



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0833/P5  
KRP:cdc&kjf

DOA:.....Kretschmann, BB0268 - Limiting Enrollment in Voucher Programs

**FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

***Parental choice program caps***

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 2021-22 school year. Under the bill, beginning in the 2022-23 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, subject to certain admission preferences that exist under current law.

Under current law, pupils may submit applications to attend a private school under the statewide parental choice program for the following school year from the first weekday in February to the third Thursday in April, and a private school that receives applications must, no later than the first weekday in May immediately following the application period, report the number of applicants to DPI so that DPI may determine whether a pupil participation limitation has been exceeded. The bill provides that, beginning with applications for the 2022-23 school year, DPI must establish one or more application periods during which pupils may submit

applications to attend a private school under the MPCP or RPCP. The bill provides that a private school that receives applications during an application period must, no later than 10 days after the application period ends, report the number of applicants to DPI so that DPI may determine whether a program cap has been exceeded. The bill does not change the application period for the statewide parental choice program and requires DPI to use the information required to be reported under current law to determine whether the program cap for the statewide parental choice program has been exceeded.

The bill also requires DPI to establish a waiting list for a parental choice program if the program cap for the parental choice program has been exceeded.

Current law specifies that a pupil who moves to Racine or Milwaukee from somewhere else in the state after being accepted into the statewide parental choice program is not counted for purposes of determining whether a school district exceeded its pupil participation limit. The bill provides that such a pupil also is not counted for purposes of determining whether a program cap for a parental choice program has been exceeded. The bill also requires DPI to promulgate rules consistent with those current law pupil counting provisions to ensure that, if a pupil who is accepted to attend a private school under a parental choice program changes the pupil's residence, the pupil will not be counted for purposes of determining whether the pupil participation limit or program cap that applies to the pupil's new residence has been exceeded. In other words, the rules would address situations in which a pupil moves 1) from Racine to Milwaukee or somewhere else in the state; or 2) from Milwaukee to Racine or somewhere else in the state.

### ***Special Needs Scholarship Program cap***

Under current law, a child with a disability who meets certain eligibility criteria may receive a scholarship to attend a private school participating in the Special Needs Scholarship Program. This bill caps the total number of children who may receive an SNSP scholarship at the number of children who received an SNSP scholarship in the 2021-22 school year. Under the bill, beginning in the 2022-23 school year, if the number of applications for SNSP scholarships exceeds the program cap, DPI must determine which applications to accept on a random basis, subject to certain admission preferences set forth in the bill.

Under current law, a child may apply for an SNSP scholarship at any time during a school year and may begin attending the private school at any time during the school year. The bill provides that, beginning with applications for the 2022-23 school year, children may submit applications for SNSP scholarships for the school year from the first weekday in April to the first Thursday in June of the prior school year, and a private school that receives applications for SNSP scholarships must, no later than the third Thursday in June immediately following the application period, report the names of applicants to DPI so that DPI may determine whether the program cap has been exceeded. No later than 60 days after the end of the application period, DPI must notify each applicant and each private school whether the applicant has been awarded an SNSP scholarship.

The bill requires DPI to establish a waiting list if the program cap for the SNSP has been exceeded. The bill allows a child receiving an SNSP scholarship to apply during a school year to transfer from one participating private school to another.

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

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

**SECTION 1.** 115.7915 (1) (am) of the statutes is created to read:

115.7915 (1) (am) “Program cap” means the total number of children who attended eligible schools under the scholarship program under this section in the 2021-22 school year.

**SECTION 2.** 115.7915 (2) (intro.) of the statutes is amended to read:

115.7915 (2) SCHOLARSHIP REQUIREMENTS. (intro.) Beginning in the 2016-17 school year, the department shall, subject to sub. (2m), provide to a child with a disability a scholarship under sub. (4m) (a) to attend an eligible school if all of the following apply:

**SECTION 3.** 115.7915 (2) (b) of the statutes is amended to read:

115.7915 (2) (b) The governing body of the eligible school notified the department of its intent to participate in the program under this section as provided under sub. (3) (a).

**SECTION 4.** 115.7915 (2) (f) of the statutes is amended to read:

115.7915 (2) (f) The child’s parent or guardian on behalf of the child, or, for a child with a disability who has reached the age of 18 and has not been adjudicated incompetent, the child, submitted an application for a scholarship under this section as provided under sub. (3) (am) and on a form prepared by the department that includes the document developed by the department under sub. (4) to the eligible

school that the child will attend. ~~A child's parent or guardian or a child with a disability who has reached the age of 18 may apply for a scholarship at any time during a school year and, subject to sub. (3) (b), a child may begin attending an eligible school under this section at any time during the school year.~~

**SECTION 5.** 115.7915 (2) (g) of the statutes is repealed.

**SECTION 6.** 115.7915 (2m) of the statutes is created to read:

115.7915 (2m) PROGRAM CAP. Beginning with the 2022-23 school year, the total number of children who may attend eligible schools under the scholarship program under this section during a school year may not exceed the program cap.

