



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5363/1
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2019 SENATE BILL 789

February 6, 2020 - Introduced by Senators DARLING, KOOYENGA and CRAIG, cosponsored by Representatives THIESFELDT, KULP, FIELDS, BALLWEG, DITTRICH, HUTTON, FELZKOWSKI, JAGLER, KNODL, SANFELIPPO, SKOWRONSKI, SPIROS, STEINEKE, TUSLER and WICHGERS. Referred to Committee on Education.

1 **AN ACT** *to repeal* 118.52 (3) (d); *to renumber and amend* 118.52 (4); *to amend*
2 115.28 (54m), 115.38 (1) (d), 115.385 (4), 118.52 (1) (e), 118.52 (2), 118.52 (3) (a),
3 118.52 (3) (b), 118.52 (3) (c), 118.52 (3) (e), 118.52 (5), 118.52 (6), 118.52 (8),
4 118.52 (9), 118.52 (10), 118.52 (11), 118.52 (12) and 118.57 (1); *to repeal and*
5 *recreate* 118.52 (title); and *to create* 118.52 (1) (ad), 118.52 (1) (af), 118.52 (1)
6 (ah), 118.52 (2m) and 118.52 (13) of the statutes; **relating to:** expanding the
7 part-time open enrollment program.

Analysis by the Legislative Reference Bureau

This bill expands the part-time open enrollment program and renames it the course choice program.

Under the current part-time open enrollment program, a pupil enrolled in a public school in the high school grades may attend a course at a public school in a nonresident school district. Under the bill, a pupil enrolled in an educational institution, as defined in the bill, in grades one to twelve may attend a course at another educational institution. A pupil may attend no more than a total of two courses at any one time under the current part-time open enrollment program or under the bill's course choice program.

The bill defines an educational institution as any of the following:

1. A public school under the control of a pupil's resident school board, including a charter school authorized by the resident school board.

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2. A public school under the control of a pupil's nonresident school board, including a charter school authorized by the nonresident school board.

3. An independent charter school.

4. A private school.

5. A nonprofit organization approved by the Department of Public Instruction.

Under the bill, participation in the course choice program is optional for an educational institution that is a private school or a nonprofit organization approved by DPI. If a private school or DPI-approved nonprofit organization wishes to participate in the course choice program it must take certain actions by the June 1 preceding the school year in which it wishes to participate, including adopting a written policy specifying the acceptance and rejection criteria it will use in the following school year and posting on its Internet site a statement that it will participate in the course choice program and the courses that will be available to pupils under the program. If a private school or DPI-approved nonprofit organization does not take these actions, a pupil attending the private school or nonprofit organization may not attend courses at other educational institutions under the course choice program and pupils attending other educational institutions may not take courses at the private school or nonprofit organization under the course choice program. Participation in both the part-time open enrollment program and the course choice program is mandatory for public schools.

Under the bill, the educational institution that a pupil attends on a full-time basis must pay the educational institution offering a course the pupil takes under the course choice program an amount equal to the costs of providing the course to the pupil, as determined by DPI. The bill prohibits an educational institution from charging or receiving any additional payment from a pupil or a pupil's full-time educational institution for attending a course at the educational institution under the course choice program.

Under the current part-time open enrollment program, a pupil's resident school board may reject a pupil's application to attend a course in a nonresident school district if the resident school board determines that the cost of the course would impose an undue burden on the resident school district. The bill extends the authority to reject a pupil's application on the basis that the cost of the course would be an undue burden to all full-time educational institutions.

Similar to the low-income transportation assistance offered under current law, a pupil attending a course under the course choice program may apply to DPI for financial assistance for the cost of transportation to a course the pupil attends under the course choice program if the pupil is unable to pay the cost of the transportation. Under current law, in awarding transportation assistance, DPI must give a preference to pupils who satisfy the criteria for free or reduced-price lunch. Under the bill, DPI must also give a preference to pupils who attend an educational institution in a rural community.

Finally, the bill requires DPI to include information on the course choice program on DPI's Internet site, including links to the Internet sites of educational institutions participating in the program.

