



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1915/1
KRP:cjs

2021 ASSEMBLY BILL 1049

February 17, 2022 - Introduced by Representatives BROSTOFF, BOWEN, SHELTON, SINICKI, BALDEH, CABRERA, CONLEY, CONSIDINE, EMERSON, GOYKE, HEBL, HONG, SNODGRASS, SPREITZER and VRUWINK, cosponsored by Senators LARSON, ROYS and SMITH. Referred to Committee on Education.

1 **AN ACT** *to repeal* 118.43 (title), (1) to (7) and (9) and 118.44; *to renumber and*
2 *amend* 118.43 (8); *to amend* 20.255 (2) (cs), 20.255 (2) (cu), 115.7915 (2)
3 (intro.), 118.38 (1) (a) 9., 118.60 (2) (a) (intro.), 119.04 (1) and 119.23 (2) (a)
4 (intro.); and *to create* 115.7915 (11), 118.435, 118.60 (13) and 119.23 (13) of the
5 statutes; **relating to:** phasing out parental choice programs and the Special
6 Needs Scholarship Program, repealing the achievement gap reduction program
7 and the student achievement guarantee program, creating a new student
8 achievement guarantee program, granting rule-making authority, and making
9 an appropriation.

Analysis by the Legislative Reference Bureau

This bill 1) eliminates the Achievement Gap Reduction (AGR) program and the Student Achievement Guarantee in Education (former SAGE) program; 2) creates a new Student Achievement Guarantee in Education (new SAGE) program; and 3) phases out the parental choice programs and the Special Needs Scholarship Program (SNSP).

Eliminate the AGR and former SAGE programs

The bill eliminates the AGR and former SAGE programs after the 2021-22 school year. The AGR program was created in 2015 Wisconsin Act 53 to replace the

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former SAGE program. Both programs are categorical aid programs that provide funding to a participating school for low-income pupils enrolled in certain grades if the school complies with a five-year contract entered into between the Department of Public Instruction and the school board of the school district in which the school is located.

Current law provides that no contract may be entered into or renewed under the former SAGE program after July 3, 2015, but a school board that had a contract under the former SAGE program with respect to a school on July 3, 2015, could enter into a contract with DPI for that school under the AGR program.

Under current law, an AGR contract must require a participating school to do certain things, including implementing one or more of the following strategies in grades kindergarten to three:

1. Reduce class sizes to no more than 18 pupils or no more than 30 pupils in a class having at least two regular classroom teachers.
2. Provide data-driven instructional coaching for classroom teachers.
3. Provide data-informed, one-to-one tutoring to pupils who are struggling with reading or mathematics.

Currently, AGR contracts may be renewed for one or more terms of five school years.

Under the AGR program, DPI annually must pay to a school board a per pupil amount determined by 1) subtracting \$125,000 from the total amount appropriated for the AGR and former SAGE programs for the school year; 2) adding the total number of low-income pupils enrolled in grades kindergarten to three in all schools participating in the AGR program and the total number of low-income pupils for whom DPI must make a payment under the former SAGE program; and 3) dividing the difference calculated under item 1 by the sum calculated under item 2.

Create a new SAGE program

The bill creates a new SAGE program that, similar to the AGR and former SAGE programs, is a categorical aid program that provides funding to a participating school for certain low-income pupils enrolled in the school if the school complies with a five-year contract entered into between DPI and the school board of the school district in which the school is located.

Under the bill, beginning in the 2022-23 school year, a school is eligible to participate in the new SAGE program if at least 30 percent of the pupils enrolled in the school in the previous school year were low-income pupils. In addition, the school board of a school that is participating in the AGR or former SAGE program on the effective date of the bill may participate in the new SAGE program if the school board enters into a contract with DPI under the new SAGE program in the 2022-23 school year.

