

## Special Education Funding in Wisconsin: How it Works and Why it Matters

*Despite Wisconsin's constitutional responsibility to ensure students with disabilities have access to special education, state aids only cover about a quarter of the cost. As a result, school districts must fill the gap with general education resources, leaving fewer available to serve all students and creating inequities between districts throughout the state.*

One of the foremost fiscal challenges for state government and school districts throughout Wisconsin is the cost of providing special education.

School leaders from across the state testified at last year's Blue Ribbon Commission on School Funding hearings on the acute fiscal strain caused by special education costs. Meanwhile, during his gubernatorial campaign, Governor Tony Evers called for a \$1.4 billion boost in state K-12 education aid in the 2019-21 budget. His proposal included a \$600 million increase for special education—the largest increase over the current budget of any other education line item by far.

Calls for additional resources stem from a growing gap between available state and federal funding for mandated special education and rising special ed-

ucation costs (which are considerably higher per pupil than general education costs). To satisfy the mandate, school districts are diverting resources away from programs intended to meet the needs of all students.

Recent state funding trends illustrate the dimensions of this financial challenge. Between the 2007-08 and 2017-18 school years, special education costs eligible for state aid increased by 18.3% to about \$1.4 billion. At the same time, the state's primary funding source has remained flat at far below aidable costs (i.e., those eligible for state reimbursement)—\$369 million—for a decade. As a result, state funding of special education has fallen from 28.9% in 2007-08 to an estimated 24.5% in 2018-19 (and is down from a peak of 70% in 1973).

In the 2015-16 academic year, to pay for special education costs, school

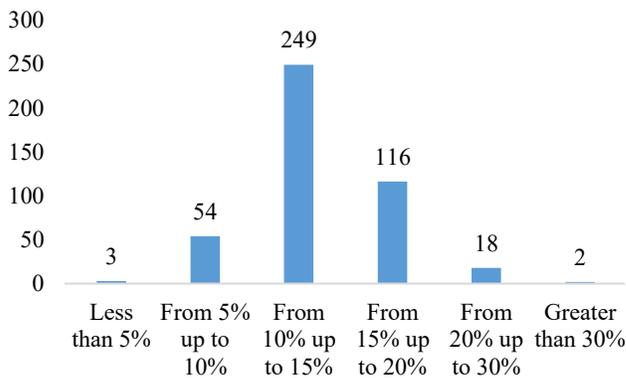
districts used more than \$1.0 billion in resources that otherwise would have served all students. For two-thirds of Wisconsin school districts (283), this equates to 10% or more of resources available under their state-imposed per pupil revenue limits. These diversions appear to be especially prevalent in school districts serving high poverty, high minority schools, which raises equity concerns.

This report does not cover all aspects of Wisconsin's system for financing special education. Rather, it looks at how the conflict between special education mandates and available funding drives a key fiscal challenge for Wisconsin's policymakers and local education providers.

### **Also in this issue:**

New Revenue Projections Show Slowing Growth in State Taxes

**Fig. 1: Share of Students with Disabilities**  
 # of Districts or Independent Charters in Each Range, 2017-18



Source: Department of Public Instruction

## WHAT IS SPECIAL EDUCATION?

Wisconsin statutes define special education as “specially designed instruction...provided at no cost to [a child’s family] to meet the unique needs of a child with a disability.” Regardless of cost or available funding, state and federal law guarantee students with disabilities enrolled in **public schools (either district or independent charter)** a free and appropriate public education (FAPE). Students with disabilities may participate in open enrollment, but nonresident school districts may deny their application if space or programming is not available to accommodate their needs.

A child may qualify for special education or related services based on a variety of disabilities and health conditions. Examples of services include speech-language pathology, physical therapy, classroom aids, modified curriculum, counseling, transportation, and school nursing. The specialized educational program and support services a school district deems necessary for a child with a disability (with input from parents) are outlined in an Individualized Education Program (IEP).

