AN ACT to amend 115.88 (1m) (a) and (am), 115.88 (2), (2m), (3), (4) and (6),

115.88 (8), 115.882, 118.255 (4), 118.43 (3) (intro.) and 118.43 (6) (b) (intro.); and

to create 20.255 (2) (bb), 118.43 (4m) and 118.43 (6) (b) 9. of the statutes;

relating to: supplementing special education funding with lapsed student
achievement guarantee contract moneys and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a school district may enter into a five-year, renewable student achievement guarantee (SAGE) contract with the Department of Public Instruction to reduce class size to 15 pupils in grades kindergarten to three in exchange for receiving state aid equal to $2,000 for each low-income pupil enrolled in grades eligible for SAGE funding.

This bill allows a school district to choose not to comply with the requirement to reduce class size in grades two or three and to forego the aid that it would have received. The amount of foregone aid is lapsed to the general fund and appropriated to supplement the payment of special education aid.

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:
SECTION 1. 20.255 (2) (bb) of the statutes is created to read:

20.255 (2) (bb) Special education aid; supplement. A sum sufficient equal to
the amounts lapsed to the general fund in the previous fiscal year from the
appropriation accounts under pars. (cu) and (cv) for the payment of aids for special
education and school age parents program under ss. 115.88, 115.93, and 118.255.

SECTION 2. 115.88 (1m) (a) and (am) of the statutes are amended to read:

115.88 (1m) (a) If, upon receipt of the plan under s. 115.77 (4), the state
superintendent is satisfied that the special education program has been maintained
during the preceding school year in accordance with law, the state superintendent
shall certify to the department of administration in favor of each county, cooperative
educational service agency and school district maintaining such special education
program a sum equal to the amount expended by the county, agency and school
district during the preceding year for salaries of personnel enumerated in sub. (1),
including the salary portion of any authorized contract for physical or occupational
therapy services, and other expenses approved by the state superintendent as costs
eligible for reimbursement from the appropriation under s. 20.255 (2) (b) and (bb).

(am) If the operator of a charter school established under s. 118.40 (2r) operates
a special education program and the state superintendent is satisfied that the
operator of the charter school is complying with 20 USC 1400 to 1491o, the state
superintendent shall certify to the department of administration in favor of the
operator of the charter school a sum equal to the amount that the operator of the
charter school expended during the previous school year for salaries of full-time or
part-time licensed teachers, licensed coordinators of special education, licensed
school social workers, licensed school psychologists, paraprofessionals, licensed
consulting teachers to work with any teacher of regular education programs who has
a child with a disability in a class and any other personnel, as determined by the state
superintendent. Certified costs under this paragraph are eligible for reimbursement
from the appropriation appropriations under s. 20.255 (2) (b) and (bb). The state
superintendent may audit costs under this paragraph and adjust reimbursement to
cover only actual, eligible costs.

SECTION 3. 115.88 (2), (2m), (3), (4) and (6) of the statutes are amended to read:

115.88 (2) TRANSPORTATION AID. If upon receipt of the plan under s. 115.77 (4)
the state superintendent is satisfied that the transportation of children with
disabilities has been maintained during the preceding year in accordance with the
law, the state superintendent shall certify to the department of administration in
favor of each county, cooperative educational service agency, or school district
transporting such pupils an amount equal to the amount expended for such
transportation as costs eligible for reimbursement from the appropriation
appropriations under s. 20.255 (2) (b) and (bb). Pupils for whom aid is paid under
this subsection shall not be eligible for aid under s. 121.58 (2) or (4). This subsection
applies to any child with a disability who requires special assistance in
transportation, including any such child attending regular classes who requires
special or additional transportation. This subsection does not apply to any child with
a disability attending regular or special classes who does not require any special or
additional transportation.

(2m) OTHER TRANSPORTATION AID. If the operator of a charter school established
under s. 118.40 (2r) transports children with disabilities and the state
superintendent is satisfied that the operator of the charter school is complying with
20 USC 1400 to 1491o, the state superintendent shall certify to the department of
administration in favor of the operator of the charter school a sum equal to the
amount that the operator of the charter school expended during the previous school
year for transportation under this subsection as costs eligible for reimbursement
from the appropriations under s. 20.255 (2) (b) and (bb). The state superintendent
may audit costs under this subsection and adjust reimbursement to cover only
actual, eligible costs.

