

2019 DRAFTING REQUEST

Bill

For: **Administration-Budget 266-7329** Drafter: **kpleviak**
 By: **Kretschmann** Secondary Drafters:
 Date: **1/9/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email:
 Carbon copy (CC) to: **fern.knepp@legis.wisconsin.gov**
krista.pleviak@legis.wisconsin.gov
doasbostatlanguage@wisconsin.gov

Pre Topic:

DOA:.....Kretschmann, BB0187 -

Topic:

Limiting enrollment in choice programs

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 1/22/2019	anienaja 1/24/2019			
/P1	kpleviak 1/29/2019		lparisi 1/24/2019		State S&L
/P2	kpleviak 2/15/2019	anienaja 1/31/2019	mbarman 1/31/2019		State S&L
/P3	kpleviak 2/18/2019	anienaja 2/17/2019	chanaman 2/17/2019		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P4	kpleviak 2/21/2019	anienaja 2/18/2019	dwalker 2/18/2019		State S&L
/P5		csicilia 2/21/2019	dwalker 2/21/2019		State S&L

FE Sent For:

<END>

Pleviak, Krista

From: Hanaman, Cathlene
Sent: Tuesday, January 8, 2019 4:22 PM
To: Knepp, Fern; Pleviak, Krista
Subject: FW: Statutory Language Drafting Request - 2019-21

From: Kretschmann, Kyle - DOA <Kyle.Kretschmann@wisconsin.gov>
Sent: Tuesday, January 08, 2019 4:04 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>; Kretschmann, Kyle - DOA <Kyle.Kretschmann@wisconsin.gov>
Subject: Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Private Choice Enrollment

Tracking Code: BB0187

SBO Team: EWD

SBO Analyst: Kretschmann, Kyle
Phone: 608-266-8593
E-mail: kyle.kretschmann@wisconsin.gov

Agency Acronym: 255

Agency Number: 255

Priority: High

Intent:

Freeze enrollment in WPCP, MPCP and RPCP at FY19 headcount starting in FY20. This will result in caps for each program and require the use of a lottery for each program. As students graduate or leave the program (by changing schools) slots would open up for new students to participate. For the WPCP the applicable percentage and pupil participation language found in s. 118.60(2)(be) language should remain the same. Private choice programs will count 4K students as 1.0 FTE (just like districts under Fair Funding) in FY21 onward.

Attachments: False

Please send completed drafts to SBOStatlanguage@spmail.enterprise.wistate.us

01/18/19 - Per Kyle:

- Keep the current "per school district" pupil participation limits for WPCP and add the new limit for statewide on top.

- Count 4K pupil as 1.0 applies to all funding - this is a global funding change

-KRP

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1304/0dn PI
KRP:... amn

- Date -

Kyle:

This bill caps participation in each parental choice program at the program's 2018-19 school year participation levels, but the caps first apply to the 2020-21 school year. Note that the process created in the bill requires participating private schools to accept applications for a school year between February 1 and April 20 of the previous school year and requires private schools to submit application numbers to the Department of Public Instruction by May 1 of the previous school year. After DPI receives those numbers, DPI determines whether the number of applications received exceeds a program cap, and DPI then determines which applications to accept on a random basis.

Given that the bill will be effective, at the earliest, on July 1, 2019, applying the program caps to the 2019-20 school year would be problematic for a number of reasons. For example, DPI may not have the data it needs to determine whether program caps have been exceeded or to determine which pupils are entitled to preferences under s. 118.60 (3) (a) or 119.23 (3) (a), stats. Pupils may already be accepted by and enrolled in private schools, and the private schools may have already incurred expenses, hired personnel, and taken other actions in reliance on those enrollment numbers. At the same time, public school boards may have taken similar actions in reliance on its enrollment numbers. Depending on how delayed the budget bill is, pupils may have already started classes at the private schools.

If it is your intent that the bill be applied retroactively to the 2019-20 school year, we will need to create transitional provisions for the 2019-20 school year explaining how DPI will determine which pupils already admitted to parental choice programs for the 2019-20 school year will have their acceptances revoked.

Krista R. Pleviak
Legislative Attorney
(608) 504-5818
krista.pleviak@legis.wisconsin.gov



State of Wisconsin
2019 - 2020 LEGISLATURE

PI
LRB-1304?
KRP... Ann + Kjf

IN: 01/22/19
DUE: 01/23/19 (Wed.)

DOA:.....Kretschmann, BB0187 - Limiting enrollment in choice programs
FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

SA
Xref
Pwf

INSERT
DNOTE

No gen.

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

Analysis by the Legislative Reference Bureau
EDUCATION

PRIMARY AND SECONDARY EDUCATION

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 2018-19 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.

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

INSERT
A-1

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

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

3 ~~118.60 (2) (a) (intro.)~~ Subject to pars. (ag) and, (ar), and (bh), any pupil in grades
4 kindergarten to 12 who resides within an eligible school district may attend any

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

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

6 ~~118.60 (2) (a) 2. g.~~ If the pupil resides in a school district, other than an eligible
7 school district or a 1st class city school district, the pupil was on a waiting list under
8 sub. (3) (ar) 4. in any previous school year.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

10 ~~118.60 (2) (be) 3.~~ Beginning with the 2026-27 school year, there is no limit on
11 the number of pupils who may attend private schools the limits under this section
12 paragraph do not apply.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

14 ~~118.60 (2) (bh) 1.~~ In this paragraph, “program cap” means any of the following:

15 a. For an eligible school district, the total number of pupils residing in the
16 eligible school district who attended a private school under this section in the
17 2018-19 school year.

18 b. For all school districts, other than an eligible school district or a 1st class city
19 school district, the total number of pupils residing in those school districts who
20 attended a private school under this section in the 2018-19 school year.