School districts have different responsibilities to students with disabilities whose parents elect to enroll them in **private schools**. School districts must locate, identify, and evaluate all students with disabilities including those parentally placed in private schools within the district’s boundaries. However, federal law explicitly states that there is not a right to FAPE for students with disabilities who are placed in a private school by their parents. Instead, school districts are subject to a less rigorous standard, to ensure “those children have an opportunity to participate in special education.”

As noted, school districts provide needed services to students in public schools regardless of cost. For parentally placed private school students with disabilities, in contrast, school districts meet the required standard by

setting aside only a proportionate share of their federal Individuals with Disabilities Education Act (IDEA) formula funds (based on the number of parentally-placed private school students with disabilities in their area). This count determines the types and amount of services that will be available to those students, only some of whom may end up receiving services. School districts are not required to use state or local funds to provide these services.

Other differences include private schools having the option to charge tuition, private school teachers not being required to meet state qualifications for special education teachers, and parents having no explicit legal rights if they dispute what the private school provides to their child.

## NUMBER OF STUDENTS SERVED

In 2017-18, 118,546 public school students with disabilities were enrolled in Wisconsin school districts (including district charter schools) and independent charter schools, or 13.8% of total public enrollment statewide. This is similar to the latest federal figure of 13% and reflects a statewide decrease of 5,576 students (4.5%) since 2007-08. However, the Department of Public Instruction (DPI) projects a slight increase (0.3%) in this count over the next two years.

Some have questioned whether charter schools (public schools created through a contract between a governing organization and a chartering authority such as a school board or other entity) enroll a smaller share of students with disabilities than non-charter public schools. Statewide DPI enrollment data from 2017-18 show students with disabilities as a share of overall enrollment in charter schools was 10.9% compared to 13.8% for non-charter public schools. However, because all but two independent charter schools were in Milwaukee County, a better comparison might be with the percentage of students

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with disabilities in Milwaukee Public Schools (MPS) (18.8%) or the average in non-charter public schools in Milwaukee County (16.1%). From either angle, average enrollment of students with disabilities in charter schools does appear to be lower than in non-charter peers.

As illustrated in Figure 1 on page 2, the relative sizes and proportions of special education populations among the state’s districts and charter schools vary widely—from 0.1% to 40% of overall enrollment. In just over half of Wisconsin’s school districts and independent charter schools (249), students with disabilities represent between 10% and 15% of the overall student body. An additional 116 local education providers have special education populations of between 15% and 20%. Because of the considerable cost that schools incur to provide special education, this wide variation is a key driver of inequities among districts and schools statewide.

### SPECIAL EDUCATION COSTS, FUNDING

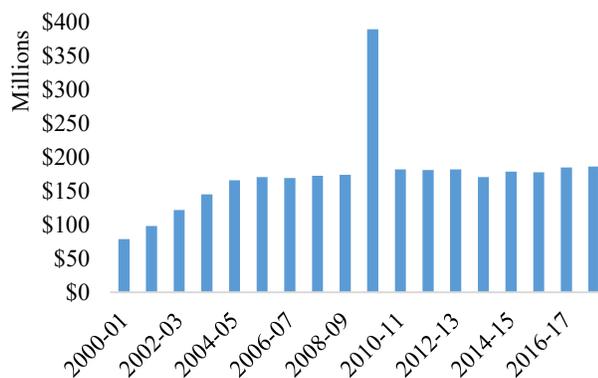
Special education costs come from providing specific services outlined in the IEP of a qualifying student that the school would not otherwise incur—also known as “excess cost.”

In 2016-17, the total excess cost of special education services statewide was more than \$1.66 billion. This represents about 13% of total educational expenditures as reported in DPI’s 2016-17 audited annual report that provides comparative cost data for school districts. Total special education costs have increased by about 10.5% since 2007-08, although year-over-year growth has slowed in recent years.