(3) BOARD AND LODGING AID. There shall be paid the amount expended for board
and lodging and transportation between the boarding home and the special
education program of nonresident children enrolled under s. 115.82 (1) in the special
education program. The department shall certify to the department of
administration in favor of each school district, cooperative educational service
agency, county children with disabilities education board, state agency of another
state or private, nonsectarian special education service which operates the special
education program while providing board, lodging and transportation an amount
equal to the amount expended for such board and lodging and transportation as costs
eligible for reimbursement from the appropriation under s. 20.255 (2) (b) and (bb).

(4) HOSPITALS AND CONVALESCENT HOME AID. The full cost of special education for
children in hospitals and convalescent homes for orthopedically disabled children
shall be paid from the appropriation under s. 20.255 (2) (b) and (bb). The supervision of such instruction shall be under the department and the school
board of the school district in which the hospital or convalescent home is located. The
school board of the district in which the hospital or convalescent home is located shall
submit to the department an itemized statement of all revenues and expenditures
for the actual cost of such instruction and any other information it requires.
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(6) AID FOR INSTRUCTION OUTSIDE OF DISTRICT. The department shall certify to the department of administration, in favor of each school district, an amount equal to the amount expended for salaries and travel expenses, as determined in advance by the state superintendent, for providing special education outside the school district of employment, as eligible for reimbursement from the appropriation appropriations under s. 20.255 (2) (b) and (bb).

 SECTION 4. 115.88 (8) of the statutes is amended to read:

115.88 (8) ENROLLMENT OUT OF STATE. If a child with a disability is enrolled in a public special education program located in another state and the state superintendent is satisfied that the program in which the child is enrolled complies with this subchapter, the state superintendent shall certify to the department of administration in favor of the school district in which the child resides or the school district attended by the child under s. 118.51 or 121.84 (1) (a) or (4) a sum equal to the amount expended by the school district during the preceding year for the additional costs associated with the child’s special education program as costs eligible for reimbursement from the appropriation appropriations under s. 20.255 (2) (b) and (bb).

 SECTION 5. 115.882 of the statutes is amended to read:

115.882 Payment of state aid. Funds appropriated under s. 20.255 (2) (b) and (bb) shall be used first for the purpose of s. 115.88 (4). Costs eligible for reimbursement from the appropriation appropriations under s. 20.255 (2) (b) and (bb) under ss. 115.88 (1m) to (3), (6) and (8), 115.93, and 118.255 (4) shall be reimbursed at a rate set to distribute the full amount appropriated for reimbursement for the costs, less the amount paid by the department of health and
family services under s. 20.435 (4) (b) and (o) under s. 49.45 (39) (b) 1m., not to exceed 100%.

**SECTION 6.** 118.255 (4) of the statutes is amended to read:

118.255 (4) If the state superintendent is satisfied that the health treatment services program has been maintained during the preceding school year in accordance with law, the state superintendent shall certify to the department of administration in favor of each school board, cooperative educational service agency and county children with disabilities education board maintaining such health treatment services, an amount equal to the amount expended for items listed in s. 115.88 (1m) by the school board, cooperative educational service agency and county children with disabilities education board during the preceding year for these health treatment services as costs eligible for reimbursement from the appropriation appropriations under s. 20.255 (2) (b) and (bb).

**SECTION 7.** 118.43 (3) (intro.) of the statutes is amended to read:

118.43 (3) CONTRACT REQUIREMENTS. (intro.) Except as provided in pars. (am) and (ar) and sub. (4m), an achievement guarantee contract shall require the school board to do all of the following in each participating school:

**SECTION 8.** 118.43 (4m) of the statutes is created to read:

118.43 (4m) EXCEPTIONS. A school district participating in the program under this section on or after the effective date of this subsection .... [revisor inserts date], may choose not to comply with the requirement to reduce class size to 15 in grades 2 or 3, or both, in any school.

**SECTION 9.** 118.43 (6) (b) (intro.) of the statutes is amended to read:

118.43 (6) (b) (intro.) From the appropriations under s. 20.255 (2) (cu) and (cv), subject to par. (c), the department shall pay to each school district that has entered
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into a contract with the department under this section, except for a school district
that chooses not to reduce class size under sub. (4m), an amount determined as
follows:

SECTION 10. 118.43 (6) (b) 9. of the statutes is created to read:

118.43 (6) (b) 9. In the 2005–06 and any subsequent school year, $2,000
multiplied by the number of low-income pupils enrolled in grades eligible for funding
in each school in the school district covered by renewals of contracts under sub. (2)
(g).

SECTION 11. Effective date.

(1) This act takes effect on July 1, 2005, or the day after publication of the
2005–07 biennial budget act, whichever is later.