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

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

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

9 ~~118.60 (3) (ar) (intro.) All of the following apply to applications to attend a~~
10 ~~private school under this section only if the limitation under sub. (2) (b) applies to~~
11 ~~the school year for which the application is made:~~

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

12 **SECTION 6.** 118.60 (3) (ar) 1. of the statutes is amended to read:

13 ~~118.60 (3) (ar) 1.~~ A private school that has submitted a notice of intent to
14 participate under sub. (2) (a) 3. a. may accept applications for the following school
15 year between February 1 and April 20 from pupils who reside in a school district,
16 ~~other than an eligible school district or a 1st class city school district.~~

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

18 (intro.) and amended to read:

19 ~~118.60 (3) (ar) 3. (intro.)~~ Annually, upon receipt of the information under subd.
20 2., the department shall, ~~for each school district,~~ determine the sum of all applicants
21 for pupils residing in that each school district under this paragraph, including an
22 eligible school district, and the sum of all applicants for pupils residing in all school

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

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

9 **SECTION 8.** 118.60 (3) (ar) 3. a. ^{b. and} c. of the statutes are created to read:

10 ~~118.60 (3) (ar) 3. a.~~ The sum of all applicants for pupils residing in a school
 11 district, other than an eligible school district or a 1st class city school district, exceeds
 12 the school district's pupil participation limit under sub. (2) (be).

13 b. The sum of all applicants for pupils residing in an eligible school district
 14 exceeds the program cap under sub. (2) (bh) 2. a.

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

18 **SECTION 9.** 118.60 (3) (ar) 4. of the statutes is renumbered 118.60 (3) (ar) 4.
 19 (intro.) and amended to read:

20 ~~118.60 (3) (ar) 4. (intro.) For each school district in which private schools~~
 21 ~~received applications under subd. 1. that exceeded the school district's pupil~~
 22 ~~participation limit under sub. (2) (be),~~ the The department shall establish a waiting

1 list in accordance with the preferences required under subd. 3. for each of the
 2 following:

NOTE: Subd. 4. is shown as affected by 2017 Wis. Acts 36 and 366 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

3 **SECTION 10.** 118.60 (3) (ar) 4. a. ^{b. and} to c. of the statutes are created to read:

4 ~~118.60 (3) (ar) 4. a.~~ A school district, other than an eligible school district or a
 5 1st class city school district, for which the sum described under subd. 3. a. exceeds
 6 the school district's pupil participation limit under sub. (2) (be).

7 b. An eligible school district for which the sum described under subd. 3. b.
 8 exceeds the program cap under sub. (2) (bh) 2. a.

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

12 **SECTION 11.** 118.60 (3) (ar) 5. of the statutes is amended to read:

13 ~~118.60 (3) (ar) 5.~~ A private school that has accepted a pupil who resides in a
 14 school district, other than an eligible school district or a 1st class city school district,
 15 under this paragraph shall notify the department whenever the private school
 16 determines that a pupil will not attend the private school under this paragraph. If,
 17 upon receiving notice under this subdivision, the department determines that the
 18 number of pupils attending private schools under this section falls below a school
 19 district's pupil participation limit under sub. (2) (be), or below a program cap under
 20 sub. (2) (bh) 2. a. or b., the department shall fill any available slot in that school
 21 district or program with a pupil selected from the school district's applicable waiting
 22 list established under subd. 4., if such a waiting list exists.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

1 **SECTION 12.** 118.60 (3) (ar) 6. of the statutes is renumbered 118.60 (3) (aw) and
 2 118.60 (3) (aw) (intro.) and 1., as renumbered, are amended to read:

3 ~~118.60 (3) (aw) (intro.)~~ In the 2017-18 school year and ~~any~~ each school year
 4 thereafter, between the first weekday in August and the 3rd Friday in August, the
 5 department may transfer ~~a pupil's~~ an application to attend a private school under
 6 this section in the current school year submitted by a pupil who resides in a school
 7 district, other than an eligible school district or a 1st class city school district, to a
 8 private school that accepted applications under par. (ar) 1. from pupils under subd.
 9 1. who reside in school districts, other than an eligible school district or a 1st class
 10 city school district, for the current school year, if all of the following apply:

11 1. A participating private school accepted an application from the pupil for the
 12 current school year under ~~subd. par. (ar) 1.~~ and verified that the pupil is eligible to
 13 attend a private school under this section.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

15 ~~118.60 (3) (b)~~ If a participating private school rejects an applicant who resides
 16 within an eligible school district because the private school has too few available
 17 spaces, the applicant may transfer his or her application to a participating private
 18 school that has space available. An applicant rejected under this paragraph or an
 19 applicant who is on the waiting list under sub. (3) (ar) 4. b. may, subject to sub. (2)
 20 (bh) 2. a., be admitted to a private school participating in the program under this
 21 section for the following school year, provided that the applicant continues to reside
 22 within an eligible school district. The department may not require, in that following
 23 school year, the private school to submit financial information regarding the

1 applicant or to verify the eligibility of the applicant to participate in the program
2 under this section on the basis of family income.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

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

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

18 ~~118.60~~ (4v) (b) If the department considers a pupil as a resident of an eligible
19 school district under par. (a), the department shall ensure that the pupil is not
20 counted for purposes of determining whether a school district has exceeded its pupil
21 participation limit under sub. (2) (be) and that the pupil is not counted for purposes

1 of determining whether a program cap under sub. (2) (bh) 2. a. or b. has been
2 exceeded.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

4 ~~118.60 (4v) (c)~~ The department may consider a pupil enrolled in a private
5 school participating in the program under this section who satisfies all of the
6 following as a resident of a school district, other than an eligible school district or a
7 1st class city school district, who is enrolled in the private school under this section:

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

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

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

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

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

****NOTE: Is counting pupils in this way for purposes of the pupil participation limits and program caps consistent with your intent?

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

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

History: 1989 a. 336; 1993 a. 16; 1995 a. 27 ss. 4002 to 4009, 9145 (1); 1995 a. 216; 1997 a. 27, 113; 1999 a. 9; 2001 a. 16, 105; 2003 a. 33, 155; 2005 a. 25, 125; 2009 a. 28, 96; 2011 a. 32, 47; 2013 a. 8, 20, 165; 2013 a. 166 s. 77; 2013 a. 237, 256; 2015 a. 55, 195, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; s. 35.17 correction in (1) (ab) 1.

Cross-reference: See also ch. PI 35, Wis. adm. code.

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

6 × 119.23 (2) (b) 1. In this paragraph, “program cap” means the total number of
7 pupils residing in the city who attended a private school under this section in the
8 2018-19 school year.