Under the bill, a contract under the new SAGE program must require a participating school to do certain things, including all of the following:

1. Reduce class sizes in the following manner: a) in the first school year of the contract, reduce the class size to no more than 18 pupils in each class in at least the two lowest grades taught in the school; b) in the second school year of the contract, reduce the class size to no more than 18 pupils in each class in at least the three

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lowest grades taught in the school; and c) in the third school year of the contract and in every other school year of the contract, reduce the class size to no more than 18 pupils in each class in each grade taught in the school. A school may meet the class size requirement by combining two classes if the combined class size is no more than 30 pupils and at least two regular classroom teachers are assigned to the combined class.

2. Collaborate with community organizations to make educational and recreational opportunities and community and social services available in the school.

3. Provide a rigorous academic curriculum designed to improve pupil academic achievement.

4. Provide certain staff development opportunities and evaluate staff performance and development.

The bill provides that contracts under the new SAGE program may be renewed for one or more terms of five school years.

Under the bill, DPI annually must pay to a school board \$2,250 for each low-income pupil who is enrolled in a school subject to a contract under the new SAGE program and who is assigned to a class in the school in which the class size was reduced in the manner required under the school board's contract with DPI. Under the bill, DPI must annually adjust the per pupil amount to reflect the percentage change in the consumer price index if that change is positive. The bill provides a sum sufficient appropriation for payments under the new SAGE program.

Phase out parental choice and SNSP programs

The bill provides that, beginning in the 2022-23 school year, no private school may participate in a parental choice program unless the school was participating in the parental choice program in the 2021-22 school year, and no pupil may attend a private school under a parental choice program unless the pupil was attending that private school under the parental choice program in the 2021-22 school year.

Finally, the bill provides that, beginning in the 2022-23 school year, no private school may accept pupils under the SNSP unless the school was participating in the SNSP in the 2021-22 school year, and no pupil may attend a private school under the SNSP unless the pupil was attending that private school under the SNSP in the 2021-22 school year.

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.** 20.255 (2) (cs) of the statutes is amended to read:
- 2 20.255 (2) (cs) *Aid for debt service.* The amounts in the schedule for aid for debt
- 3 service under s. ~~118.43 (8)~~ 118.433.

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1 **SECTION 2.** 20.255 (2) (cu) of the statutes is amended to read:

2 20.255 (2) (cu) ~~*Achievement gap reduction contracts*~~ *Student achievement*
3 ~~*guarantee in education program; state aid.*~~ *The amounts in the schedule A sum*
4 ~~*sufficient*~~ *for aid to school districts under s. 118.435 (8) and for the program*
5 ~~*evaluation under ss. 118.43 and 118.44*~~ *s. 118.435 (9).*

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

7 115.7915 (2) SCHOLARSHIP REQUIREMENTS. (intro.) Beginning in the 2016-17
8 school year, the department shall, subject to sub. (11), provide to a child with a
9 disability a scholarship under sub. (4m) (a) to attend an eligible school if all of the
10 following apply:

11 **SECTION 4.** 115.7915 (11) of the statutes is created to read:

12 115.7915 (11) SUNSET. (a) Beginning in the 2022-23 school year, the
13 department may not provide a scholarship under this section to a child with a
14 disability to attend a private school unless the child attended that private school
15 under a scholarship under this section in the 2021-22 school year.

16 (b) Beginning in the 2022-23 school year, a private school may not participate
17 in the program under this section unless the private school was participating in the
18 program under this section in the 2021-22 school year.

19 **SECTION 5.** 118.38 (1) (a) 9. of the statutes is amended to read:

20 118.38 (1) (a) 9. The requirements established for the student achievement
21 ~~*guarantee contracts in education program*~~ *under s. 118.43 and for achievement gap*
22 ~~*reduction contracts under s. 118.44*~~ *118.435.*

23 **SECTION 6.** 118.43 (title), (1) to (7) and (9) of the statutes are repealed.

