



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1304/P5  
KRP:amn/kjf/cjs

DOA:.....Kretschmann, BB0187 - Limiting enrollment in choice programs

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT** ...; **relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

***1. Parental choice program caps; counting four-year-old kindergarten pupils***

This bill caps the total number of pupils who may participate in the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the statewide parental choice program (parental choice program) at the number of pupils who attended a private school under the parental choice program in the 2019-20 school year. Under the bill, beginning in the 2020-21 school year, if the number of applications to participate in a parental choice program exceeds the program cap, DPI must determine which applications to accept on a random basis.

The bill also changes how a pupil enrolled in a four-year-old kindergarten is counted by a school district for purposes of state aid and revenue limits. Under current law, a pupil enrolled in a four-year-old kindergarten program is counted as 0.5 pupil unless the program provides at least 87.5 additional hours of outreach activities, in which case the pupil is counted as 0.6 pupil. Under the bill, if the four-year-old kindergarten program requires full-day attendance by pupils for five days a week, a pupil enrolled in the program is counted as one pupil.

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

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

**SECTION 1.** 118.60 (2) (a) (intro.) of the statutes is amended to read:

118.60 (2) (a) (intro.) Subject to pars. (ag) ~~and~~, (ar), and (bh), any pupil in grades kindergarten to 12 who resides within an eligible school district may attend any private school under this section and, subject to pars. (ag), (ar), (be), (bh), (bm), and (bs), any pupil in grades kindergarten to 12 who resides in a school district, other than an eligible school district or a 1st class city school district, may attend any private school under this section if all of the following apply:

**SECTION 2.** 118.60 (2) (a) 2. g. of the statutes is amended to read:

118.60 (2) (a) 2. g. If the pupil resides in a school district, other than ~~an eligible school district or a 1st class city school district~~, the pupil was on a waiting list under sub. (3) (am) 4. or (ar) 4. in any previous school year.

**SECTION 3.** 118.60 (2) (be) 3. of the statutes is amended to read:

118.60 (2) (be) 3. Beginning with the 2026-27 school year, ~~there is no limit on the number of pupils who may attend private schools~~ the limits under this section paragraph do not apply.

**SECTION 4.** 118.60 (2) (bh) of the statutes is created to read:

118.60 (2) (bh) 1. In this paragraph, “program cap” means any of the following:

- a. For an eligible school district, the total number of pupils residing in the eligible school district who attended a private school under this section in the 2019-20 school year.

b. For all school districts, other than an eligible school district or a 1st class city school district, the total number of pupils residing in those school districts who attended a private school under this section in the 2019-20 school year.

2. a. Beginning with the 2020-21 school year, the total number of pupils residing in an eligible school district who may attend a private school under this section during a school year may not exceed the program cap under subd. 1. a.

b. Beginning with the 2020-21 school year, the total number of pupils residing in school districts, other than an eligible school district or a 1st class city school district, who may attend a private school under this section during a school year may not exceed the program cap under subd. 1. b.

**SECTION 5.** 118.60 (3) (a) (intro.) of the statutes is amended to read:

118.60 **(3)** (a) (intro.) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. No later than 60 days after the end of the application period during which an application is received and subject to ~~par.~~ pars. (am) and (ar), the private school shall notify each applicant, in writing, whether his or her application has been accepted. If the private school rejects an application, the notice shall include the reason. Subject to ~~par.~~ pars. (am) and (ar), a private school may reject an applicant only if it the private school has reached its maximum general capacity or seating capacity. Except as provided in ~~par.~~ pars. (am) and (ar), the state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in the order of preference listed:

**SECTION 6.** 118.60 (3) (am) of the statutes is created to read:

118.60 (3) (am) All of the following apply to applications to attend a private school under this section submitted by pupils who reside in an eligible school district:

1. A private school that has submitted a notice of intent to participate under sub. (2) (a) 3. a. may accept applications for a school year during application periods determined by the department from pupils who reside in an eligible school district. For each school year, the department shall establish one or more application periods under this subdivision, the first of which begins no earlier than February 1 of the school year before the applicable school year, and the last of which ends no later than September 14 of the applicable school year.

2. Each private school that received applications under subd. 1. shall report to the department the number of pupils who applied under subd. 1. to attend the private school under this section and the names of those applicants who have siblings who also applied under subd. 1. to attend the private school under this section. The private school shall submit the report no later than 10 days after each application period described under subd. 1. during which the private school received applications.

