



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4713/1
KRP:skw

2021 SENATE BILL 974

February 9, 2022 - Introduced by Senators ROTH, DARLING, NASS, WANGGAARD, STROEBEL and JAGLER, cosponsored by Representatives WITTKE, THIESFELDT, DITTRICH, KNODL, MURPHY, PENTERMAN, MOSES, ROZAR, BRANDTJEN, MACCO and MAGNAFICI. Referred to Committee on Education.

1 **AN ACT to repeal** 118.60 (2) (a) 1., 118.60 (2) (be), 118.60 (2) (bm), 118.60 (3) (ar),
2 118.60 (4v), 119.23 (2) (a) 1. and 119.23 (4v); and **to amend** 118.60 (2) (a) (intro.),
3 118.60 (2) (a) 2. g., 118.60 (3) (a) (intro.), 118.60 (3) (b), 118.60 (3) (c), 118.60 (3m)
4 (a) 2., 118.60 (3m) (b) 2., 119.23 (3) (b), 119.23 (3m) (a) 2. and 119.23 (3m) (b) 2.
5 of the statutes; **relating to:** eliminating income limits for parental choice
6 programs; eliminating pupil participation limits for the statewide parental
7 choice program; private school tuition charged to a pupil participating in a
8 parental choice program; and creating an education expense reimbursement
9 program for the 2022-23 school year and the summer of 2023.

Analysis by the Legislative Reference Bureau

This bill 1) eliminates the income limits in the statewide parental choice program (also known as the Wisconsin Parental Choice Program), Milwaukee Parental Choice Program, and the Racine Parental Choice Program (parental choice program); 2) eliminates the pupil participation limits in the WPCP; 3) increases the family income threshold amount that determines whether a private school may charge additional tuition to a pupil attending the private school under a parental choice program; and 4) creates a temporary education expense reimbursement program for public school pupils.

SENATE BILL 974***Income limits for parental choice programs***

Under current law, a pupil is not eligible to participate in the MPCP or the RPCP if the pupil's family income is greater than 300 percent of the federal poverty level. Similarly, under current law, a pupil is not eligible to participate in the WPCP if the pupil's family income is greater than 220 percent of the federal poverty level. Beginning in the 2022-23 school year, the bill eliminates the family income requirements in each of the parental choice programs. In other words, under the bill, a pupil may participate in a parental choice program regardless of the pupil's family income.

Pupil participation limits in the WPCP

Current law limits the number of pupils who reside in a school district that may attend a private school under the WPCP. For the 2021-22 school year, the limit is set at no more than 6 percent of a school district's membership in the previous school year. The limit increases by one percent each year until the limit reaches 10 percent, and then, beginning in the 2026-27 school year, there is no participation limit in the WPCP. The bill eliminates the pupil participation limits in the WPCP on the date the bill becomes law.

Current law provides specific WPCP application procedures that apply while the pupil participation limits are in place. For example, while the limits are in place, pupil applications may be submitted to private schools participating in the WPCP only during the period beginning on the first weekday in February and ending on the third Thursday in April. The bill eliminates the application procedures that apply while the pupil participation limits are in place.

Additional tuition charged to pupils participating in parental choice programs

Under current law, a private school participating in a parental choice program may not charge a pupil participating in a parental choice program tuition, in addition to the payments the private school receives under the parental choice program, unless the pupil is enrolled in a grade from 9 to 12 and the pupil's family income exceeds 220 percent of the federal poverty level. Beginning in the 2022-23 school year, the bill increases that threshold to 300 percent of the federal poverty level.

Education expense reimbursement program

Under the bill, in the 2022-23 school year and in the summer semester or session in 2023, a pupil enrolled in a public school, including a charter school, may attend a course or purchase educational materials, and DPI must reimburse up to \$1,000 of the cost of attendance or purchase price for up to two courses or purchases of educational materials.