24 **SECTION 7.** 118.43 (8) of the statutes is renumbered 118.433 and amended to
25 read:

1 **118.433 State aid for debt service related to former achievement**
2 **guarantee contracts.** (1) Beginning in the 2000-01 school year, a school district
3 is eligible for aid under this ~~subsection~~ section if it applies to the department for
4 approval of the amount of bonds specified in the copy of the resolution under 1999
5 Wisconsin Act 9, section 9139 (2d). If the department approves the amount before
6 June 30, 2001, the department shall, from the appropriation under s. 20.255 (2) (cs),
7 pay each school district that issues bonds pursuant to a referendum under 1999
8 Wisconsin Act 9, section 9139 (2d), an amount equal to 20 percent of the annual debt
9 service cost on the bonds. This ~~subsection~~ section does not apply to the school district
10 operating under ch. 119.

11 (2) The department shall promulgate rules to implement and administer this
12 ~~subsection~~ section.

13 **SECTION 8.** 118.435 of the statutes is created to read:

14 **118.435 Student achievement guarantee in education program.** (1)
15 LEGISLATIVE FINDINGS. The legislature finds that the voucher programs established
16 under s. 118.60, 2019 stats., and s. 119.23, 2019 stats., are a failed experiment. The
17 legislature further finds that the student achievement guarantee in education
18 program established under s. 118.43, 2019 stats., has had measurable impacts on
19 pupils enrolled in schools that have entered into contracts with the department
20 under that section as compared to pupils who were enrolled in schools not
21 participating in the program established under s. 118.43, 2019 stats. These impacts
22 include improved reading academic growth in kindergarten, improved mathematics
23 and reading academic growth from kindergarten through 3rd grade, and a positive
24 effect of pupils from economically disadvantaged backgrounds completing high
25 school. The legislature finds that the student achievement guarantee in education

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1 program should be revived and expanded under this section and that state resources
2 allocated to the voucher programs should be redirected to the program under this
3 section.

4 **(2) DEFINITIONS.** In this section:

5 (a) “Class size” means the number of pupils assigned to a regular classroom
6 teacher on the 3rd Friday of September.

7 (b) “Low-income pupil” means a pupil who satisfies the income eligibility
8 criteria under 42 USC 1758 (b) (1).

9 **(3) ELIGIBILITY.** A school is eligible to participate in the program under this
10 section if any of the following applies:

11 (a) *Schools participating under former programs.* The school board of the
12 school district in which the school is located is a party to a contract entered into on
13 behalf of the school under s. 118.43, 2019 stats., or s. 118.44, 2019 stats., that, on the
14 effective date of this paragraph [LRB inserts date], has not expired or been
15 terminated.

16 (b) *Low-income schools.* At least 30 percent of the pupils enrolled in the school
17 in the previous school year were low-income pupils.

18 **(4) CONTRACTS.** (a) *Contracts to replace former program contracts.* In the
19 2022-23 school year, the school board of a school district may enter into a 5-year
20 contract with the department on behalf of one or more schools in the school district
21 that are eligible under sub. (3) (a) to participate in the program under this section.
22 A contract entered into under this paragraph replaces and terminates a contract
23 entered into by the parties under s. 118.43, 2019 stats., or s. 118.44, 2019 stats., with
24 respect to the same school or schools.

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1 (b) *Contracts for low-income schools.* Beginning in the 2022-23 school year, the
2 school board of a school district may enter into a 5-year contract with the department
3 on behalf of one or more schools in the school district that are eligible under sub. (3)
4 (b) to participate in the program under this section.

5 **(5) CONTRACT REQUIREMENTS.** In a contract entered into with a school board of
6 a school district under this section on behalf of one or more schools in the school
7 district, the department shall require the school board to do all of the following with
8 respect to each school:

9 (a) *Reduction in class size.* 1. Except as provided under subd. 2., reduce class
10 sizes in the school in the following manner:

11 a. In the first school year of the contract, reduce the class size to no more than
12 18 in each class in at least the 2 lowest grades taught in the school.

13 b. In the 2nd school year of the contract, reduce the class size to no more than
14 18 in each class in at least the 3 lowest grades taught in the school.

15 c. In the 3rd school year of the contract and in every other school year of the
16 contract, including every school year of a contract renewed under sub. (7), reduce the
17 class size to no more than 18 in each class in all grades taught in the school.