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For further information see the *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.** 115.28 (54m) of the statutes is amended to read:

2 115.28 **(54m)** NOTICE OF EDUCATIONAL OPTIONS. Include on the home page of the
3 department's Internet site a link to information about all of the educational options
4 available to children in the state who are at least 3 years old but not yet ~~18~~ 21 years
5 old and who have not graduated from high school, including public schools, private
6 schools participating in a parental choice program, charter schools, virtual schools,
7 full-time ~~or part-time~~ open enrollment in a nonresident school district, the course
8 choice program, the early college credit program, and options for pupils enrolled in
9 a home-based private educational program.

10 **SECTION 2.** 115.38 (1) (d) of the statutes is amended to read:

11 115.38 **(1)** (d) The number and percentage of resident pupils enrolled in the
12 school district attending a course ~~in a nonresident school district~~ offered by an
13 educational institution under s. 118.52, the number of ~~nonresident~~ pupils who are
14 not enrolled in the school district but are attending a course in the school district
15 under s. 118.52, and the courses taken by those pupils.

16 **SECTION 3.** 115.385 (4) of the statutes is amended to read:

17 115.385 **(4)** Annually, each public school, including a charter school, and each
18 private school participating in a parental choice program under s. 118.60 or 119.23
19 shall provide a copy of the school's accountability report to the parent or guardian of
20 each pupil enrolled in or attending the school. Each school shall simultaneously
21 provide to the parent or guardian of each pupil enrolled in the school a list of the

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1 educational options available to children who reside in the pupil's resident school
2 district, including public schools, private schools participating in a parental choice
3 program, charter schools, virtual schools, full-time ~~or part-time~~ open enrollment in
4 a nonresident school district, the course choice program, the early college credit
5 program, and options for pupils enrolled in a home-based private educational
6 program.

7 **SECTION 4.** 118.52 (title) of the statutes is repealed and recreated to read:

8 **118.52 (title) Course choice program.**

9 **SECTION 5.** 118.52 (1) (ad) of the statutes is created to read:

10 118.52 (1) (ad) "Educational institution" means all of the following:

- 11 1. A public school under the charge of a pupil's resident school board, including
12 a charter school under contract with the school board under s. 118.40.
- 13 2. A public school under the charge of a pupil's nonresident school board,
14 including a charter school under contract with the school board under s. 118.40.
- 15 3. A charter school established under s. 118.40 (2r) or (2x).
- 16 4. A private school.
- 17 5. Any nonprofit organization approved by the department.

18 **SECTION 6.** 118.52 (1) (af) of the statutes is created to read:

19 118.52 (1) (af) "Full-time educational institution" means the educational
20 institution at which the pupil is enrolled or attends school full time during the school
21 year for which an application is made under this section.

22 **SECTION 7.** 118.52 (1) (ah) of the statutes is created to read:

23 118.52 (1) (ah) "Governing body" means the board that is elected or appointed
24 to govern an educational institution. If a board is not elected or appointed to govern

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1 the educational institution, “governing body” means the person having direct charge
2 of the educational institution.

3 **SECTION 8.** 118.52 (1) (e) of the statutes is amended to read:

4 118.52 (1) (e) “Resident school district” means the school district in which a
5 pupil resides. If a pupil attends school under a whole grade sharing agreement under
6 s. 118.50 in a school district other than the school district in which the pupil resides,
7 the school district in which the pupil attends school under the whole grade sharing
8 agreement is considered the pupil’s resident school district.

9 **SECTION 9.** 118.52 (2) of the statutes is amended to read:

10 118.52 (2) Beginning in the ~~2018-19~~ 2020-21 school year, subject to sub. (2m)
11 (b), a pupil who is enrolled in ~~a public school in the high school~~ or attends an
12 educational institution in grades 1 to 12 may attend ~~public school in a nonresident~~
13 ~~school district~~ another educational institution under this section for the purpose of
14 taking a course offered by ~~the nonresident school district~~ that educational
15 institution. A pupil may attend no more than 2 courses at any time ~~in nonresident~~
16 ~~school districts~~ under this section.