**SECTION 7.** 115.7915 (3) (title) of the statutes is amended to read:

115.7915 (3) (title) PARTICIPATING SCHOOLS; ~~SELECTION OF PUPILS~~ APPLICATION PROCESS; WAITING LIST.

**SECTION 8.** 115.7915 (3) (a) of the statutes is amended to read:

115.7915 (3) (a) The governing body of an eligible school that intends to participate in the program under this section shall notify the department of its intent by the first Monday in March of the previous school year. The governing body of the eligible school shall include in the notice under this paragraph the number of spaces the eligible school has available for children receiving a scholarship under this section.

**SECTION 9.** 115.7915 (3) (am) of the statutes is created to read:

115.7915 (3) (am) The governing body of an eligible school that has submitted a notice of intent to participate under par. (a) may accept applications for scholarships under sub. (2) (f) for the following school year between the first weekday in April and the first Thursday in June.

**SECTION 10.** 115.7915 (3) (b) of the statutes is repealed.

**SECTION 11.** 115.7915 (3) (bm) of the statutes is amended to read:

115.7915 (3) (bm) Upon receipt of an application for a scholarship under sub. (2) (f) par. (am), the governing body of the eligible school shall determine whether the application satisfies the requirements under sub. (2), other than the requirement under sub. (2) (d), and shall request verification from the local education agency that developed the child's individualized education program or services plan that the child has an individualized education program or services plan in place that meets the requirement in sub. (2) (d). The governing body of the eligible school shall also notify the child's resident school board that, pending verification that the requirements of sub. (2) have been satisfied and subject to par. (d), the child will be awarded a scholarship under this section. The local education agency shall, within 5 business days of receiving a request under this paragraph, provide the governing body of the eligible school with a copy of the child's individualized education program or services plan.

**SECTION 12.** 115.7915 (3) (c) of the statutes is amended to read:

115.7915 (3) (c) The By the 3rd Thursday in June immediately following the application period under par. (am), the governing body of a private an eligible school participating in the program under this section that received applications for scholarships under par. (am) shall notify report to the department when it verifies that a child has the names of children who applied under par. (am) to attend the eligible school for whom the governing body has received verification under par. (bm) that an individualized education program or services plan is in effect and accepts the child's application to attend the private school under a scholarship awarded under this section the names of those applicants who have siblings who are already attending the eligible school.

**SECTION 13.** 115.7915 (3) (d), (e), (f) and (g) of the statutes are created to read:

115.7915 (3) (d) After the end of the application period described under par. (am), upon receipt of the information under par. (c), the department shall determine the sum of all applicants for scholarships under this section and the number of scholarships awarded to children who are continuing to attend private schools under scholarships as provided under sub. (4m) (d). In determining the sum, the department shall count a child who has applied for more than one scholarship under this section only once. If the sum of all applicants and continuing scholarships exceeds the program cap, the department shall determine which applications to accept on a random basis, subject to the number of available spaces each eligible school specified in its notice under par. (a), except that the department shall give preference to the following in accepting applications for each eligible school, in the order of preference listed:

1. Children who attended a different eligible school under a scholarship under this section during the previous school year.

2. Siblings of pupils who are already attending the eligible school.

(e) No later than 60 days after the end of the application period described under par. (am), the department shall notify each applicant and each eligible school, in writing, whether the applicant has been approved to receive a scholarship to attend the eligible school under this section.

(f) If the sum under par. (d) exceeds the program cap, the department shall establish a waiting list in accordance with the preferences required under par. (d).

(g) The governing body of an eligible school shall notify the department whenever the governing body determines that a child awarded a scholarship under this section will not attend the eligible school under the scholarship. If, upon

receiving notice under this paragraph, the department determines that the number of children attending eligible schools under scholarships under this section falls below the program cap, the department shall fill any available slot with a child selected from the waiting list established under par. (f), if such a waiting list exists.