This increase in costs has occurred despite the previously mentioned decline in the number of students with disabilities. According to DPI, one possible explanation is that strategies to improve teaching, initiatives to identify students with disabilities at a young age, and other efforts to address lower-cost but more common needs (such as learning disabilities) have diminished the number of lower-need students. At the same time, DPI points to growth in the number of students with relatively more complex, severe, or costly needs (such as students with autism or those with certain chronic or acute health problems). This increase at the state level follows national trends.

On average, instructional and support costs for students with disabilities are significantly higher (double, by some estimates) than those for regular education. Several specific federal and state funding streams are intended to help defray the costs of these mandated services, but as we will see below, they fall far short and leave districts to cover the lion’s share with general state and local funds.

**Figure 2: Federal Aid Remains Flat**  
Federal IDEA Grants for Special Education, 2001-01 to 2017-18



Source: Department of Public Instruction

### Federal Funding

With the 1975 passage of the Individuals with Disabilities Education Act, the federal government committed to assisting states and local communities to provide education for students with disabilities. The main source of federal funding for special education is IDEA grants, determined by a formula. Medicaid also provides funding for certain health, medical, and administrative costs. Federal special education aids offset about 12% of total statewide special education costs in 2015-16.

In 2017-18, Wisconsin schools received \$186.3 million in IDEA flow-through grants. As shown in Figure 2, funding from this program has remained relatively flat over the past decade with the exception of 2009-10 when IDEA and Title I formula grants doubled for all school districts under the American Recovery and Reinvestment Act.

### State Funding

According to the Education Commission of the States, Wisconsin was one of only five states as of 2014-15 that reimbursed districts for part or all of their special education costs rather than providing this aid through the state’s general school funding formula. Among those five states, Wisconsin had the lowest reimbursement rate (27%). The other four were Michigan (29%), Nebraska (51-57%), Vermont (60%), and Wyoming (100%).

Wisconsin supports students with disabilities using a variety of financing tools. In addition to two relatively small grant programs targeted to successful transition from high school, Wisconsin employs three types of “categorical aid” (totaling \$380 million in 2018-19) that reimburse school districts for a relatively narrow set of special education costs. The largest aid source by far is special education and school-age parents aid, also known as primary special education aid. Costs eligible for reimbursement under this program are more limited than those that may qualify for federal IDEA reimbursement

### State or Federal Reimbursement?

How do districts with special ed costs decide? Key points:

- Districts have a finite budget for IDEA funds determined by formula (which are reimbursed at 100%) and unlimited but prorated (currently around 25%) reimbursement from state categorical funds.
- Districts can request reimbursement for a given expense from only one program, not both (i.e., they cannot receive state aid and federal aid for the exact same dollar of expense).
- Districts have to figure out which expenses to claim under each source to maximize resources for paying for special education costs.

and include instruction, related services, and specialized transportation for students with disabilities. Although special education enrollment has declined modestly over the past decade, costs eligible for reimbursement under this program have increased by 18.3% (\$222 million) to exceed \$1.4 billion.

Despite the increase in costs, the state has appropriated the same \$368.9 million for this program annually since 2008-09. Consequently, as noted earlier, reimbursement rates have fallen from a peak of 66% in 1980 to an estimated 24.5% in 2018-19. Figure 3 illustrates how reimbursement rates have fallen since 2000-01 as a result of relatively flat funding levels and rising costs.