17 **SECTION 10.** 118.52 (2m) of the statutes is created to read:

18 118.52 (2m) PROGRAM PARTICIPATION; PRIVATE SCHOOLS AND NONPROFIT
19 ORGANIZATIONS. (a) For an educational institution under sub. (1) (ad) 4. or 5. to
20 participate in the program under this section, before the June 1 preceding the school
21 year in which the educational institution wishes to participate, the governing body
22 of the educational institution shall do all of the following:

23 1. Adopt a motion specifying that the educational institution will participate
24 in the program under this section in the following school year.

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1 2. Adopt a written policy specifying the acceptance and rejection criteria
2 described in subs. (5) and (6) that the educational institution will implement for the
3 following school year and whether the governing body will delegate any of its duties
4 under this section to the administrator, as defined in s. 118.60 (1) (ad), of the
5 educational institution.

6 3. Publish and post on its Internet site, if applicable, that the educational
7 institution will participate in the program under this section and, no later than 8
8 weeks before the date on which a course will begin, post a description of the course
9 that will be available to pupils applying under sub. (3). The governing body of the
10 educational institution shall maintain and update the description of available
11 courses throughout the school year.

12 (b) If an educational institution under sub. (1) (ad) 4. or 5. does not participate
13 in the program under this section, sub. (2) does not apply to a pupil attending the
14 educational institution or to a pupil attending another educational institution who
15 wishes to attend a course offered by the educational institution under this section.

16 **SECTION 11.** 118.52 (3) (a) of the statutes is amended to read:

17 118.52 (3) (a) The parent of a pupil who wishes to attend ~~public school in a~~
18 ~~nonresident school district~~ an educational institution for the purpose of taking a
19 course under this section shall submit an application, on a form provided by the
20 department, to the ~~school board of the nonresident school district in~~ governing body
21 of the educational institution at which the pupil wishes to attend a course not later
22 than 6 weeks prior to the date on which the course is scheduled to commence. The
23 application shall specify the course that the pupil wishes to attend and may specify
24 the ~~school or schools~~ location at which the pupil wishes to attend the course. The
25 ~~nonresident school board~~ governing body of an educational institution that receives

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1 an application under this paragraph shall send a copy of the application to the pupil's
2 resident school board, except that if the pupil is attending a school in a school district
3 ~~other than the pupil's resident school district pursuant to a whole grade sharing~~
4 ~~agreement under s. 118.50, the nonresident school district to which the pupil applies~~
5 ~~under this section shall send a copy of the application to the school board of the~~
6 ~~district in which the pupil is attending school pursuant to the whole grade sharing~~
7 ~~agreement~~ full-time educational institution.

8 **SECTION 12.** 118.52 (3) (b) of the statutes is amended to read:

9 118.52 (3) (b) If ~~a nonresident school board~~ the governing body of an
10 educational institution receives more applications for a particular course than there
11 are spaces available in the course, the ~~nonresident school board~~ governing body of
12 the educational institution shall determine which pupils to accept on a random basis.

13 **SECTION 13.** 118.52 (3) (c) of the statutes is amended to read:

14 118.52 (3) (c) No later than ~~one week~~ 4 weeks prior to the date on which the
15 course is scheduled to commence, the ~~nonresident school board~~ governing body of the
16 educational institution shall notify the applicant and the ~~resident school board~~
17 governing body of the applicant's full-time educational institution, in writing,
18 whether the application has been accepted and, if the application is accepted, the
19 school location at which the pupil may attend the course. ~~If the applicant pupil is~~
20 ~~attending a school in a school district other than the pupil's resident school district~~
21 ~~pursuant to a whole grade sharing agreement under s. 118.50, the school board of the~~
22 ~~district to which the pupil applies under this section shall provide the notice required~~
23 ~~under this paragraph to the school board of the district in which the pupil is~~
24 ~~attending school pursuant to the whole grade sharing agreement.~~ If the application
25 is accepted, the governing body of the educational institution shall also notify the

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1 governing body of the applicant's full-time educational institution, in writing, of the
2 estimated cost of the course. The acceptance applies only for the following semester,
3 school year, or other session in which the course is offered. If the ~~school board of the~~
4 district governing body of the educational institution to which the pupil applies
5 under this section rejects an application, ~~it~~ the governing body shall include in the
6 notice the reason for the rejection.

7 **SECTION 14.** 118.52 (3) (d) of the statutes is repealed.