**SECTION 14.** 115.7915 (3m) of the statutes is created to read:

115.7915 **(3m)** TRANSFERS BETWEEN PARTICIPATING SCHOOLS. Notwithstanding sub. (3) (am), at any time during a school year, the governing body of a participating private school may accept an application from a child attending another private school under a scholarship to transfer the child's scholarship to the participating private school. The governing body may approve the child's request to transfer if the private school has an unfilled available space for a child receiving a scholarship under this section as specified in the private school's notice under sub. (3) (a). If the governing body approves the transfer request, the governing body shall notify the department. This subsection does not apply to a child who is reevaluated and determined to no longer be a child with a disability by the child's individualized education program team.

**SECTION 15.** 118.60 (2) (a) (intro.) of the statutes is amended to read:

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

**SECTION 16.** 118.60 (2) (a) 2. g. of the statutes is amended to read:

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

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

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

**SECTION 18.** 118.60 (2) (bh) of the statutes is created to read:

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

a. For an eligible school district, the total number of pupils residing in the eligible school district who attended a private school under this section in the 2021-22 school year.

b. For all school districts, other than an eligible school district or a 1st class city school district, the total number of pupils residing in those school districts who attended a private school under this section in the 2021-22 school year.

2. a. Beginning with the 2022-23 school year, the total number of pupils residing in an eligible school district who may attend a private school under this section during a school year may not exceed the program cap under subd. 1. a.

b. Beginning with the 2022-23 school year, the total number of pupils residing in school districts, other than an eligible school district or a 1st class city school district, who may attend a private school under this section during a school year may not exceed the program cap under subd. 1. b.

**SECTION 19.** 118.60 (3) (a) (intro.) of the statutes is renumbered 118.60 (3) (a) and amended to read:



118.60 (3) (a) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. No later than 60 days after the end of the application period during which an application is received and subject to par. (ar), the private school shall notify each applicant, ~~in writing, whether his or her application has been accepted.~~ If the private school rejects an application, the who is not eligible under sub. (2) to attend the private school under this section that the application is rejected. The notice shall be in writing and shall include the reason. Subject to par. (ar), a private school may reject an applicant only if it has reached its maximum general capacity or seating capacity. ~~Except as provided in par. (ar), the state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in the order of preference listed:~~

**SECTION 20.** 118.60 (3) (a) 1m. to 5. of the statutes are renumbered 118.60 (3) (am) 3. am. to e., and 118.60 (3) (am) 3. bm. and d., as renumbered, are amended to read:

118.60 (3) (am) 3. bm. Siblings of pupils described in subd. ~~1m.~~ 3. am.

d. Siblings of pupils described under subd. 3. c.

**SECTION 21.** 118.60 (3) (am) of the statutes is created to read:

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

1. A private school that has submitted a notice of intent to participate under sub. (2) (a) 3. a. may accept applications for a school year during application periods

determined by the department from pupils who reside in an eligible school district. For each school year, the department shall establish one or more application periods under this subdivision, the first of which begins no earlier than the first weekday in February of the school year before the applicable school year, and the last of which ends no later than September 14 of the applicable school year.

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

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

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

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

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

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

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

118.60 (3) (ar) 3. (intro.) ~~Annually~~ After the end of the application period described under subd. 1., upon receipt of the information under subd. 2., the department shall, for each school district, determine the sum of all applicants for pupils residing in that school district under this paragraph and the sum of all applicants for pupils residing in all school districts, other than an eligible school district or a 1st class city school district. In determining ~~the sum~~ those sums, the department shall count a pupil who has applied to attend more than one private school under the program only once. ~~After determining the sum of all applicants for pupils residing in a school district,~~ those sums, if any of the following applies, the department shall determine which applications to accept on a random basis, except

that the department shall give preference in accepting applications of pupils to the applications of pupils described in par. (a) ~~1m. to 5.~~ (am) 3. am. to e., in the order of preference listed ~~in that paragraph.~~ under par. (am) 3.:

**SECTION 24.** 118.60 (3) (ar) 3. a. and b. of the statutes are created to read:

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

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

**SECTION 25.** 118.60 (3) (ar) 4. of the statutes is renumbered 118.60 (3) (ar) 4. (intro.) and amended to read:

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

**SECTION 26.** 118.60 (3) (ar) 4. a. and b. of the statutes are created to read:

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

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

**SECTION 27.** 118.60 (3) (ar) 5. of the statutes is amended to read:

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

**SECTION 28.** 118.60 (3) (b) of the statutes is amended to read:

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

**SECTION 29.** 118.60 (3) (c) of the statutes is amended to read:

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

**SECTION 30.** 118.60 (4v) (b) of the statutes is amended to read:

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

**SECTION 31.** 118.60 (11) (e) of the statutes is created to read:

118.60 (11) (e) Notwithstanding sub. (2) (be) and (bh) and s. 119.23 (2) (b), promulgate rules under par. (a) that are consistent with sub. (4v) and s. 119.23 (4v) to ensure that, if a pupil who accepted a space at a private school participating in a program under this section or under s. 119.23 changes the pupil's residence, the pupil

will not be counted for purposes of determining whether the participation limit under sub. (2) (be) or the program cap under sub. (2) (bh) or s. 119.23 (2) (b) that applies to the pupil's new residence has been exceeded.