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

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

13 ~~×~~119.23 (3) (a) (intro.) The pupil or the pupil’s parent or guardian shall submit
14 an application, on a form provided by the state superintendent, to the participating
15 private school that the pupil wishes to attend. If more than one pupil from the same
16 family applies to attend the same private school, the pupils may use a single
17 application. No later than 60 days after the end of the application period during
18 which an application is received and subject to par. (ar), the private school shall
19 notify each applicant, in writing, whether his or her application has been accepted.
20 If the private school rejects an application, the notice shall include the reason. ~~A-~~
21 Subject to par. (ar), a private school may reject an applicant only if it the private
22 school has reached its maximum general capacity or seating capacity. ~~The~~ Except
23 as provided in par. (ar), the state superintendent shall ensure that the private school

1 determines which pupils to accept on a random basis, except that the private school
2 may give preference to the following in accepting applications, in order of preference
3 listed:

History: 1989 a. 336; 1993 a. 16; 1995 a. 27 ss. 4002 to 4009, 9145 (1); 1995 a. 216; 1997 a. 27, 113; 1999 a. 9; 2001 a. 16, 105; 2003 a. 33, 155; 2005 a. 25, 125; 2009 a. 28, 96; 2011 a. 32, 47; 2013 a. 8, 20, 165; 2013 a. 166 s. 77; 2013 a. 237, 256; 2015 a. 55, 195, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; s. 35.17 correction in (1) (ab) 1.

Cross-reference: See also ch. PI 35, Wis. adm. code.

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

5 119.23 (3) (ar) All of the following apply to applications to attend a private
6 school under this section:

7 1. A private school that has submitted a notice of intent to participate under
8 sub. (2) (a) 3. may accept applications for the following school year between February
9 1 and April 20 from pupils who reside in the city.

10 2. By the May 1 immediately following the application period under subd. 1.,
11 each private school that received applications under subd. 1. shall report to the
12 department the number of pupils who have applied under subd. 1. to attend the
13 private school under this section and the names of those applicants that have siblings
14 who have also applied under subd. 1. to attend the private school under this section.

15 3. Annually, upon receipt of the information under subd. 2., the department
16 shall determine the sum of all applicants for pupils residing in the city. In
17 determining the sum, the department shall count a pupil who has applied to attend
18 more than one private school under the program only once. If the sum of all
19 applicants for pupils residing in the city exceeds the program cap under sub. (2) (b),
20 the department shall determine which applications to accept on a random basis,
21 except that the department shall give preference to the applications of pupils
22 described in par. (a) 1. to 5., in the order of preference listed in that paragraph.

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

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

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

12 ~~119.23 (3) (b)~~ If the private school rejects an applicant because it the private
13 school has too few available spaces, the applicant may transfer his or her application
14 to a participating private school that has space available. An applicant rejected
15 under this paragraph or an applicant who is on the waiting list under sub. (3) (ar)^{par.}
16 4. may, subject to sub. (2) (b), be admitted to a private school participating in the
17 program under this section for the following school year, provided that the applicant
18 continues to reside within the city. The department may not require, in that
19 following school year, the private school to submit financial information regarding
20 the applicant or to verify the eligibility of the applicant to participate in the program
21 under this section on the basis of family income.

History: 1989 a. 336; 1993 a. 16; 1995 a. 27 ss. 4002 to 4009, 9145 (1); 1995 a. 216; 1997 a. 27, 113; 1999 a. 9; 2001 a. 16, 105; 2003 a. 33, 155; 2005 a. 25, 125; 2009 a. 28, 96; 2011 a. 32, 47; 2013 a. 8, 20, 165; 2013 a. 166 s. 77; 2013 a. 237, 256; 2015 a. 55, 195, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; s. 35.17 correction in (1) (ab) 1.

Cross-reference: See also ch. PI 35, Wis. adm. code.

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

1 ~~119.23 (4v)~~ (b) If the department considers a pupil as a resident of the city
 2 under par. (a), the department shall ensure that the pupil is not counted for purposes
 3 of determining whether a school district has exceeded its pupil participation limit
 4 under s. 118.60 (2) (be) and that the pupil is not counted for purposes of determining
 5 whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. a. or b. has been
 6 exceeded.

History: 1989 a. 336; 1993 a. 16; 1995 a. 27 ss. 4002 to 4009, 9145 (1); 1995 a. 216; 1997 a. 27, 113; 1999 a. 9; 2001 a. 16, 105; 2003 a. 33, 155; 2005 a. 25, 125; 2009 a. 28, 96; 2011 a. 32, 47; 2013 a. 8, 20, 165; 2013 a. 166 s. 77; 2013 a. 237, 256; 2015 a. 55, 195, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; s. 35.17 correction in (1) (ab) 1.

7

Cross-reference: See also ch. PI 35, Wis. adm. code.

SECTION 23. 119.23 (4v) (c) ^g ~~and (d)~~ ^{and(e)} of the statutes are created to read:

8 ~~119.23 (4v)~~ (c) The department may consider a pupil enrolled in a private
 9 school participating in the program under this section who satisfies all of the
 10 following as a resident of a school district, other than a 1st class city school district,
 11 who is enrolled in the private school under this section:

- 12 1. The pupil was a resident of the city when the pupil applied to participate in
 13 the program under this section.
- 14 2. The pupil accepted a space at a private school participating in the program
 15 under this section as a resident of the city.
- 16 3. The pupil resides in a school district, other than a 1st class city school
 17 district, on the 3rd Friday in September.
- 18 4. The private school at which the pupil accepted a space under this section is
 19 participating in the program under s. 118.60.

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

1 (e) If the department considers a pupil as a resident of a school district, other
 2 than an eligible school district, as defined in s. 118.60 (1) (am), or a 1st class city
 3 school district, under par. (c), the department shall ensure that the pupil is not
 4 counted for purposes of determining whether the school district has exceeded its
 5 pupil participation limit under s. 118.60 (2) (be) and that the pupil is not counted for
 6 purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh)
 7 2. b. has been exceeded.