8 **SECTION 15.** 118.52 (3) (e) of the statutes is amended to read:

9 118.52 **(3)** (e) Following receipt of a notice of acceptance but prior to 2 weeks
10 before the date on which the course is scheduled to commence, the pupil's parent
11 shall notify the ~~resident school board, or, if the pupil is attending school in a school~~
12 ~~district other than the pupil's resident school district pursuant to a whole grade~~
13 ~~sharing agreement under s. 118.50, the school board of the district in which the pupil~~
14 ~~is attending school,~~ governing body of the pupil's full-time educational institution
15 and the school board of the district to governing body of the educational institution
16 providing the course for which the pupil applies under this section of the pupil's
17 intent to attend the course ~~in the school district to which the pupil applies under this~~
18 ~~section.~~

19 **SECTION 16.** 118.52 (4) of the statutes is renumbered 118.52 (2p) and amended
20 to read:

21 118.52 **(2p)** ADOPTION OF POLICIES AND CRITERIA; SCHOOL BOARDS AND CHARTER
22 SCHOOLS. ~~By February 1, 1998, Annually, by June 1,~~ each school board and governing
23 board of a charter school shall adopt a resolution specifying the criteria and policies
24 described in subs. (5) and (6). If the school board or governing board of a charter
25 school wishes to revise the criteria or policies, it shall do so by resolution.

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1 **SECTION 17.** 118.52 (5) of the statutes is amended to read:

2 118.52 (5) ~~NONRESIDENT SCHOOL DISTRICT GOVERNING BODIES OF EDUCATIONAL~~
3 ~~INSTITUTIONS;~~ ACCEPTANCE AND REJECTION CRITERIA. ~~School board~~ A governing body's
4 policies and criteria for accepting and rejecting applications under sub. (3) from
5 pupils who ~~reside in another school district~~ are enrolled in or attend a different
6 educational institution shall be the same as the policies and criteria for entry into
7 the course that apply to pupils who ~~reside in the school district, except that the school~~
8 ~~board may give preference in attendance in a course to residents of the school district~~
9 are enrolled in or attend on a full-time basis the educational institution governed by
10 the governing body.

11 **SECTION 18.** 118.52 (6) of the statutes is amended to read:

12 118.52 (6) ~~RESIDENT SCHOOL DISTRICT REJECTION~~ REJECTION CRITERIA; FULL-TIME
13 EDUCATIONAL INSTITUTION. (a) *Individualized education program requirements.* ~~The~~
14 ~~school board of a~~ A pupil's resident school district, or, if the pupil is attending school
15 ~~in a school district other than the pupil's resident school district pursuant to a whole~~
16 ~~grade sharing agreement under s. 118.50, the school board of the district in which~~
17 ~~the pupil is attending school,~~ board shall reject a pupil's application to attend a
18 course in a public school in a nonresident school district offered by an educational
19 institution under this section if the resident school board ~~or the school board of the~~
20 ~~district in which the pupil is attending school, respectively,~~ determines that the
21 course conflicts with the individualized education program for the pupil under s.
22 115.787 (2).

23 (b) *Undue financial burden.* ~~The school board of a~~ governing body of a pupil's
24 ~~resident school district~~ full-time educational institution may reject ~~an~~ the pupil's
25 application to attend a course in a public school in a nonresident school district

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1 offered by another educational institution under this section if the cost of the course
2 would impose upon the ~~resident school district~~ full-time educational institution an
3 undue financial burden in light of the ~~resident school district's~~ full-time educational
4 institution's total economic circumstances, including its ~~revenue limit under subch.~~
5 ~~VII of ch. 121,~~ its ability to pay tuition costs for the pupil, and the per pupil cost for
6 children continuing to be served by ~~the resident school district~~ it, and if applicable,
7 its revenue limit under subch. VII of ch. 121.

8 **SECTION 19.** 118.52 (8) of the statutes is amended to read:

9 118.52 (8) APPEAL OF REJECTION. If an application is rejected under sub. (3) (c)
10 or a pupil is prohibited from attending a course ~~in a public school in a nonresident~~
11 ~~school district~~ at an educational institution under sub. (6), the pupil's parent may
12 appeal the decision to the department within 30 days after the decision. The
13 department shall affirm the decision unless the department finds that the decision
14 was arbitrary or unreasonable. The department's decision is final and is not subject
15 to judicial review under subch. III of ch. 227.