3. After the end of each application period described under subd. 1., upon receipt of the information under subd. 2., the department shall determine the sum of all applicants for pupils residing in an eligible school district. In determining the sum, the department shall count a pupil who has applied to attend more than one private school under the program only once. If, after the end of an application period described under subd. 1., the sum of all applicants for pupils residing in an eligible school district exceeds the program cap under sub. (2) (bh) 2. a., the department shall determine which applications submitted during the application period to accept on

a random basis, except that the department shall give preference to the applications of pupils described in par. (a) 1m. to 5., in the order of preference listed in that paragraph.

4. If the sum under subd. 3. exceeds the program cap under sub. (2) (bh) 2. a., the department shall establish a waiting list in accordance with the preferences required under subd. 3.

5. A private school that has accepted a pupil who resides in an eligible school district under this paragraph shall notify the department whenever the private school determines that a pupil will not attend the private school under this paragraph. If, upon receiving notice under this subdivision, the department determines that the number of pupils attending private schools under this section falls below the program cap under sub. (2) (bh) 2. a., the department shall fill any available slot with a pupil selected from the waiting list established under subd. 4., if such a waiting list exists.

**SECTION 7.** 118.60 (3) (ar) (intro.) of the statutes is amended to read:

118.60 (3) (ar) (intro.) All of the following apply to applications to attend a private school under this section ~~only if the limitation under sub. (2) (be) applies to the school year for which the application is made~~ submitted by pupils who reside in a school district, other than an eligible school district or a 1st class city school district:

**SECTION 8.** 118.60 (3) (ar) 3. of the statutes is renumbered 118.60 (3) (ar) 3. (intro.) and amended to read:

118.60 (3) (ar) 3. (intro.) ~~Annually~~ After the end of the application period described under subd. 1., upon receipt of the information under subd. 2., the department shall, for each school district, determine the sum of all applicants for pupils residing in that school district ~~under this paragraph~~ and the sum of all

applicants for pupils residing in all school districts, other than an eligible school district or a 1st class city school district. In determining ~~the sum~~ those sums, the department shall count a pupil who has applied to attend more than one private school under the program only once. After determining ~~the sum of all applicants for pupils residing in a school district,~~ those sums, if any of the following applies, the department shall determine which applications to accept on a random basis, except that the department shall give preference to the applications of pupils described in ~~s. 118.60 (3) par.~~ (a) 1m. to 5., in the order of preference listed in that paragraph.:

**SECTION 9.** 118.60 (3) (ar) 3. a. and b. of the statutes are created to read:

118.60 (3) (ar) 3. a. The sum of all applicants for pupils residing in a school district, other than an eligible school district or a 1st class city school district, exceeds the school district's pupil participation limit under sub. (2) (be).

b. The sum of all applicants for pupils residing in all school districts, other than an eligible school district or a 1st class city school district, exceeds the program cap under sub. (2) (bh) 2. b.

**SECTION 10.** 118.60 (3) (ar) 4. of the statutes is renumbered 118.60 (3) (ar) 4. (intro.) and amended to read:

118.60 (3) (ar) 4. (intro.) ~~For each school district in which private schools received applications under subd. 1. that exceeded the school district's pupil participation limit under sub. (2) (be), the~~ The department shall establish a waiting list in accordance with the preferences required under subd. 3. for each of the following:

**SECTION 11.** 118.60 (3) (ar) 4. a. and b. of the statutes are created to read:

118.60 (3) (ar) 4. a. A school district, other than an eligible school district or a 1st class city school district, for which the sum described under subd. 3. a. exceeds the school district's pupil participation limit under sub. (2) (be).

b. All school districts, other than an eligible school district or a 1st class city school district, if the sum described under subd. 3. b. exceeds the program cap under sub. (2) (bh) 2. b.

**SECTION 12.** 118.60 (3) (ar) 5. of the statutes is amended to read:

118.60 (3) (ar) 5. A private school that has accepted a pupil who resides in a school district, other than an eligible school district or a 1st class city school district, under this paragraph shall notify the department whenever the private school determines that a pupil will not attend the private school under this paragraph. If, upon receiving notice under this subdivision, the department determines that the number of pupils attending private schools under this section falls below a school district's pupil participation limit under sub. (2) (be), or below the program cap under sub. (2) (bh) 2. b., the department shall fill any available slot in that school district or program with a pupil selected from the school district's applicable waiting list established under subd. 4., if such a waiting list exists.