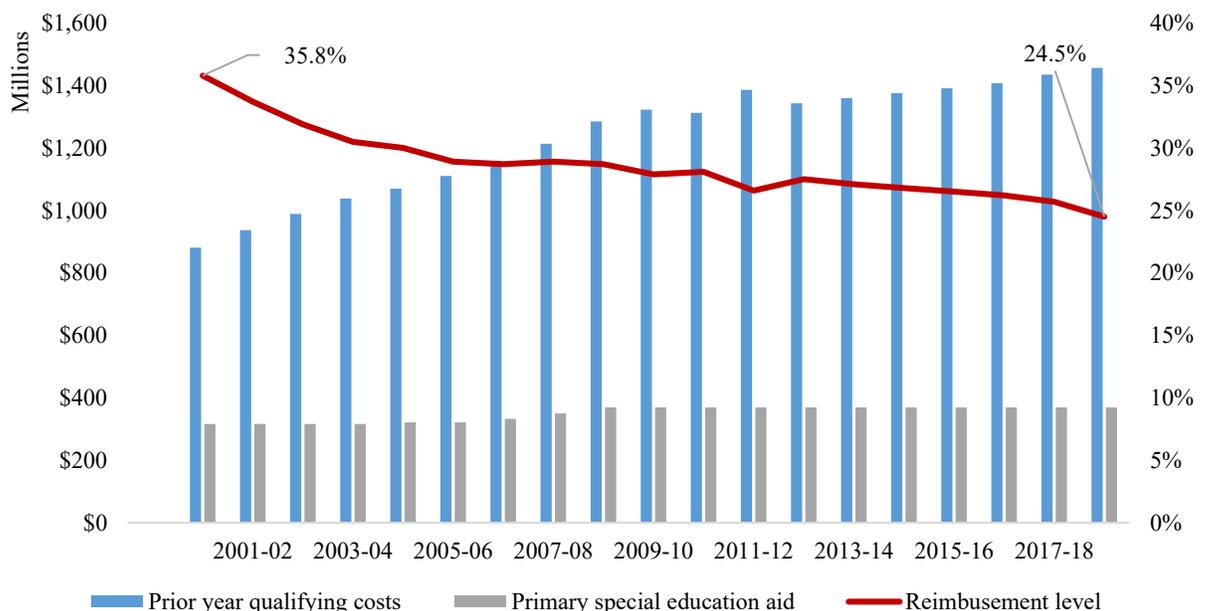
### Local and Other State Funding

This gap between available state and federal funding and actual excess special education costs places a considerable burden on local school districts, which end up turning to other revenue sources. The largest sources of revenue for public school districts are general state aids and local property taxes, which together are capped under the state-imposed revenue limit. This finite amount is the main resource on which schools rely to serve all students.

School districts have little discretion over how to spend a large portion of that revenue, however, as they are mandated to cover the specific costs associated with students with disabilities. Consequently, resources for regular education often are diverted toward special education costs. Because school districts can spend only a finite amount for general education (i.e., the revenue limit per pupil), this leaves fewer resources to meet the needs of all non-special education students and likely exacerbates inequities between schools. The Legislative Fiscal Bureau calculates that school districts diverted over \$1 billion of their general fund dollars in 2015-16 to pay for special education costs.

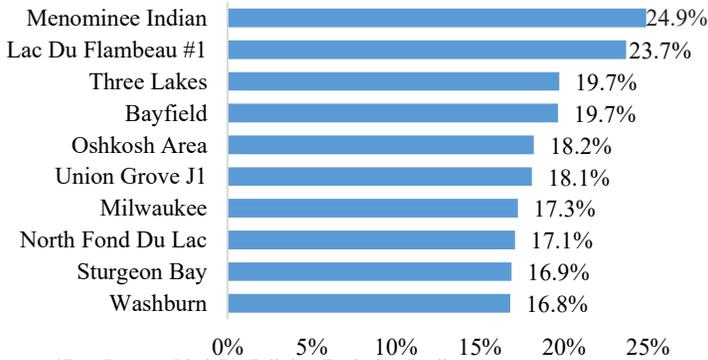
For two-thirds of Wisconsin school districts (283), the amount they must draw down from general funds used to serve all students to pay for excess special education costs represents 10% or more of their revenue limit. In other words, about one-tenth of these districts' main source of funding comes off the top to pay for excess costs of students with disabilities.