16 **SECTION 20.** 118.52 (9) of the statutes is amended to read:

17 118.52 (9) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS. A pupil attending a
18 course ~~in a public school in a nonresident school district~~ offered by an educational
19 institution under this section has all of the rights and privileges of pupils ~~residing~~
20 ~~in that school district~~ attending the educational institution on a full-time basis and
21 is subject to the same rules and regulations as pupils ~~residing in that school district~~
22 attending the educational institution on a full-time basis.

23 **SECTION 21.** 118.52 (10) of the statutes is amended to read:

24 118.52 (10) Notwithstanding s. 118.125, the ~~resident school board~~ governing
25 body of an educational institution shall provide to the ~~nonresident school board~~

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1 governing body of the educational institution to which a pupil has applied under this
2 section, upon request by that ~~school board~~ governing body, a copy of any expulsion
3 findings and orders, a copy of records of any pending disciplinary proceeding
4 involving the pupil, a written explanation of the reasons for the expulsion or pending
5 disciplinary proceeding, and the length of the term of the expulsion or the possible
6 outcomes of the pending disciplinary proceeding.

7 **SECTION 22.** 118.52 (11) of the statutes is amended to read:

8 118.52 (11) TRANSPORTATION. (a) *Responsibility.* The parent of a pupil
9 attending a course ~~in a public school in a nonresident school district~~ offered by an
10 educational institution under this section is responsible for transporting the pupil
11 to and from the course that the pupil is attending.

12 (b) ~~Low-income assistance~~ Assistance; low-income or rural community. The
13 parent of a pupil who is attending a course ~~in a public school in a nonresident school~~
14 ~~district~~ offered by an educational institution under this section may apply to the
15 department for reimbursement of the costs incurred by the parent for the
16 transportation of the pupil to and from the pupil's residence or ~~school in which the~~
17 ~~pupil is enrolled~~ full-time educational institution and the ~~school~~ educational
18 institution at which the pupil is attending the course if the pupil and parent are
19 unable to pay the cost of such transportation. The department shall determine the
20 reimbursement amount and shall pay the amount from the appropriation under s.
21 20.255 (2) (cy). The department shall give preference under this paragraph to those
22 pupils who satisfy the income eligibility criteria for a free or reduced-price lunch
23 under 42 USC 1758 (b) (1) and to those pupils who attend a full-time educational
24 institution in a rural community.

25 **SECTION 23.** 118.52 (12) of the statutes is amended to read:

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1 118.52 (12) TUITION. ~~The resident school board governing body of a pupil's~~
2 ~~full-time educational institution~~ shall pay to the ~~nonresident school board, for each~~
3 ~~governing body of the educational institution offering the course the pupil attending~~
4 ~~a course in a public school in the nonresident school district attends~~ under this
5 section, an amount equal to the cost of providing the course to the pupil, ~~calculated~~
6 ~~in a manner as~~ determined by the department. ~~The governing body of the~~
7 ~~educational institution offering the course the pupil attends under this section may~~
8 ~~not charge or receive from the pupil or the governing body of the pupil's full-time~~
9 ~~educational institution any additional payment for the pupil attending the course~~
10 ~~under this section.~~

11 **SECTION 24.** 118.52 (13) of the statutes is created to read:

12 118.52 (13) PROGRAM PUBLICITY. The department shall include on its Internet
13 site information on the program under this section, including the Internet site, if any,
14 of each school board, charter school established under s. 118.40 (2r) or (2x), and
15 educational institution under sub. (1) (ad) 4. and 5. that is participating in the
16 program under this section. The department shall maintain this information on its
17 Internet site so that the information is current and accurate throughout the school
18 year.

19 **SECTION 25.** 118.57 (1) of the statutes is amended to read:

20 118.57 (1) Annually, by January 31, each school board shall publish as a class
21 1 notice, under ch. 985, and post on its Internet site a description of the educational
22 options available to children in the school district, including public schools, private
23 schools participating in a parental choice program, charter schools, virtual schools,

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1 full-time ~~or part-time~~ open enrollment in a nonresident school district, the course
2 choice program, and the early college credit program.

3 (END)