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

9 (1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3)
 10 (ar) (intro.), 1., and 5. and 119.23 (3) (ar), the renumbering and amendment of s.
 11 118.60 (3) (ar) 3. and 4., and the creation of s. 118.60 (3) (ar) 3. a., b., and c. and 4. a.,
 12 b., and c. first ^{apply} applies to an application to attend in a private school under s. 118.60
 13 or 119.23 in the 2020-21 school year.

14 (2) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS.
 15 The treatment of ss. 118.60 (4v) (b), (c), and (d) and 119.23 (4v) (b), (c), and (d) first
 16 applies to counting pupils for the pupil participation limits under s. 118.60 (2) (be)
 17 and the program caps under ss. 118.60 (2) (bh) 2. a. and b. and 119.23 (2) (b) for the
 18 2020-21 school year.

19 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1304/P1dn
KRP:amn

January 24, 2019

Kyle:

This bill caps participation in each parental choice program at the program's 2018-19 school year participation levels, but the caps first apply to the 2020-21 school year. Note that the process created in the bill requires participating private schools to accept applications for a school year between February 1 and April 20 of the previous school year and requires private schools to submit application numbers to the Department of Public Instruction by May 1 of the previous school year. After DPI receives those numbers, DPI determines whether the number of applications received exceeds a program cap, and DPI then determines which applications to accept on a random basis.

Given that the bill will be effective, at the earliest, on July 1, 2019, applying the program caps to the 2019-20 school year would be problematic for a number of reasons. For example, DPI may not have the data it needs to determine whether program caps have been exceeded or to determine which pupils are entitled to preferences under s. 118.60 (3) (a) or 119.23 (3) (a), stats. Pupils may already be accepted by and enrolled in private schools, and the private schools may have already incurred expenses, hired personnel, and taken other actions in reliance on those enrollment numbers. At the same time, public school boards may have taken similar actions in reliance on its enrollment numbers. Depending on how delayed the budget bill is, pupils may have already started classes at the private schools.

If it is your intent that the bill be applied retroactively to the 2019-20 school year, we will need to create transitional provisions for the 2019-20 school year explaining how DPI will determine which pupils already admitted to parental choice programs for the 2019-20 school year will have their acceptances revoked.

Krista R. Pleviak
Legislative Attorney
(608) 504-5818
krista.pleviak@legis.wisconsin.gov



LRB-1304

01/24/19 - Telephone conference with Kyle: Prepare a P2 that does all of the following:

- Do not apply the statewide application timeline to Racine or Milwaukee PCPs. Instead, provide that applications for those programs may be submitted on a rolling basis any time between Jan 1 and Sept. 1 before the school term. Require DPI to promulgate rules regarding how the program caps will be applied to those programs, if needed.
- Instead of 2018-19 count, use the 2019-20 count for the program caps.

-KRP

01/25/19 - Telephone conference with Kyle: for application deadlines use Feb 1 to Sept. 14 instead.

-KRP



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1304/P1
KRP:amn&kjf

P2

IN: 01/29/19
DUE: 01/31/19 (Thurs.)

BMR

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

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

Pwf

No gen.

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

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

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 2018-19 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.

2019-20

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.

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), and (bh), 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), (bh), (bm), and
5 (bs), any pupil in grades kindergarten to 12 who resides in a school district, other
6 than an eligible school district or a 1st class city school district, may attend any
7 private school under this section if all of the following apply:

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

9 118.60 (2) (a) 2. g. If the pupil resides in a school district, other than an eligible
10 school district or a 1st class city school district, the pupil was on a waiting list under
11 sub. (3) (am) 4. or (ar) 4. in any previous school year.

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

13 118.60 (2) (be) 3. Beginning with the 2026-27 school year, ~~there is no limit on~~
14 ~~the number of pupils who may attend private schools~~ the limits under this section
15 paragraph do not apply.

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

17 118.60 (2) (bh) 1. In this paragraph, "program cap" means any of the following:

18 a. For an eligible school district, the total number of pupils residing in the
19 eligible school district who attended a private school under this section in the

20 ²
2018-19 school year.

2019-20

1 b. For all school districts, other than an eligible school district or a 1st class city
2 school district, the total number of pupils residing in those school districts who
3 attended a private school under this section in the ²2018-19 school year. 2019-20

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

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

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

12 118.60 (3) (ar) (intro.) All of the following apply to applications to attend a
13 private school under this section ~~only if the limitation under sub. (2) (be) applies to~~
14 ~~the school year for which the application is made:~~

15 **SECTION 6.** 118.60 (3) (ar) 1. of the statutes is amended to read:

16 118.60 (3) (ar) 1. A private school that has submitted a notice of intent to
17 participate under sub. (2) (a) 3. a. may accept applications for the following school
18 year between February 1 and April 20 from pupils who reside in a school district,
19 other than an eligible school district or a 1st class city school district.

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

22 118.60 (3) (ar) 3. (intro.) Annually, upon receipt of the information under subd.
23 2., the department shall, ~~for each school district,~~ determine the sum of all applicants
24 for pupils residing in that each school district under this paragraph, including an
25 eligible school district, and the sum of all applicants for pupils residing in all school

INSERT
3-11

~~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 apply, 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:~~

9 SECTION 8. 118.60 (3) (ar) 3. a, b. and c. of the statutes are created to read:

10 118.60 (3) (ar) 3. a. The sum of all applicants for pupils residing in a school
 11 district, other than an eligible school district or a 1st class city school district, exceeds
 12 the school district's pupil participation limit under sub. (2) (be).

13 b. The sum of all applicants for pupils residing in an eligible school district
 14 exceeds the program cap under sub. (2) (bh) 2. a.

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

18 SECTION 9. 118.60 (3) (ar) 4. of the statutes is renumbered 118.60 (3) (ar) 4.
 19 (intro.) and amended to read:

20 118.60 (3) (ar) 4. (intro.) For each school district in which private schools
 21 received applications under subd. 1. that exceeded the school district's pupil
 22 participation limit under sub. (2) (be), the The department shall establish a waiting
 23 list in accordance with the preferences required under subd. 3. for each of the
 24 following:

25 SECTION 10. 118.60 (3) (ar) 4. a, b. and c. of the statutes are created to read:

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

4 b. An eligible school district for which the sum described under subd. 3. b.
5 exceeds the program cap under sub. (2) (bh) 2. a.