A pupil that wants to attend a course for reimbursement under the bill must apply to the educational institution or provider that offers the course. Public schools, other than charter schools, institutions within the University of Wisconsin System, technical colleges, tribally controlled colleges, and private, nonprofit institutions of higher education located in this state are required to participate in the education expense reimbursement program created in the bill. Charter schools, private schools, tribal schools, and other educational providers DPI approves may choose

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whether to participate. If an educational institution or provider participates in the program (approved educational provider), the approved educational provider must accept a pupil's application to attend a course if space is available in the course unless certain conditions apply, and, if the approved educational provider receives more applications than available spaces, the approved educational provider must accept pupils on a random basis.

The parent of a pupil who wants to purchase educational materials for reimbursement under the bill must, prior to purchasing the materials, submit a notice to DPI describing the materials, listing what is included in the materials, and specifying the materials' cost. DPI generally must approve such a request.

Under the bill, DPI must pay reimbursements in the 2023-24 school year. The bill does not appropriate moneys in the current biennium to pay reimbursements under the program. The bill provides that, if the amount available to DPI is insufficient to pay the full reimbursement amounts, DPI must prorate the payments among those eligible for reimbursement.

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

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

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

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

8 **SECTION 2.** 118.60 (2) (a) 1. of the statutes is repealed.

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

10 118.60 **(2)** (a) 2. g. If the pupil resides in a school district, other than an eligible
11 school district or a 1st class city school district, the pupil was on a waiting list under
12 ~~sub. s. 118.60 (3) (ar) 4., 2019 stats.,~~ in any previous school year.

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1 **SECTION 4.** 118.60 (2) (be) of the statutes is repealed.

2 **SECTION 5.** 118.60 (2) (bm) of the statutes is repealed.

3 **SECTION 6.** 118.60 (3) (a) (intro.) of the statutes is amended to read:

4 118.60 (3) (a) (intro.) The pupil or the pupil's parent or guardian shall submit
5 an application, on a form provided by the state superintendent, to the participating
6 private school that the pupil wishes to attend. If more than one pupil from the same
7 family applies to attend the same private school, the pupils may use a single
8 application. No later than 60 days after the end of the application period during
9 which an application is received ~~and subject to par. (ar)~~, the private school shall
10 notify each applicant, in writing, whether his or her application has been accepted.
11 If the private school rejects an application, the notice shall include the reason.
12 ~~Subject to par. (ar)~~, a A private school may reject an applicant only if it has reached
13 its maximum general capacity or seating capacity. ~~Except as provided in par. (ar)~~,
14 ~~the~~ The state superintendent shall ensure that the private school determines which
15 pupils to accept on a random basis, except that the private school may give preference
16 to the following in accepting applications, in the order of preference listed:

17 **SECTION 7.** 118.60 (3) (ar) of the statutes is repealed.

18 **SECTION 8.** 118.60 (3) (b) of the statutes is amended to read:

19 118.60 (3) (b) If a participating private school rejects an applicant who resides
20 within an eligible school district because the private school has too few available
21 spaces, the applicant may transfer his or her application to a participating private
22 school that has space available. An applicant rejected under this paragraph may be
23 admitted to a private school participating in the program under this section for the
24 following school year, provided that the applicant continues to reside within an
25 eligible school district. ~~The department may not require, in that following school~~

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1 year, the private school to submit financial information regarding the applicant or
2 to verify the eligibility of the applicant to participate in the program under this
3 section on the basis of family income.

4 **SECTION 9.** 118.60 (3) (c) of the statutes is amended to read:

5 118.60 (3) (c) If a participating private school rejects an applicant who resides
6 in a school district, other than an eligible school district or a 1st class city school
7 district, because the private school has too few available spaces, the applicant may
8 transfer his or her application to a participating private school that has space
9 available. An applicant who is rejected under this paragraph ~~or an applicant who~~
10 ~~is on the waiting list under par. (a) 4. may, subject to sub. (2) (b), be admitted to a~~
11 private school participating in the program under this section for the following school
12 year, provided that the applicant continues to reside in a school district other than
13 an eligible school district or a 1st class city school district. ~~The department may not~~
14 ~~require, in that following school year, the private school to submit financial~~
15 ~~information regarding the applicant or to verify the eligibility of the applicant to~~
16 ~~participate in the program under this section on the basis of family income.~~

17 **SECTION 10.** 118.60 (3m) (a) 2. of the statutes is amended to read:

18 118.60 (3m) (a) 2. The pupil is enrolled in a grade from 9 to 12 and the family
19 income of the pupil, as determined under ~~sub. s. 118.60 (2) (a) 1., 2019 stats.,~~ does
20 not exceed an amount equal to ~~2.2~~ 3.0 times the poverty level determined in
21 accordance with criteria established by the director of the federal office of
22 management and budget.