**SECTION 13.** 118.60 (3) (b) of the statutes is amended to read:

118.60 (3) (b) If a participating private school rejects an applicant who resides within an eligible school district because the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph or an applicant who is on the waiting list under par. (am) 4. may, subject to sub. (2) (bh) 2. a., be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within

an eligible school district. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

**SECTION 14.** 118.60 (3) (c) of the statutes is amended to read:

118.60 (3) (c) If a participating private school rejects an applicant who resides in a school district, other than an eligible school district or a 1st class city school district, because the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant who is rejected under this paragraph or an applicant who is on ~~the~~ a waiting list under ~~sub. (3) par. (ar) 4. a. or b.~~ par. (ar) 4. a. or b. may, subject to sub. (2) (be) and (bh) 2. b., be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside in a school district, other than an eligible school district or a 1st class city school district. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

**SECTION 15.** 118.60 (4v) (b) of the statutes is amended to read:

118.60 (4v) (b) If the department considers a pupil as a resident of an eligible school district under par. (a) for a school year, the department shall ensure that the pupil is not counted for that school year for purposes of determining whether a school district has exceeded its pupil participation limit under sub. (2) (be) and that the pupil is not counted for that school year for purposes of determining whether a program cap under sub. (2) (bh) 2. a. or b. has been exceeded.



**SECTION 16.** 118.60 (4v) (c) and (d) of the statutes are created to read:

118.60 (4v) (c) The department may consider a pupil enrolled in a private school participating in the program under this section who satisfies all of the following as a resident of a school district, other than an eligible school district or a 1st class city school district, who is enrolled in the private school under this section:

1. The pupil was a resident of an eligible school district when the pupil applied to participate in the program under this section.

2. The pupil accepted a space at a private school participating in the program under this section as a resident of an eligible school district.

3. The pupil resides in a school district, other than an eligible school district or a 1st class city school district, on the 3rd Friday in September.

4. The private school the pupil is attending under this section accepts applications under this section from pupils who reside in school districts, other than an eligible school district or a 1st class city school district.

(d) If the department considers a pupil as a resident of a school district, other than an eligible school district or a 1st class city school district, under par. (c) for a school year, the department shall ensure that the pupil is not counted for that school year for purposes of determining whether the school district has exceeded its pupil participation limit under sub. (2) (be) and that the pupil is not counted for that school year for purposes of determining whether a program cap under sub. (2) (bh) 2. a. or b. has been exceeded.

**SECTION 17.** 119.23 (2) (a) (intro.) of the statutes is amended to read:

119.23 (2) (a) (intro.) Subject to pars. (ag) ~~and~~, (ar), and (b), any pupil in grades kindergarten to 12 who resides within the city may attend any private school if all of the following apply:

**SECTION 18.** 119.23 (2) (b) of the statutes is created to read:

119.23 (2) (b) 1. In this paragraph, “program cap” means the total number of pupils residing in the city who attended a private school under this section in the 2019-20 school year.

2. Beginning with the 2020-21 school year, the total number of pupils residing in the city who may attend a private school under this section during a school year may not exceed the program cap.

**SECTION 19.** 119.23 (3) (a) (intro.) of the statutes is amended to read:

119.23 (3) (a) (intro.) The pupil or the pupil’s parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. No later than 60 days after the end of the application period during which an application is received and subject to par. (ar), the private school shall notify each applicant, in writing, whether his or her application has been accepted. If the private school rejects an application, the notice shall include the reason. ~~A~~ Subject to par. (ar), a private school may reject an applicant only if it the private school has reached its maximum general capacity or seating capacity. ~~The~~ Except as provided in par. (ar), the state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in order of preference listed:

**SECTION 20.** 119.23 (3) (ar) of the statutes is created to read:

119.23 (3) (ar) All of the following apply to applications to attend a private school under this section submitted by pupils who reside in the city:

1. A private school that has submitted a notice of intent to participate under sub. (2) (a) 3. may accept applications for a school year during application periods determined by the department from pupils who reside in the city. For each school year, the department shall establish one or more application periods under this subdivision, the first of which begins no later than February 1 of the school year before the applicable school year, and the last of which ends no later than September 14 of the applicable school year.