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

9 **SECTION 11.** 118.60 (3) (ar) 5. of the statutes is amended to read:

10 118.60 (3) (ar) 5. A private school that has accepted a pupil who resides in a
11 school district, other than ~~an eligible school district or~~ a 1st class city school district,
12 under this paragraph shall notify the department whenever the private school
13 determines that a pupil will not attend the private school under this paragraph. If,
14 upon receiving notice under this subdivision, the department determines that the
15 number of pupils attending private schools under this section falls below a school
16 district's pupil participation limit under sub. (2) (be), or below a program cap under
17 sub. (2) (bh) 2. a. or b., the department shall fill any available slot in that school
18 district or program with a pupil selected from the school district's applicable waiting
19 list established under subd. 4., if such a waiting list exists.

20 **SECTION 12.** 118.60 (3) (ar) 6. of the statutes is renumbered 118.60 (3) (aw), and
21 118.60 (3) (aw) (intro.) and 1., as renumbered, are amended to read:

22 118.60 (3) (aw) (intro.) In the 2017-18 school year and any each school year
23 thereafter, between the first weekday in August and the 3rd Friday in August, the
24 department may transfer ~~a pupil's~~ an application to attend a private school under
25 this section in the current school year submitted by a pupil who resides in a school

~~district, other than an eligible school district or a 1st class city school district, to a private school that accepted applications under par. (ar) 1. from pupils under subd. 1. who reside in school districts, other than an eligible school district or a 1st class city school district, for the current school year, if all of the following apply:~~

- ~~1. A participating private school accepted an application from the pupil for the current school year under subd. par. (ar) 1. and verified that the pupil is eligible to attend a private school under this section.~~

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 sub. (3) (ar) 4. b. 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.

par. (am) 4.

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

1 is on the a waiting list under ~~sub. (3)~~ ^{par.} (ar) 4. a. or ~~c.~~ ^{b.} may, subject to sub. (2) (be) and
 2 (bh) 2. b., be admitted to a private school participating in the program under this
 3 section for the following school year, provided that the applicant continues to reside
 4 in a school district, other than an eligible school district or a 1st class city school
 5 district. The department may not require, in that following school year, the private
 6 school to submit financial information regarding the applicant or to verify the
 7 eligibility of the applicant to participate in the program under this section on the
 8 basis of family income.

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

10 118.60 (4v) (b) If the department considers a pupil as a resident of an eligible
 11 school district under par. (a), the department shall ensure that the pupil is not
 12 counted for purposes of determining whether a school district has exceeded its pupil
 13 participation limit under sub. (2) (be) and that the pupil is not counted for purposes
 14 of determining whether a program cap under sub. (2) (bh) 2. a. or b. has been
 15 exceeded.

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

17 118.60 (4v) (c) The department may consider a pupil enrolled in a private
 18 school participating in the program under this section who satisfies all of the
 19 following as a resident of a school district, other than an eligible school district or a
 20 1st class city school district, who is enrolled in the private school under this section:

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

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

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

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

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

****NOTE: Is counting pupils in this way for purposes of the pupil participation
limits and program caps consistent with your intent?

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

13 119.23 (2) (a) (intro.) Subject to pars. (ag) and, (ar), and (b), any pupil in grades
14 kindergarten to 12 who resides within the city may attend any private school if all
15 of the following apply:

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

17 119.23 (2) (b) 1. In this paragraph, "program cap" means the total number of
18 pupils residing in the city who attended a private school under this section in the

19 ~~2018-19~~ school year. 2019-20

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

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

1 119.23 (3) (a) (intro.) The pupil or the pupil's parent or guardian shall submit
2 an application, on a form provided by the state superintendent, to the participating
3 private school that the pupil wishes to attend. If more than one pupil from the same
4 family applies to attend the same private school, the pupils may use a single
5 application. No later than 60 days after the end of the application period during
6 which an application is received and subject to par. (ar), the private school shall
7 notify each applicant, in writing, whether his or her application has been accepted.
8 If the private school rejects an application, the notice shall include the reason. ~~A~~
9 Subject to par. (ar), a private school may reject an applicant only if ~~it~~ the private
10 school has reached its maximum general capacity or seating capacity. ~~The~~ Except
11 as provided in par. (ar), the state superintendent shall ensure that the private school
12 determines which pupils to accept on a random basis, except that the private school
13 may give preference to the following in accepting applications, in order of preference
14 listed:

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

16 119.23 (3) (ar) All of the following apply to applications to attend a private
17 school under this section:

18 1. A private school that has submitted a notice of intent to participate under
19 sub. (2) (a) 3. may accept applications for the following school year between February
20 1 and April 20 from pupils who reside in the city.

21 2. By the May 1 immediately following the application period under subd. 1.,
22 each private school that received applications under subd. 1. shall report to the
23 department the number of pupils who have applied under subd. 1. to attend the
24 private school under this section and the names of those applicants that have siblings
25 who have also applied under subd. 1. to attend the private school under this section.

INSERT
9-16

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

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

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

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

20 119.23 (3) (b) If the private school rejects an applicant because it the private
21 school has too few available spaces, the applicant may transfer his or her application
22 to a participating private school that has space available. An applicant rejected
23 under this paragraph or an applicant who is on the waiting list under par. (a) 4. may,
24 subject to sub. (2) (b), be admitted to a private school participating in the program
25 under this section for the following school year, provided that the applicant continues

1 to reside within the city. The department may not require, in that following school
2 year, the private school to submit financial information regarding the applicant or
3 to verify the eligibility of the applicant to participate in the program under this
4 section on the basis of family income.

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

6 119.23 (4v) (b) If the department considers a pupil as a resident of the city
7 under par. (a), the department shall ensure that the pupil is not counted for purposes
8 of determining whether a school district has exceeded its pupil participation limit
9 under s. 118.60 (2) (be) and that the pupil is not counted for purposes of determining
10 whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. a. or b. has been
11 exceeded.