**Figure 3: State Reimbursement Rate for Special Education Falls**  
Special Education Costs, State Aid, and Reimbursement Level, 2000-01 to 2018-19



Sources: Legislative Fiscal Bureau, Department of Public Instruction

**Fig. 4: Top Districts With Unreimbursed Special Ed. Costs**  
 % of Revenue\* Going to Costs Not Offset by State, Feds, 2015-16



\*Base Revenue Limit Per Full-time Equivalent Pupil  
 Sources: Department of Public Instruction, WPF calculations

Figure 4 shows the 10 Wisconsin districts with the highest special education costs as a share of their per pupil revenue limits (the per pupil amounts throughout the rest of this report are per full time equivalent student, or FTE). Notably, these districts are widely dispersed across the state. With the exception of MPS, they include small districts whose local special education costs equate to between 18% and 25% of their per pupil revenue limit authority. Three of these districts serve the state’s largest district populations of Native American students (Menominee Indian, Lac Du Flambeau #1, and Bayfield).

Among Wisconsin’s 10 largest districts (as measured by 2015-16 enrollment), special education cost per pupil not offset by federal or state aids is equivalent to between 12% and 17% of their revenue limits per pupil. These include high-poverty districts and those that serve large populations of minority students.

In summary, the need to finance special education costs with resources that are subject to tight revenue limits and that are intended to serve all students presents challenges to the majority of school districts across the state. Moreover, this need appears to be especially pressing in school districts serving vulnerable students.

**SPECIAL NEEDS SCHOLARSHIP PROGRAM**

Beginning in 2015-16, private schools enrolling students with disabilities have gained access to a relatively new funding source. Introduced in Wisconsin’s 2015-17 state budget, the Special Needs Scholarship Program (SNSP) is one of 19 programs nationwide that provides state-funded vouchers or other support specifically for students with disabilities enrolled in private schools.

As shown in Figure 5, at the program’s 2016-17 inception, 26 participating schools reported 235 students participating. The program’s second year saw modest growth with 252 students in 28 participating schools. About three-fourths of the students who received special

needs scholarships during the first two years of the program attended a private school during the prior year. In 2018-19, the program expanded almost threefold to 692 students in 76 schools. (This likely stems from the repeal of the state requirement that participants have attended a public school or been denied an open enrollment seat the prior year.)

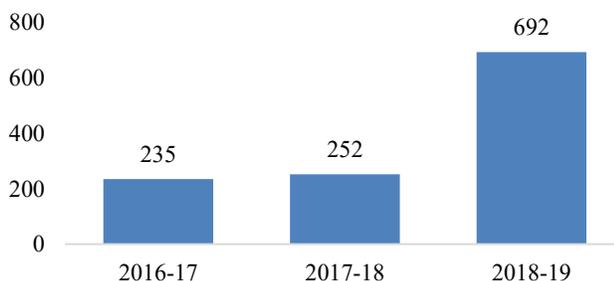
The SNSP paid private schools a statutorily set amount of \$12,431 per pupil in 2018-19. (This is higher than the amount paid for parental choice vouchers, presumably to help cover the “excess costs” of special education). The total amount paid to private schools was \$2.6 million in 2016-17, \$3 million in 2017-18, and is estimated at \$8.4 million in 2018-19. For costs incurred during the 2018-19 school year, private schools now have an alternative payment option. Instead of taking the standard per-pupil payment, they may elect reimbursement in the following year of documented actual costs to carry out a student’s IEP or services plan and related services as modified by agreement between the school and the student’s parents. Through reductions in their state aid, resident school districts pay for the costs of the modified IEP or services plan and related services up to 150% of the program’s standard per-pupil payment. If costs exceed that amount (\$18,647 in 2018-19), DPI takes money from the state’s general fund to cover up to 90% of actual costs.

Under current law, neither the resident school district nor DPI has authority to review or dispute the modifications private schools make to the IEP or services plan, even if those changes result in significantly higher costs.

**FISCAL IMPACT OF SCHOLARSHIPS**

The state pays for the special needs scholarships by making a corresponding reduction in the current year to the state school aid going to the districts where the students in question reside. In a 2018 evaluation, the Legislative Audit Bureau (LAB) found that resident school districts statewide saw their state aid reduced by \$4.1 million to offset SNSP costs over the program’s

**Figure 5: Special Needs Voucher Program Expands**  
 # of Special Needs Scholarship Participants, 2016-17 to 2018-19



Source: Department of Public Instruction

first two years (with the impact reaching \$2.6 million for Milwaukee Public Schools).