23 **SECTION 11.** 118.60 (3m) (b) 2. of the statutes is amended to read:

24 118.60 (3m) (b) 2. The family income of the pupil, as determined under ~~sub. s.~~
25 118.60 (2) (a) 1., 2019 stats., exceeds an amount equal to ~~2.2~~ 3.0 times the poverty

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1 level determined in accordance with criteria established by the director of the federal
2 office of management and budget.

3 **SECTION 12.** 118.60 (4v) of the statutes is repealed.

4 **SECTION 13.** 119.23 (2) (a) 1. of the statutes is repealed.

5 **SECTION 14.** 119.23 (3) (b) of the statutes is amended to read:

6 119.23 (3) (b) If the private school rejects an applicant because it has too few
7 available spaces, the applicant may transfer his or her application to a participating
8 private school that has space available. An applicant rejected under this paragraph
9 may be admitted to a private school participating in the program under this section
10 for the following school year, provided that the applicant continues to reside within
11 the city. ~~The department may not require, in that following school year, the private~~
12 ~~school to submit financial information regarding the applicant or to verify the~~
13 ~~eligibility of the applicant to participate in the program under this section on the~~
14 ~~basis of family income.~~

15 **SECTION 15.** 119.23 (3m) (a) 2. of the statutes is amended to read:

16 119.23 (3m) (a) 2. The pupil is enrolled in a grade from 9 to 12 and the family
17 income of the pupil, as determined under ~~sub. s. 119.23 (2) (a) 1., 2019 stats.,~~ does
18 not exceed an amount equal to ~~2.2~~ 3.0 times the poverty level determined in
19 accordance with criteria established by the director of the federal office of
20 management and budget.

21 **SECTION 16.** 119.23 (3m) (b) 2. of the statutes is amended to read:

22 119.23 (3m) (b) 2. The family income of the pupil, as determined under ~~sub. s.~~
23 119.23 (2) (a) 1., 2019 stats., exceeds an amount equal to ~~2.2~~ 3.0 times the poverty
24 level determined in accordance with criteria established by the director of the federal
25 office of management and budget.

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1 **SECTION 17.** 119.23 (4v) of the statutes is repealed.

2 **SECTION 18. Nonstatutory provisions.**

3 (1) EDUCATION EXPENSE REIMBURSEMENT PROGRAM.

4 (a) *Definitions.* In this subsection:

5 1. “Approved educational provider” means any of the following:

6 a. A school board, as defined in s. 115.001 (7), in charge of a public school in a
7 school district, other than a charter school.

8 b. An institution within the University of Wisconsin System, a technical
9 college, a tribally controlled college, or a private, nonprofit institution of higher
10 education located in this state.

11 c. Any of the following educational institutions that submits a notice of intent
12 to participate under par. (f) 1.: the governing body of a charter school; the governing
13 body of a private school, as defined in s. 115.001 (3r); or the governing body of a tribal
14 school, as defined in s. 115.001 (15m).

15 d. Any other educational provider the department approves to offer courses to
16 pupils for reimbursement under this subsection, including educational providers
17 that provide instruction through means of the Internet.

18 2. “Charter school” has the meaning given in s. 115.001 (1).

19 3. “Department” means the department of public instruction.

20 4. “Educational materials” means materials that a pupil’s parent may use to
21 educate the pupil, including curriculum or textbooks.

22 5. “Parent” includes a guardian.

23 6. “Resident school board” means the school board of a resident school district.

24 7. “Resident school district” means the school district in which a pupil resides
25 or, if the pupil is attending school in a school district other than the pupil’s resident

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1 school district pursuant to a whole grade sharing agreement under s. 118.50, the
2 school district in which the pupil is attending school.