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

13 119.23 (4v) (c) The department may consider a pupil enrolled in a private
14 school participating in the program under this section who satisfies all of the
15 following as a resident of a school district, other than a 1st class city school district,
16 who is enrolled in the private school under this section:

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

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

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

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

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

5 (e) If the department considers a pupil as a resident of a school district, other
6 than an eligible school district, as defined in s. 118.60 (1) (am), or a 1st class city
7 school district, under par. (c), the department shall ensure that the pupil is not
8 counted for purposes of determining whether the school district has exceeded its
9 pupil participation limit under s. 118.60 (2) (be) and that the pupil is not counted for
10 purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh)
11 2. b. has been exceeded.

12 **SECTION 24.** 121.004 (7) (c) 1. a. of the statutes is amended to read:

13 121.004 (7) (c) 1. a. A pupil enrolled in a 5-year-old kindergarten program that
14 requires full-day attendance by the pupil for 5 days a week, but not on any day of
15 the week that pupils enrolled in other grades in the school do not attend school, for
16 an entire school term shall be counted as one pupil.

17 **SECTION 25.** 121.004 (7) (c) 2. of the statutes is amended to read:

18 121.004 (7) (c) 2. In subd. 1. a. and b., “full-day” means the length of the school
19 day for pupils in the first grade of the school district operating the 4-year-old or
20 5-year-old-kindergarten program.

21 **SECTION 26.** 121.004 (7) (cm) of the statutes is amended to read:

22 121.004 (7) (cm) A pupil enrolled in a 4-year-old kindergarten program,
23 including a 4-year-old kindergarten program being phased in under s. 118.14 (3) (b),
24 that provides the required number of hours of direct pupil instruction under s. 121.02
25 (1) (f) but requires less than full-day attendance by the pupil for 5 days a week shall

1 be counted as 0.6 pupil if the program annually provides at least 87.5 additional
2 hours of outreach activities. In this paragraph, "full-day" has the meaning given in
3 par. (c) 2.

4 **SECTION 9334. Initial applicability; Public Instruction.** (am) and

5 (1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3)
6 (ar) (intro.), 1. and 5. and 119.23 (3) (ar), the renumbering and amendment of s.
7 118.60 (3) (ar) 3. and 4., and the creation of s. 118.60 (3) (ar) 3. a. and b. and c. and 4. a. and
8 and b. and c. first apply to an application to attend in a private school under s. 118.60
9 or 119.23 in the 2020-21 school year.

10 (2) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS.
11 The treatment of ss. 118.60 (4v) (b), (c), and (d) and 119.23 (4v) (b), (c), (d), and (e) first
12 applies to counting pupils for the pupil participation limits under s. 118.60 (2) (be)
13 and the program caps under ss. 118.60 (2) (bh) 2. a. and b. and 119.23 (2) (b) for the
14 2020-21 school year.

15 (3) COUNTING FOUR-YEAR-OLD KINDERGARTEN PUPILS. The treatment of s. 121.004
16 (7) (c) 1. a. and 2. and (cm) first applies to the distribution of school aid in, and the
17 calculation of revenue limits for, the 2019-20 school year.

****NOTE: The initial applicability provision is a placeholder. Please let me know
to which school year sub. (3) should first apply.

18

(END)

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1304/P2ins
KRP:... amm

INSERT 3-11

1 **SECTION 1.** 118.60 (3) (a) (intro.) of the statutes is amended to read:

2 ~~118.60~~ **(3)** (a) (intro.) The pupil or the pupil's parent or guardian shall submit
3 an application, on a form provided by the state superintendent, to the participating
4 private school that the pupil wishes to attend. If more than one pupil from the same
5 family applies to attend the same private school, the pupils may use a single
6 application. No later than 60 days after the end of the application period during
7 which an application is received and subject to par. pars. (am) and (ar), the private
8 school shall notify each applicant, in writing, whether his or her application has been
9 accepted. If the private school rejects an application, the notice shall include the
10 reason. Subject to par. pars. (am) and (ar), a private school may reject an applicant
11 only if it the private school has reached its maximum general capacity or seating
12 capacity. Except as provided in par. pars. (am) and (ar), the state superintendent
13 shall ensure that the private school determines which pupils to accept on a random
14 basis, except that the private school may give preference to the following in accepting
15 applications, in the order of preference listed:

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

16 **SECTION 2.** 118.60 (3) (am) of the statutes is created to read:

17 ~~118.60~~ **(3)** (am) All of the following apply to applications to attend a private
18 school under this section submitted by pupils who reside in an eligible school district:

19 1. A private school that has submitted a notice of intent to participate under
20 sub. (2) (a) 3. a. may accept applications for a school year during application periods
21 determined by the department from pupils who reside in an eligible school district.
22 For each school year, the department shall establish one or more application periods

subdivision

1 under this (subd. 1), the first of which begins on February 1 of the school year before
2 the applicable school year, and the last of which ends no later than September 14 of
3 the applicable school year.

****NOTE: Is the September 14 deadline intended to ensure that parental choice program and public school enrollments are finalized before the 3rd Friday in September count date? If yes, this deadline, when combined with the 10 day reporting period under subd. 2., may not achieve that goal.

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

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

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

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

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

13 ~~118.60 (3) (ar) (intro.) All of the following apply to applications to attend a~~
14 ~~private school under this section only if the limitation under sub. (2) (be) applies to~~
15 ~~the school year for which the application is made~~ submitted by pupils who reside in
16 a school district, other than an eligible school district or a 1st class city school district:

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

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

19 ~~118.60 (3) (ar) 3. (intro.)~~ Annually After the end of the application period
20 described under subd. 1., upon receipt of the information under subd. 2., the
21 department shall, for each school district, determine the sum of all applicants for
22 pupils residing in that school district under this paragraph and the sum of all
23 applicants for pupils residing in all school districts, other than an eligible school

1 district or a 1st class city school district. In determining ~~the sum~~ those sums, the
 2 department shall count a pupil who has applied to attend more than one private
 3 school under the program only once. After determining the sum of all applicants for
 4 pupils residing in a school district, those sums, if any of the following ² apply, the ^{applies}
 5 department shall determine which applications to accept on a random basis, except
 6 that the department shall give preference to the applications of pupils described in
 7 ~~s. 118.60 (3) par. (a) 1m. to 5.,~~ in the order of preference listed in that paragraph:

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also ch. PI 48, Wis. adm. code.