In addition, because of the way state aid is calculated for all school districts statewide, the scholarship program also affected aid for districts that did not have any participating resident students. The LAB found that in 2017-18, these school districts saw, on average, \$3,400 in reduced state aid—a modest amount but one that could grow significantly in the future.

The program also affects resident school districts’ revenue limits (in the same manner as the state’s statewide and Racine voucher programs for regular education do). After a district’s state aid is reduced to pay for the special needs scholarships, the district has the option under state revenue caps to compensate for the lost aid in the current year by raising the property tax levy.

If a school board does end up raising the local levy to maintain current educational programs serving all students, then the cost of the SNSP students is borne by the property taxpayers in that district. Local taxpayers may not be aware of this because property tax bills do not spell this out explicitly.

Students participating in the SNSP in the current year are counted in the following year in the resident school district’s membership, a specific form of enrollment count, for state general aid purposes, but are not counted for revenue limit purposes. According to DPI, this provision is unlikely to fully restore the district’s prior year state aid reduction. Moreover, this system redistributes general school aids statewide. Districts that receive less

general school aid as a result of those receiving more through the SNSP in many cases will choose to fill the gap by raising their property taxes as well.

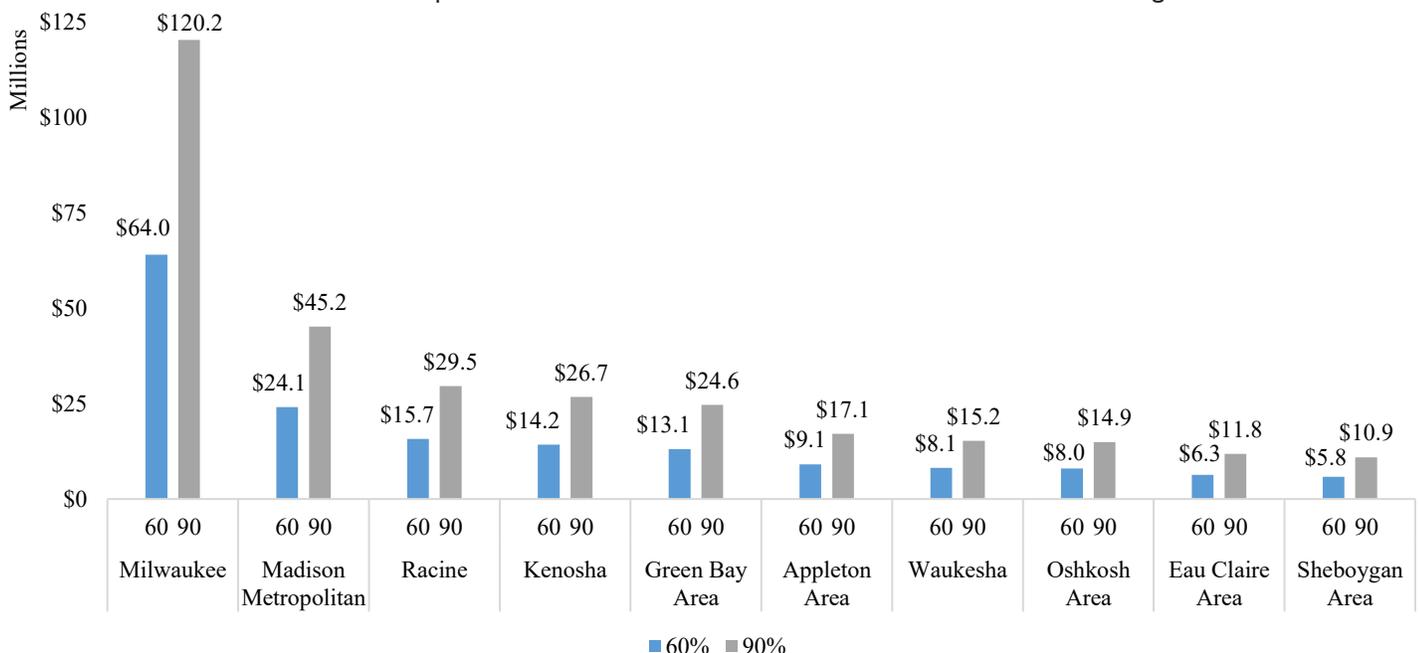
The total deduction in state aid school districts will realize from the SNSP in 2018-19 is an estimated \$8.4 million—over twice the amount from the first two years of the program combined. In most cases, the loss to the 84 affected school districts represented 1% or less of their overall general state aid, but in Milwaukee Public Schools it reached as high as \$4.4 million for 362 participants.

