts are routinely augmented in the annual appropriations acts. The FY 2010 Appropriations Act provided \$1,326.17 per pupil for initial and reevaluation services and \$380 per pupil for annual reviews.

*Section: Education*  
*Analyst: Allen T. Dupree*  
*Senior Fiscal Analyst*  
*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 1762**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MARCH 15, 2010

**Sponsored by:**

**Senator ROBERT M. GORDON**

**District 38 (Bergen)**

**SYNOPSIS**

Clarifies school district eligibility to receive State funding for special education evaluation services for children enrolled in New Jersey nonpublic school and living out-of-State.

**CURRENT VERSION OF TEXT**

As introduced.



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2 nonpublic schools and amending P.L.1977, c.193.

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6 and funds are available from refunds of the prior year, payment  
7 shall be made in the current school year.

8 b. For the purposes of the report provided pursuant to  
9 subsection a. of this section, a board of education shall include a  
10 pupil enrolled in a nonpublic school located within the district who  
11 does not reside in the State in the number of pupils requiring an  
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13 or requiring an annual review for examination and classification.

14 Notwithstanding the provisions of N.J.S.18A:46-6,  
15 N.J.S.18A:46-8, or any other section of law to the contrary, a school  
16 district may use State aid received pursuant to the provisions of  
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18 reevaluation for examination and classification or annual review for  
19 examination and classification of a nonpublic school pupil who is  
20 not a resident of the State.

21 (cf: P.L.1996, c.138, s.75)

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23 2. This act shall take effect immediately.

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#### STATEMENT

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28 This bill clarifies that a school district is eligible to receive and  
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34 However, the Department of Education interprets current State law  
35 in a manner that renders a nonpublic school pupil who resides in  
36 another state ineligible for State aid for evaluation services.  
37 Consequently, a school district must pay for such costs using local  
38 property taxes or federal special education funding intended to  
39 support the services provided to public school pupils. This bill  
40 ensures that districts will receive financial assistance to provide the  
41 federally required services to these nonpublic school pupils.

SENATE EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 1762**

**STATE OF NEW JERSEY**

DATED: JUNE 3, 2010

The Senate Education Committee favorably reports Senate Bill No. 1762.

This bill clarifies that a school district is eligible to receive and use chapter 193 State funding to provide special education evaluation services to nonpublic school pupils who are not residents of the State. Federal law requires that a school district provide such services to a pupil enrolled in a nonpublic school located in the district, even if the pupil's permanent residence is in another state. However, the Department of Education interprets current State law in a manner that renders a nonpublic school pupil who resides in another state ineligible for State aid for evaluation services. Consequently, a school district must pay for such costs using local property taxes or federal special education funding intended to support the services provided to public school pupils. This bill ensures that districts will receive State financial assistance to provide the federally required services to these nonpublic school pupils.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 1762

# STATE OF NEW JERSEY

DATED: JUNE 23, 2010

The Senate Budget and Appropriations Committee favorably reports Senate Bill No. 1762.

The bill clarifies that a school district is eligible to receive and use chapter 193 State funding to provide special education evaluation services to nonpublic school pupils who are not residents of the State. Federal law requires that a school district provide such services to a pupil enrolled in a nonpublic school located in the district, even if the pupil's permanent residence is in another state. However, the Department of Education interprets current State law in a manner that renders a nonpublic school pupil who resides in another state ineligible for State aid for evaluation services. Consequently, a school district must pay for such costs using local property taxes or federal special education funding intended to support the services provided to public school pupils. This bill ensures that districts will receive State financial assistance to provide the federally required services to these nonpublic school pupils.

#### FISCAL IMPACT:

The OLS notes that the bill will lead to an increase in State expenditures and a corresponding increase in revenue to local school districts. However, the OLS is not able to estimate the additional State expenditures and local revenue, as data are not available regarding the number of out-of-State nonpublic school students who would require an initial evaluation or reevaluation or annual review. It should be noted that section 14 of P.L.1977, c.193 (C.18A:46-19.8) provides \$990.73 per pupil for an initial evaluation or reevaluation for evaluation and classification. The same section of law provides \$297.06 per pupil requiring an annual review for examination and classification. The law does not provide for an inflationary adjustment of these figures; as such, these per pupil amounts are routinely augmented in the annual appropriations acts. The FY 2010 Appropriations Act provided \$1,326.17 per pupil for initial and reevaluation services and \$380 per pupil for annual reviews.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 1762**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JULY 27, 2010

**SUMMARY**

**Synopsis:** Clarifies school district eligibility to receive State funding for special education evaluation services for children enrolled in New Jersey nonpublic school and living out-of-State.

**Type of Impact:** Increased General Fund Expenditure

**Agencies Affected:** Department of Education, local school districts

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate – See comments below		
<b>Local Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) notes that Senate Bill No. 1762 of 2010 will lead to an increase in State expenditures and a corresponding increase in revenue to local school districts. However, the OLS is not able to estimate the additional State expenditures or local revenue, as data are not available regarding the number of out-of-State students enrolled in a New Jersey nonpublic school who would require an initial evaluation or reevaluation or annual review.
- It should be noted that section 14 of P.L.1977, c.193 (C.18A:46-19.8) provides \$990.73 per nonpublic school pupil for an initial evaluation or reevaluation for examination and classification. The same section of law provides \$297.06 per pupil requiring an annual review for examination and classification. The law does not provide for an inflationary adjustment of these figures; as such, these per pupil amounts are routinely augmented in the annual appropriations acts. The FY 2010 Appropriations Act provided \$1,326.17 per pupil for initial evaluation and reevaluation services and \$380 per pupil for annual reviews.

## **BILL DESCRIPTION**

Senate Bill No. 1762 of 2010 clarifies that a school district may receive and use State aid for a student enrolled in a nonpublic school who is not a New Jersey resident and requires an initial evaluation or reevaluation or annual review for special education classification. Under the federal Individuals with Disabilities Education Act, a school district is required to perform such assessments for students attending a nonpublic school in the district. School districts receive State aid, pursuant to P.L.1977, c.193 (C.18A:46-19.1 et seq.) for this purpose for students who are New Jersey residents. However, the Department of Education has interpreted the law in a manner such that aid is not awarded and cannot be used for students who do not reside in the State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that Senate Bill No. 1762 of 2010 will lead to an increase in State expenditures and a corresponding increase in revenue to local school districts. However, the OLS is not able to estimate the additional State expenditures and local revenue, as data are not available regarding the number of out-of-State nonpublic school students who would require an initial evaluation or reevaluation or annual review. It should be noted that section 14 of P.L.1977, c.193 (C.18A:46-19.8) provides \$990.73 per pupil for an initial evaluation or reevaluation for evaluation and classification. The same section of law provides \$297.06 per pupil requiring an annual review for examination and classification. The law does not provide for an inflationary adjustment of these figures; as such, these per pupil amounts are routinely augmented in the annual appropriations acts. The FY 2010 Appropriations Act provided \$1,326.17 per pupil for initial and reevaluation services and \$380 per pupil for annual reviews.

*Section: Education*  
*Analyst: Allen T. Dupree*  
*Senior Fiscal Analyst*  
*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).