(END INSERT 3-11)

INSERT 9-16

the city

8 119.23 (3) (ar) All of the following apply to applications to attend a private
 9 school under this section submitted by pupils who reside in an eligible school district

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

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

1 period described under subd. 1. during which the private school received
2 applications.

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

(END INSERT 9-16)



LRB-1304

02/15/19 Telephone conference with Kyle: Redraft as follows:

- Page 4 note: OK as is. Remove note.
- Page 4, line 8: change to "begins no earlier than February 1"
- Remove provisions that provide for a pupil who has moved not to be counted in new location's program cap - reference SECTIONS 16 and 23.

-KRP

02/15/19 Telephone conference with Kyle: Modification of instructions, above:

- Instead of eliminating the transfer provisions, keep them but make sure pupils are counted in the second year.

-KRP



State of Wisconsin
2019 - 2020 LEGISLATURE

P3
LRB-1304/P2
KRP:amn&kjf

IN: 02/15/19
DUE: 02/18/19 (Mon.)

AMR

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

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

SA
PWS-

anal: title: sub-sub:

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

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

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

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.

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), and (bh), 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), (bh), (bm), and
5 (bs), any pupil in grades kindergarten to 12 who resides in a school district, other
6 than an eligible school district or a 1st class city school district, may attend any
7 private school under this section if all of the following apply:

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

9 118.60 (2) (a) 2. g. If the pupil resides in a school district, other than an eligible
10 school district or a 1st class city school district, the pupil was on a waiting list under
11 sub. (3) (am) 4. or (ar) 4. in any previous school year.

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

13 118.60 (2) (be) 3. Beginning with the 2026-27 school year, ~~there is no limit on~~
14 ~~the number of pupils who may attend private schools~~ the limits under this section
15 paragraph do not apply.

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

17 118.60 (2) (bh) 1. In this paragraph, “program cap” means any of the following:

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

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

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

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

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

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

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

2 118.60 (3) (am) All of the following apply to applications to attend a private
3 school under this section submitted by pupils who reside in an eligible school district:

4 1. A private school that has submitted a notice of intent to participate under
5 sub. (2) (a) 3. a. may accept applications for a school year during application periods
6 determined by the department from pupils who reside in an eligible school district.
7 For each school year, the department shall establish one or more application periods
8 under this subdivision, the first of which begins ^{no earlier than} on February 1 of the school year
9 before the applicable school year, and the last of which ends no later than September
10 14 of the applicable school year.

****NOTE: Is the September 14 deadline intended to ensure that parental choice program and public school enrollments are finalized before the 3rd Friday in September count date? If yes, this deadline, when combined with the 10 day reporting period under subd. 2., may not achieve that goal.

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

18 3. After the end of each application period described under subd. 1., upon
19 receipt of the information under subd. 2., the department shall determine the sum
20 of all applicants for pupils residing in an eligible school district. In determining the
21 sum, the department shall count a pupil who has applied to attend more than one
22 private school under the program only once. If, after the end of an application period
23 described under subd. 1., the sum of all applicants for pupils residing in an eligible

1 school district exceeds the program cap under sub. (2) (bh) 2. a., the department shall
2 determine which applications submitted during the application period to accept on
3 a random basis, except that the department shall give preference to the applications
4 of pupils described in par. (a) 1m. to 5., in the order of preference listed in that
5 paragraph.

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

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

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

18 118.60 (3) (ar) (intro.) All of the following apply to applications to attend a
19 private school under this section ~~only if the limitation under sub. (2) (be) applies to~~
20 ~~the school year for which the application is made submitted by pupils who reside in~~
21 a school district, other than an eligible school district or a 1st class city school district:

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

24 118.60 (3) (ar) 3. (intro.) Annually After the end of the application period
25 described under subd. 1., upon receipt of the information under subd. 2., the

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

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

12 118.60 (3) (ar) 3. a. The sum of all applicants for pupils residing in a school
13 district, other than an eligible school district or a 1st class city school district, exceeds
14 the school district's pupil participation limit under sub. (2) (be).

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

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

20 118.60 (3) (ar) 4. (intro.) ~~For each school district in which private schools~~
21 ~~received applications under subd. 1. that exceeded the school district's pupil~~
22 ~~participation limit under sub. (2) (be), the~~ The department shall establish a waiting
23 list in accordance with the preferences required under subd. 3. for each of the
24 following:

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

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

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

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

8 118.60 (3) (ar) 5. A private school that has accepted a pupil who resides in a
9 school district, other than an eligible school district or a 1st class city school district,
10 under this paragraph shall notify the department whenever the private school
11 determines that a pupil will not attend the private school under this paragraph. If,
12 upon receiving notice under this subdivision, the department determines that the
13 number of pupils attending private schools under this section falls below a school
14 district's pupil participation limit under sub. (2) (be), or below the program cap under
15 sub. (2) (bh) 2. b., the department shall fill any available slot in that school district
16 or program with a pupil selected from the school district's applicable waiting list
17 established under subd. 4., if such a waiting list exists.

18 **SECTION 13.** 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 or an
23 applicant who is on the waiting list under par. (am) 4. may, subject to sub. (2) (bh)
24 2. a., be admitted to a private school participating in the program under this section
25 for the following school year, provided that the applicant continues to reside within

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

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

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

for a school year

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

20 118.60 (4v) (b) If the department considers a pupil as a resident of an eligible
21 school district under par. (a), the department shall ensure that the pupil is not
22 counted for purposes of determining whether a school district has exceeded its pupil
23 participation limit under sub. (2) (be) and that the pupil is not counted for purposes
24 of determining whether a program cap under sub. (2) (bh) 2. a. or b. has been
25 exceeded.

for that school year

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

2 118.60 (4v) (c) The department may consider a pupil enrolled in a private
3 school participating in the program under this section who satisfies all of the
4 following as a resident of a school district, other than an eligible school district or a
5 1st class city school district, who is enrolled in the private school under this section:

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

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

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

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

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

****NOTE: Is counting pupils in this way for purposes of the pupil participation limits and program caps consistent with your intent? e

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

for that school year

1 119.23 (2) (a) (intro.) Subject to pars. (ag) and, (ar), and (b), any pupil in grades
2 kindergarten to 12 who resides within the city may attend any private school if all
3 of the following apply:

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

5 119.23 (2) (b) 1. In this paragraph, “program cap” means the total number of
6 pupils residing in the city who attended a private school under this section in the
7 2019-20 school year.