While these deductions exacerbate the already heavy burden of special education costs for many districts, the \$8.4 million is a comparatively small expenditure relative to total state spending on special education categorical aid (\$380 million in 2018-19). A primary concern raised by some state policymakers and local districts, however, is the potential for significant future growth in the cost of and participation in the SNSP and the consequences on both resident and non-resident school districts. This concern stems from the tripling in participation in the program’s first three years, the recent change in state law that allows for a payment of up to 90% of the private school’s actual costs, and the absence of provisions for strong state oversight on how funds are spent.

## CONCLUSION

The historical underfunding of mandated special education in Wisconsin creates daunting fiscal and educational challenges for districts that already struggle with flat revenue limits and rising cost pressures. First, schools may lack sufficient resources to provide an optimal

**Figure 6: Additional State Aid Under Hypothetical 60% and 90% Reimbursement Rates**  
Increases in Special Education Aid to School Districts Based on 2016-17 Base Funding



Sources: Legislative Fiscal Bureau

## Federal Maintenance of Effort (MOE)

To receive federal IDEA funds, states are required to maintain or increase their financial support for students with disabilities from one year to the next. This is called maintenance of state financial support (MSFS). If a state fails to meet its maintenance requirement in one year, its federal IDEA award is reduced in subsequent years until the funding is restored. The reduction to the federal IDEA award would affect all school districts in the state.

The MSFS carries important policy implications and risks. In deciding how much state funding to allocate for special education, state policymakers must consider whether the state can maintain that level of funding indefinitely.

This is separate from the federal maintenance of effort (MOE) rule for school districts which requires they maintain the same amount of local and state funds for special education services from year to year.

range of supports for students with disabilities. Also, by compelling school districts to divert resources that otherwise would serve all students, insufficient funding for special education has emerged as a major contributor to inequity in Wisconsin's school finance system.

Over the past year, these concerns have sparked calls for increased state special education aid. For example, before leaving his post as DPI superintendent, Evers proposed a 2019-21 DPI budget that would dramatically boost reimbursement for special education costs for every school district—to 30% in 2019-20 and 60% in 2020-21. This would require a \$606 million increase over the 2019 base budget (over two years), making it the single largest program expansion in the 2019-21 proposed DPI budget.

Similarly, the Blue Ribbon Commission on School Funding recommended increasing the current reimbursement rate from about 25% to a range between 28% and 60%. Finally, a growing number of local school districts (30 as of early January 2019) are calling for parity with private schools of 90% state reimbursement of special education costs.

Figure 6 on page 6 shows the impact reimbursement rate increases would have had on the 10 districts with the highest special education aid levels in 2016-17. Compared to aid levels that year (which were equivalent to a 26.2% reimbursement rate), a 60% reimbursement rate would have raised state spending by \$488.5 million. A 90% reimbursement rate would

boost primary special education spending by \$917.3 million.

Wisconsin policymakers also could consider tailoring alternative policy options adopted by other states confronting similar challenges. For example, 12 states use categorical aids but provide them to school districts up front, often as block grants. This method could address the relatively narrow list of allowable costs and administrative burden that some argue Wisconsin's reimbursement and reporting system imposes. However, according to DPI officials, this method also would make it impossible for school districts to track spending on special education using state funds. This would mean only spending using local funds could count toward their federal maintenance of effort requirement.