**SECTION 32.** 119.23 (2) (a) (intro.) of the statutes is amended to read:

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

**SECTION 33.** 119.23 (2) (b) of the statutes is created to read:

119.23 (2) (b) 1. In this paragraph, "program cap" means the total number of pupils residing in the city who attended a private school under this section in the 2021-22 school year.

2. Beginning with the 2022-23 school year, the total number of pupils residing in the city who may attend a private school under this section during a school year may not exceed the program cap.

**SECTION 34.** 119.23 (3) (a) (intro.) of the statutes is renumbered 119.23 (3) (a) and amended to read:

119.23 (3) (a) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. No later than 60 days after the end of the application period during which an application is received, the private school shall notify each applicant, ~~in writing, whether his or her application has been accepted. If the private school rejects an application, the~~ who is not eligible under sub. (2) to attend the private school under this section that the application is rejected. The notice shall be in

~~writing and shall include the reason. A private school may reject an applicant only if it has reached its maximum general capacity or seating capacity. The state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in order of preference listed:~~

**SECTION 35.** 119.23 (3) (a) 1. to 5. of the statutes are renumbered 119.23 (3) (ar) 3. a. to e., and 119.23 (3) (ar) 3. b. and d., as renumbered, are amended to read:

119.23 (3) (ar) 3. b. Siblings of pupils described in subd. 1. 3. a.

d. Siblings of pupils described in subd. 3. c.

**SECTION 36.** 119.23 (3) (ar) of the statutes is created to read:

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

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

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



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

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

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

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

**SECTION 37.** 119.23 (3) (b) of the statutes is amended to read:

119.23 (3) (b) If the private school rejects an applicant because it the private school has too few available spaces, the applicant may transfer his or her application

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

**SECTION 38.** 119.23 (4v) (b) of the statutes is amended to read:

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

**SECTION 39.** 119.23 (11) (e) of the statutes is created to read:

119.23 (11) (e) Notwithstanding sub. (2) (b) and s. 118.60 (2) (be) and (bh), promulgate rules under par. (a) that are consistent with sub. (4v) and s. 118.60 (4v) to ensure that, if a pupil who accepted a space at a private school participating in the program under this section or under s. 118.60 changes the pupil's residence, the pupil will not be counted for purposes of determining whether the participation limit under s. 118.60 (2) (be) or the program cap under sub. (2) (b) or s. 118.60 (2) (bh) that applies to the pupil's new residence has been exceeded.

**SECTION 9134. Nonstatutory provisions; Public Instruction.**

(1) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS; RULE-MAKING. The department of public instruction may promulgate emergency rules under s. 227.24 to implement the pupil counting exceptions specified under ss. 118.60 (11) (e) and 119.23 (11) (e). Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this section remain in effect until July 1, 2024, or the date on which permanent rules take effect, whichever is sooner.

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

(1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3) (am), (ar) (intro.) and 5., (b), and (c) and 119.23 (3) (ar) and (b), the renumbering and amendment of ss. 118.60 (3) (a) (intro.) and 1m. to 5. and (ar) 3. and 4. and 119.23 (3) (a) (intro.) and 1. to 5., and the creation of s. 118.60 (3) (ar) 3. a. and b. and 4. a. and b. first apply to an application to attend a private school under s. 118.60 or 119.23 in the 2022-23 school year.

(2) SPECIAL NEEDS SCHOLARSHIP PROGRAM; PROGRAM CAP. The treatment of s. 115.7915 (2) (f) and (g) and (3) (a), (am), (b), (bm), (c), (d), (e), (f), and (g) first applies to an application for a scholarship to attend an eligible school under s. 115.7915 in the 2022-23 school year.

(3) SPECIAL NEEDS SCHOLARSHIP PROGRAM; TRANSFER APPLICATIONS. The treatment of s. 115.7915 (3m) first applies to an application to transfer in the 2022-23 school year.

(4) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS. The treatment of ss. 118.60 (4v) (b) and 119.23 (4v) (b) first applies to counting pupils for the pupil participation limits under s. 118.60 (2) (be) and the program caps under ss. 118.60 (2) (bh) 2. a. and b. and 119.23 (2) (b) for the 2022-23 school year.

(END)