3 (b) *Applicability.*

4 1. In the 2022-23 school year and in the summer semester or session in 2023,
5 a pupil enrolled in a public school, including a charter school, in this state may,
6 subject to subd. 2., do any of the following:

7 a. Attend a course offered by an approved educational provider for
8 reimbursement under this subsection.

9 b. Purchase educational materials for reimbursement under this subsection.

10 2. A pupil may receive reimbursement under this subsection for a total of no
11 more than 2 courses attended or educational materials purchased under this
12 subsection.

13 3. A pupil that attends a course under this subsection may not attend the same
14 course under s. 118.52 or 118.55.

15 (c) *Pupil application procedures; attending courses.*

16 1. The parent of a pupil who wants to attend a course under this subsection
17 shall notify the department. No later than 10 days after the department receives the
18 notice, the department shall inform the parent of how to apply to attend a course and
19 the deadlines that apply under this subsection.

20 2. The parent of a pupil who wants to attend a course under this subsection
21 shall submit an application, on a form provided by the department, to the approved
22 educational provider offering the course not later than 6 weeks prior to the date on
23 which the course is scheduled to commence. The application shall specify the course
24 that the pupil wants to attend and may specify the school or schools at which the

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1 pupil wants to attend the course. The approved educational provider shall send a
2 copy of the application to the department.

3 3. If an approved educational provider receives more applications for a
4 particular course than there are spaces available in the course, the approved
5 educational provider shall determine which pupils to accept on a random basis. The
6 approved educational provider may reject an applicant only if there is no space
7 available in the course, the applicant pupil does not meet the approved educational
8 provider's admission requirements, or the course conflicts with the applicant pupil's
9 individualized education program under s. 115.787 or services plan, as defined in 34
10 CFR 300.37.

11 4. If an approved educational provider receives an application for a course
12 under subd. 2., no later than one week prior to the date on which the course is
13 scheduled to commence, the approved educational provider shall notify the applicant
14 and the department, in writing, whether the application is accepted and, if the
15 application is accepted, the school at which the pupil may attend the course. The
16 acceptance applies only for the following semester, school year, or other session in
17 which the course is offered. If the approved educational provider rejects the
18 application, the approved educational provider shall include in the notice the reason
19 for the rejection.

20 5. If a pupil's parent receives notice of acceptance for the pupil to attend a
21 course offered by an approved educational provider under subd. 4., the parent shall,
22 prior to the date on which the course is scheduled to commence, notify the pupil's
23 resident school board and the approved educational provider of the pupil's intent to
24 attend the course.

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1 (d) *Pupil application procedures; purchasing educational materials.* The
2 parent of a pupil who wants to purchase educational materials under this subsection
3 for purposes of educating the pupil shall, prior to purchasing the educational
4 materials, submit a notice to the department that describes the educational
5 materials, lists what is included in the educational materials, and specifies the cost
6 of the educational materials. No later than 10 days after the department receives
7 the notice, the department shall inform the parent regarding whether the parent's
8 request for reimbursement is approved and any deadlines that apply to the parent's
9 request under this subsection. The department may reject a request under this
10 paragraph only if the notice is incomplete or the limit under par. (b) 2. applies.

11 (e) *Mandatory participation by school boards and institutions of higher*
12 *education.*

13 1. An approved educational provider specified in par. (a) 1. a. shall participate
14 in the program under this subsection. Except as provided in par. (c) 3., an approved
15 educational provider specified in par. (a) 1. a. shall use the same policies and criteria
16 for accepting and rejecting applications to attend a course under under par. (c) as the
17 policies and criteria for entry into the course that apply to pupils who reside in the
18 school district, except that, notwithstanding par. (c) 3., the approved educational
19 provider may give preference in attendance in a course to residents of the school
20 district.

21 2. An approved educational provider specified in par. (a) 1. b. shall participate
22 in the program under this subsection. An approved educational provider specified
23 in par. (a) 1. b. shall adopt policies and criteria for accepting and rejecting
24 applications to attend a course under par. (c) and shall post a copy of those policies
25 and criteria on the approved educational provider's Internet site.

