



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5212/1
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2019 SENATE BILL 658

January 8, 2020 - Introduced by Senators ERPENBACH, LARSON, WIRCH, SMITH, RISSER, BEWLEY and RINGHAND, cosponsored by Representatives POPE, CONSIDINE, EMERSON, KOLSTE, SARGENT, SPREITZER, BILLINGS, MILROY, STUBBS, SUBECK, NEUBAUER, VRUWINK, OHNSTAD, SINICKI, L. MYERS and BROSTOFF. Referred to Committee on Education.

1 **AN ACT to renumber and amend** 118.60 (3) (ar) 3. and 118.60 (3) (ar) 4.; **to**
2 **amend** 115.7915 (2) (intro.), 118.60 (2) (a) (intro.), 118.60 (2) (a) 2. g., 118.60 (2)
3 (b) 3., 118.60 (3) (a) (intro.), 118.60 (3) (ar) (intro.), 118.60 (3) (ar) 5., 118.60 (3)
4 (b), 118.60 (3) (c), 118.60 (4v) (b), 119.23 (2) (a) (intro.), 119.23 (3) (a) (intro.),
5 119.23 (3) (b) and 119.23 (4v) (b); and **to create** 115.7915 (11), 118.60 (2) (bh),
6 118.60 (3) (am), 118.60 (3) (ar) 3. a. and b., 118.60 (3) (ar) 4. a. and b., 118.60 (4v)
7 (c) and (d), 119.23 (2) (b), 119.23 (3) (ar) and 119.23 (4v) (c), (d) and (e) of the
8 statutes; **relating to:** phasing out the Special Needs Scholarship Program and
9 limiting enrollment in parental choice programs.

Analysis by the Legislative Reference Bureau

This bill phases out the Special Needs Scholarship Program and caps the total number of pupils who may participate in a parental choice program.

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 SNSP. The bill provides that, beginning in the 2020-21 school year, the Department of Public Instruction may not provide an SNSP scholarship to a child to attend a private school unless the child was attending a private school under the SNSP in the 2019-20

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school year. In addition, if the child does not attend a private school under an SNSP scholarship in any school year after the 2019-20 school year, DPI may not provide an SNSP scholarship to the child for any subsequent school year.

The bill caps the total number of pupils who may participate in a parental choice program — the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the statewide parental choice program — at the number of pupils who attended a private school under that 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, 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 February 1 to April 20, and a private school that receives applications must, no later than the May 1 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 2020-21 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.

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

2 115.7915 (2) SCHOLARSHIP REQUIREMENTS. (intro.) Beginning in the 2016-17
3 school year, the department shall, subject to sub. (11), provide to a child with a
4 disability a scholarship under sub. (4m) (a) to attend an eligible school if all of the
5 following apply:

6 **SECTION 2.** 115.7915 (11) of the statutes is created to read:

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1 115.7915 (11) SUNSET. Beginning in the 2020-21 school year, the department
2 may not provide a scholarship under this section to a child with a disability to attend
3 a private school unless the child attended a private school under a scholarship under
4 this section in the 2019-20 school year. If the child does not attend a private school
5 under a scholarship under this section in any school year after the 2019-20 school
6 year, the department may not provide a scholarship under this section to the child
7 for any school year after that school year.

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

9 118.60 (2) (a) (intro.) Subject to pars. (ag) ~~and~~, (ar), and (bh), any pupil in grades
10 kindergarten to 12 who resides ~~within~~ in an eligible school district may attend any
11 private school under this section and, subject to pars. (ag), (ar), (be), (bh), (bm), and
12 (bs), any pupil in grades kindergarten to 12 who resides in a school district, other
13 than an eligible school district or a 1st class city school district, may attend any
14 private school under this section if all of the following apply:

15 **SECTION 4.** 118.60 (2) (a) 2. g. of the statutes is amended to read:

16 118.60 (2) (a) 2. g. If the pupil resides in a school district, other than ~~an eligible~~
17 ~~school district or a 1st class city school district~~, the pupil was on a waiting list under
18 sub. (3) (am) 4. or (ar) 4. in any previous school year.

19 **SECTION 5.** 118.60 (2) (be) 3. of the statutes is amended to read:

20 118.60 (2) (be) 3. Beginning with the 2026-27 school year, ~~there is no limit on~~
21 ~~the number of pupils who may attend private schools~~ the limits under this section
22 paragraph do not apply.

23 **SECTION 6.** 118.60 (2) (bh) of the statutes is created to read:

24 118.60 (2) (bh) 1. In this paragraph, “program cap” means any of the following:

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1 a. For an eligible school district, the total number of pupils residing in the
2 eligible school district who attended a private school under this section in the
3 2019-20 school year.

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

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

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

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

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

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

4 **SECTION 8.** 118.60 (3) (am) of the statutes is created to read:

5 118.60 (3) (am) All of the following apply to applications to attend a private
6 school under this section submitted by pupils who reside in an eligible school district:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **SECTION 12.** 118.60 (3) (ar) 4. of the statutes is renumbered 118.60 (3) (ar) 4.
21 (intro.) and amended to read:

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

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

3 **SECTION 13.** 118.60 (3) (ar) 4. a. and b. 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. All school districts, other than an eligible school district or a 1st class city
8 school district, if the sum described under subd. 3. b. exceeds the program cap under
9 sub. (2) (bh) 2. b.

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

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

21 **SECTION 15.** 118.60 (3) (b) of the statutes is amended to read:

22 118.60 (3) (b) If a participating private school rejects an applicant who resides
23 ~~within~~ in an eligible school district because the private school has too few available
24 spaces, the applicant may transfer his or her application to a participating private
25 school that has space available. An applicant who is rejected under this paragraph

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1 or an applicant who is on the waiting list under par. (am) 4. may, subject to sub. (2)
2 (bh) 2. a., 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 ~~within~~ in an eligible school district. The department may not require, in that
5 following school year, the private school to submit financial information regarding
6 the applicant or to verify the eligibility of the applicant to participate in the program
7 under this section on the basis of family income.

8 **SECTION 16.** 118.60 (3) (c) of the statutes is amended to read:

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

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

23 118.60 **(4v)** (b) If the department considers a pupil as a resident of an eligible
24 school district under par. (a) for a school year, the department shall ensure that the
25 pupil is not counted for that school year for purposes of determining whether a school

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

4 **SECTION 18.** 118.60 (4v) (c) and (d) of the statutes are created to read:

5 118.60 (4v) (c) The department may consider a pupil enrolled in a private
6 school participating in the program under this section who satisfies all of the
7 following as a resident of a school district, other than an eligible school district or a
8 1st class city school district, who is enrolled in the private school under this section:

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

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

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

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

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

25 **SECTION 19.** 119.23 (2) (a) (intro.) of the statutes is amended to read:

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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 20.** 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 21.** 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:

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1 **SECTION 22.** 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 no later than 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.

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

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

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

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

7 **SECTION 25.** 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.

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) for a school year, the
22 department shall ensure that the pupil is not counted for that school year for
23 purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh)
24 2. a. has been exceeded.

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

SECTION 26. Initial applicability.

8
9 (1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3)
10 (am) and (ar) (intro.) and 5. and 119.23 (3) (ar), the renumbering and amendment of
11 s. 118.60 (3) (ar) 3. and 4., and the creation of s. 118.60 (3) (ar) 3. a. and b. and 4. a.
12 and b. first apply to an application to attend in a private school under s. 118.60 or
13 119.23 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), (d), and (e) 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)