2. Each private school that received applications under subd. 1. shall report to the department the number of pupils who applied under subd. 1. to attend the private school under this section and the names of those applicants who have siblings who also applied under subd. 1. to attend the private school under this section. The private school shall submit the report no later than 10 days after each application period described under subd. 1. during which the private school received applications.

3. After the end of each application period described under subd. 1, upon receipt of the information under subd. 2., the department shall determine the sum of all applicants for pupils residing in the city. In determining the sum, the department shall count a pupil who has applied to attend more than one private school under the program only once. If, after the end of an application period described under subd. 1., the sum of all applicants for pupils residing in the city exceeds the program cap under sub. (2) (b), the department shall determine which applications submitted during the application period to accept on a random basis, except that the department shall give preference to the applications of pupils described in par. (a) 1. to 5., in the order of preference listed in that paragraph.

4. If the sum under subd. 3. exceeds the program cap under sub. (2) (b), the department shall establish a waiting list in accordance with the preferences required under subd. 3.

5. A private school that has accepted a pupil who resides in the city under this paragraph shall notify the department whenever the private school determines that a pupil will not attend the private school under this paragraph. If, upon receiving notice under this subdivision, the department determines that the number of pupils attending private schools under this section falls below the program cap under sub. (2) (b), the department shall fill any available slot with a pupil selected from the waiting list established under subd. 4., if such a waiting list exists.

**SECTION 21.** 119.23 (3) (b) of the statutes is amended to read:

119.23 (3) (b) If the private school rejects an applicant because it the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph or an applicant who is on the waiting list under par. (ar) 4. may, subject to sub. (2) (b), be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within the city. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

**SECTION 22.** 119.23 (4v) (b) of the statutes is amended to read:

119.23 (4v) (b) If the department considers a pupil as a resident of the city under par. (a) for a school year, the department shall ensure that the pupil is not counted for that school year for purposes of determining whether a school district has

exceeded its pupil participation limit under s. 118.60 (2) (be) and that the pupil is not counted for that school year for purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. a. or b. has been exceeded.

**SECTION 23.** 119.23 (4v) (c), (d) and (e) of the statutes are created to read:

119.23 (4v) (c) The department may consider a pupil enrolled in a private school participating in the program under this section who satisfies all of the following as a resident of a school district, other than a 1st class city school district, who is enrolled in the private school under this section:

1. The pupil was a resident of the city when the pupil applied to participate in the program under this section.

2. The pupil accepted a space at a private school participating in the program under this section as a resident of the city.

3. The pupil resides in a school district, other than a 1st class city school district, on the 3rd Friday in September.

4. The private school at which the pupil accepted a space under this section is participating in the program under s. 118.60.

(d) If the department considers a pupil as a resident of an eligible school district, as defined in s. 118.60 (1) (am), under par. (c) for a school year, the department shall ensure that the pupil is not counted for that school year for purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. a. has been exceeded.

(e) If the department considers a pupil as a resident of a school district, other than an eligible school district, as defined in s. 118.60 (1) (am), or a 1st class city school district, under par. (c) for a school year, the department shall ensure that the pupil is not counted for that school year for purposes of determining whether the

school district has exceeded its pupil participation limit under s. 118.60 (2) (be) and that the pupil is not counted for that school year for purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. b. has been exceeded.

**SECTION 9334. Initial applicability; Public Instruction.**

(1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3) (am) and (ar) (intro.) and 5. and 119.23 (3) (ar), the renumbering and amendment of s. 118.60 (3) (ar) 3. and 4., and the creation of s. 118.60 (3) (ar) 3. a. and b. and 4. a. and b. first apply to an application to attend in a private school under s. 118.60 or 119.23 in the 2020-21 school year.

(2) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS. The treatment of ss. 118.60 (4v) (b), (c), and (d) and 119.23 (4v) (b), (c), (d), and (e) first applies to counting pupils for the pupil participation limits under s. 118.60 (2) (be) and the program caps under ss. 118.60 (2) (bh) 2. a. and b. and 119.23 (2) (b) for the 2020-21 school year.

(END)