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

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

12 119.23 (3) (a) (intro.) The pupil or the pupil’s parent or guardian shall submit
13 an application, on a form provided by the state superintendent, to the participating
14 private school that the pupil wishes to attend. If more than one pupil from the same
15 family applies to attend the same private school, the pupils may use a single
16 application. No later than 60 days after the end of the application period during
17 which an application is received and subject to par. (ar), the private school shall
18 notify each applicant, in writing, whether his or her application has been accepted.
19 If the private school rejects an application, the notice shall include the reason. ~~A~~
20 Subject to par. (ar), a private school may reject an applicant only if it the private
21 school has reached its maximum general capacity or seating capacity. The Except
22 as provided in par. (ar), the state superintendent shall ensure that the private school
23 determines which pupils to accept on a random basis, except that the private school
24 may give preference to the following in accepting applications, in order of preference
25 listed:

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

2 119.23 (3) (ar) All of the following apply to applications to attend a private
3 school under this section submitted by pupils who reside in the city:

4 1. A private school that has submitted a notice of intent to participate under
5 sub. (2) (a) 3. may accept applications for a school year during application periods
6 determined by the department from pupils who reside in the city. For each school
7 year, the department shall establish one or more application periods under this
8 subdivision, the first of which begins ⁹ ~~on~~ ^{no earlier than} February 1 of the school year before the
9 applicable school year, and the last of which ends no later than September 14 of the
10 applicable school year.

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

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

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

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

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

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

14 119.23 (3) (b) If the private school rejects an applicant because ~~it~~ the private
15 school has too few available spaces, the applicant may transfer his or her application
16 to a participating private school that has space available. An applicant rejected
17 under this paragraph or an applicant who is on the waiting list under par. (ar) 4. may,
18 subject to sub. (2) (b), be admitted to a private school participating in the program
19 under this section for the following school year, provided that the applicant continues
20 to reside within the city. The department may not require, in that following school
21 year, the private school to submit financial information regarding the applicant or
22 to verify the eligibility of the applicant to participate in the program under this
23 section on the basis of family income.

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

for a school year

1 119.23 (4v) (b) If the department considers a pupil as a resident of the city
 2 under par. (a), the department shall ensure that the pupil is not counted for purposes
 3 of determining whether a school district has exceeded its pupil participation limit
 4 under s. 118.60 (2) (be) and that the pupil is not counted for purposes of determining
 5 whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. a. or b. has been
 6 exceeded.

for that school year

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

8 119.23 (4v) (c) The department may consider a pupil enrolled in a private
 9 school participating in the program under this section who satisfies all of the
 10 following as a resident of a school district, other than a 1st class city school district,
 11 who is enrolled in the private school under this section:

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

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

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

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

for a school year

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

24 (e) If the department considers a pupil as a resident of a school district, other
 25 than an eligible school district, as defined in s. 118.60 (1) (am), or a 1st class city

for that school year

for a school year

for that school year

1 school district, under par. (c), the department shall ensure that the pupil is not
 2 counted for purposes of determining whether the school district has exceeded its
 3 pupil participation limit under s. 118.60 (2) (be) and that the pupil is not counted for
 4 purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh)
 5 2. b. has been exceeded.

SECTION 24. 121.004 (7) (c) 1. a. of the statutes is amended to read:

7 121.004 (7) (c) 1. a. A pupil enrolled in a ~~5-year-old~~ kindergarten program that
 8 requires full-day attendance by the pupil for 5 days a week, but not on any day of
 9 the week that pupils enrolled in other grades in the school do not attend school, for
 10 an entire school term shall be counted as one pupil.

SECTION 25. 121.004 (7) (c) 2. of the statutes is amended to read:

12 121.004 (7) (c) 2. In subd. 1. a. and b., "full-day" means the length of the school
 13 day for pupils in the first grade of the school district operating the 4-year-old or
 14 5-year-old-kindergarten program.

SECTION 26. 121.004 (7) (cm) of the statutes is amended to read:

16 121.004 (7) (cm) A pupil enrolled in a 4-year-old kindergarten program,
 17 including a 4-year-old kindergarten program being phased in under s. 118.14 (3) (b),
 18 that provides the required number of hours of direct pupil instruction under s. 121.02
 19 (1) (f) but requires less than full-day attendance by the pupil for 5 days a week shall
 20 be counted as 0.6 pupil if the program annually provides at least 87.5 additional
 21 hours of outreach activities. In this paragraph, "full-day" has the meaning given in
 22 par. (c) 2.

SECTION 9334. Initial applicability; Public Instruction.

24 (1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3)
 25 (am) and (ar) (intro.) and 5. and 119.23 (3) (ar), the renumbering and amendment of

1 s. 118.60 (3) (ar) 3. and 4., and the creation of s. 118.60 (3) (ar) 3. a. and b. and 4. a.
2 and b. first apply to an application to attend in a private school under s. 118.60 or
3 119.23 in the 2020-21 school year.

4 (2) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS.
5 The treatment of ss. 118.60 (4v) (b), (c), and (d) and 119.23 (4v) (b), (c), (d), and (e) first
6 applies to counting pupils for the pupil participation limits under s. 118.60 (2) (be)
7 and the program caps under ss. 118.60 (2) (bh) 2. a. and b. and 119.23 (2) (b) for the
8 2020-21 school year.

9 (3) COUNTING FOUR-YEAR-OLD KINDERGARTEN PUPILS. The treatment of s. 121.004
10 (7) (c) 1. a. and 2. and (cm) first applies to the distribution of school aid in, and the
11 calculation of revenue limits for, the 2019-20 school year.

****NOTE: The initial applicability provision is a placeholder. Please let me know
to which school year sub. (3) should first apply.

12

(END)



LRB-1304

02/18/19 Telephone conference with Kyle: Redraft as follows:

- NOTE on page 15: The changes to counting 4K pupils should first apply to the 2020-21 school year.

-KRP