The majority of states (33) minimize the competition between special education and general education by embedding one or more student weights (e.g., for disability category or educational setting) for students with disabilities into the state's primary funding formula. As long as revenue limits could be adjusted to account for the increased weights and the aid could be clearly specified for special education (to comply with maintenance of effort rules), this method could reduce the vulnerability of such funding because it would not sit in discrete line items easily subject to cuts.

Our analysis also raises several non-fiscal questions that merit further analysis. For instance, to what extent and in what ways could improvements in currently underfunded resources such as programming, staffing, and facilities, improve outcomes for students with disabilities? Moreover, both over- and under-identification of students with disabilities are potential civil rights issues. It may be worth studying the underlying causes of, and possible solutions to, disparities in the way students of color or other student subgroups are identified as students with disabilities.

Finally, the fiscal conflict between special and regular education puts adequate funding for every student at risk, and addressing it would provide benefits for all. Without such state action, the impact of general boosts in K-12 funding such as increasing revenue limits or general school aids will be mitigated by the need to divert a large portion of those resources to special education. Conversely, the more the state invests in special education, the more resources will be available for schools to spend on purposes that serve all students. As one local education leader phrased it, "Pouring a little more water in the bucket gets the headline, but there's a hole in the bucket, and it's been getting bigger every year."

**POLICY NOTES**

■ The state’s main fund will see growth in taxes over the next two and a half years but the increase will be \$282 million less than previously expected, according to a new report from the non-partisan Legislative Fiscal Bureau (LFB).

The memo to lawmakers attributes the lower projections to factors including slowing economic growth and changes in federal and state tax laws. The report updates figures released on Nov. 20 by the state Department of Administration (DOA), with LFB projecting tax collections in the state’s general fund to finish \$142.1 million lower than previously expected in the current fiscal year ending on June 30, \$45.2 million lower in fiscal 2020, and \$94.7 million lower in fiscal 2021.

Despite the downward revision in projected tax collections, the state is still expected to finish fiscal 2019 with roughly the same amount of reserves in its general fund and rainy day fund. That is primarily because of higher than expected fees and other revenues to state agencies and lower than expected state spending, particularly for Medicaid health coverage for the needy.

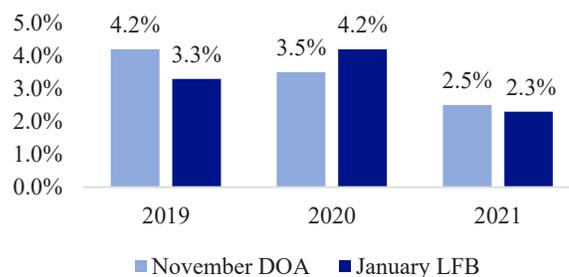
In one major difference, lame duck legislation passed by lawmakers in December and signed by then Gov. Scott Walker blocked a plan for an \$82.6 million transfer from the general fund to the rainy day fund. As a result, LFB projects the money will remain in the general fund and help boost it to a June 30 balance of \$691.5 million, larger than the \$622.5 million balance predicted by DOA in November.

However, the overall reserves in these two key funds will not be changing greatly since the rainy day fund will not see a large increase from its current level of \$320.1 million. If the rainy day fund transfer had happened, the general fund would be ending the year with \$13.6 million less than what DOA had predicted.

Overall, LFB projects that general fund taxes will amount to \$16.7 billion this year, an increase of \$529.7 million. Tax revenues are expected to increase by \$693 million in 2020 and \$393 million in 2021.

Both the LFB and DOA reports expect slower growth in state taxes through 2021. As the accompanying chart shows, however, LFB is projecting a greater slowdown. This trend bears a close watch going forward because of its implications for the state’s budget as well as its economy.

**State Tax Growth Expected to Slow**  
General Fund Tax Increases Under Two Projections, 2019-21



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