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1 (f) *Optional participation by private, tribal, and charter schools.* An approved
2 educational provider specified in par. (a) 1. c. is not required to participate in the
3 program under this subsection. An approved educational provider specified in par.
4 (a) 1. c. that wants to participate in the program shall, no later than June 1, 2022,
5 do all of the following:

6 1. Notify the department that the approved educational provider intends to
7 participate in the program.

8 2. Adopt a resolution specifying that the approved educational provider will
9 participate in the program.

10 3. Adopt a resolution specifying the criteria the approved educational provider
11 will use to determine whether to accept or reject individual applications under par.
12 (c). Notwithstanding par. (c) 3., the approved educational provider may give
13 preference in attendance in a course to pupils who are currently enrolled in or
14 attending the approved educational provider's school.

15 4. Post on the approved educational provider's Internet site the fact that the
16 approved educational provider is participating in the program.

17 5. For each course the approved educational provider makes available for
18 pupils to attend under the program, not later than 8 weeks prior to the date on which
19 the course is scheduled to commence, post on the approved educational provider's
20 Internet site a description of the course and information regarding admission
21 policies and costs. The approved educational provider shall update the course
22 information required under this subdivision within 7 business days of any changes
23 to that information.

24 (g) *Rights and privileges of nonresident pupils.* A pupil attending a course in
25 a public school under this subsection in a school district that is not the pupil's

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1 resident school district has all of the rights and privileges of pupils residing in that
2 school district and is subject to the same rules and regulations as pupils residing in
3 that school district.

4 (h) *Disciplinary records.* Notwithstanding s. 118.125, a pupil's resident school
5 board shall provide to an approved educational provider to which the pupil has
6 applied under this subsection, upon request by that approved educational provider,
7 a copy of any expulsion findings and orders, a copy of records of any pending
8 disciplinary proceeding involving the pupil, a written explanation of the reasons for
9 the expulsion or pending disciplinary proceeding, and the length of the term of the
10 expulsion or the possible outcomes of the pending disciplinary proceeding.

11 (i) *Transportation.*

12 1. The parent of a pupil attending a course under this subsection is responsible
13 for transporting the pupil to and from the course.

14 2. The parent of a pupil who is attending a course under this subsection may
15 apply to the department for reimbursement of the costs incurred by the parent for
16 the transportation of the pupil to and from the pupil's residence or school in which
17 the pupil is enrolled and the location at which the pupil is attending the course if the
18 pupil and parent are unable to pay the cost of such transportation. Subject to par.

19 (j) 3., the department shall determine the reimbursement amount, if any. The
20 department shall give preference under this subdivision to those pupils who satisfy
21 the income eligibility criteria for free or reduced-price lunch under 42 USC 1758 (b)
22 (1).

23 (j) *Reimbursement of costs.*

24 1. Except as provided in subd. 3. and subject to the limit under par. (b) 2., if a
25 pupil attends a course offered by an approved educational provider for

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1 reimbursement under par. (c), the department shall, in the 2023-24 school year,
2 reimburse the approved educational provider the cost of providing the course to the
3 pupil or \$1,000, whichever is less.

4 2. Except as provided in subd. 3. and subject to the limit under par. (b) 2., if a
5 pupil's parent purchases educational materials for reimbursement under par. (d),
6 the department shall, in the 2023-24 school year, reimburse the parent the cost of
7 purchasing the educational materials or \$1,000, whichever is less.

8 3. If the amount available to the department is insufficient to pay the full
9 reimbursement amounts under this paragraph and par. (i) 2., the department shall
10 prorate the payments among those eligible for reimbursement.

11 **SECTION 19. Initial applicability.**

12 (1) INCOME LIMITS. The treatment of ss. 118.60 (2) (a) 1. and (bm) and 119.23
13 (2) (a) 1. first applies to applications to attend a private school participating in a
14 program under s. 118.60 or 119.23 in the 2022-23 school year.

15 (2) PRIVATE SCHOOL ADDITIONAL TUITION. The treatment of ss. 118.60 (3m) (a) 2.
16 and (b) 2. and 119.23 (3m) (a) 2. and (b) 2. first applies to additional tuition a private
17 school charges for the 2022-23 school year.

18

(END)