18 2. The school board may meet a class size requirement under subd. 1. a., b., or
19 c. by combining 2 classes in the school if the combined class size is no more than 30
20 and at least 2 regular classroom teachers are assigned to the combined class.

21 (b) *Education and human services.* 1. Keep the school open every day from
22 early in the morning until late in the day, as specified in the contract.

23 2. Collaborate with community organizations to make educational and
24 recreational opportunities and a variety of community and social services available
25 in the school to all residents of the school district in which the school is located.

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1 (c) *Curriculum.* 1. Provide a rigorous academic curriculum designed to
2 improve pupil academic achievement.

3 2. In consultation with the department and with the participation of the
4 school's teachers and administrators and residents of the school district in which the
5 school is located, review the school's current curriculum to determine how well it
6 promotes pupil academic achievement.

7 3. If necessary, outline any changes to the curriculum to improve pupil
8 academic achievement.

9 (d) *Staff development and accountability.* 1. Develop a one-year program for
10 all newly hired employees that helps them make the transition from their previous
11 employment or school to their current employment.

12 2. Provide time for employees to collaborate and plan.

13 3. Require that each teacher and administrator submit to the school board a
14 professional development plan that focuses on how the individual will help improve
15 pupil academic achievement. The plan shall include a method by which the
16 individual will receive evaluations on the success of the individual's efforts from a
17 variety of sources.

18 4. Regularly review staff development plans to determine if they are effective
19 in helping to improve pupil academic achievement.

20 5. Establish an evaluation process for professional staff members that does all
21 of the following:

22 a. Identifies individual strengths and weaknesses.

23 b. Clearly describes areas in need of improvement.

24 (e) *Additional contract provisions.* Prepare all of the following:

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1 1. A description of how the school will meet each of the requirements under
2 pars. (a) to (d), including any alternative classroom configurations for specific
3 educational activities that may be used to meet the class size requirement under par.
4 (a).

5 2. A description of the method that the school board will use to evaluate the
6 academic achievement of the pupils enrolled in the school.

7 3. A description of the school's performance objectives for the academic
8 achievement of the pupils enrolled in the school and the means that the school board
9 will use to evaluate success in attaining the objectives. Performance objectives
10 include all of the following:

11 a. When applicable, improvement in the scores on the examination
12 administered to pupils under s. 121.02 (1) (r).

13 b. The attainment of any educational goals adopted by the school board.

14 c. Professional development with the objective of improving pupil academic
15 achievement.

16 d. Methods by which the school involves pupils, parents or guardians of pupils,
17 and other residents of the school district in which the school is located in decisions
18 affecting the school.

19 4. Subject to sub. (6), a description of any statute or rule that is waived under
20 s. 118.38 if the waiver is related to the contract.

21 5. A description of the means by which the department may monitor compliance
22 with the terms of the contract.

23 **(6) WAIVER OF CONTRACT TERMS PROHIBITED.** The department may not include
24 in a contract entered into or renewed under this section a waiver of any requirement
25 of or rule promulgated under the authority of this section.

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1 **(7) CONTRACT RENEWALS.** (a) Except as provided in par. (b), the department may
2 renew a contract under this section for one or more terms of 5 school years.

3 (b) The department may not renew a contract with a school board if the
4 department determines that the school board has not complied with the terms of the
5 contract, including the requirements described under sub. (5).

6 **(8) STATE AID.** (a) *Payments.* From the appropriation under s. 20.255 (2) (cu),
7 the department shall annually make the following payments:

8 1. Subject to par. (b), beginning in the 2023-24 school year, the department
9 shall pay to a school board that enters into a contract with the department under this
10 section that has not expired or been terminated \$2,250 for each low-income pupil
11 who is enrolled in a school subject to the contract and who is assigned to a class in
12 the school in which the class size was reduced in the manner required under sub. (5)
13 (a).

14 2. In the 2022-23 school year, the department shall pay to a school board that
15 enters into a contract with the department under sub. (4) (a) that has not expired or
16 been terminated \$2,250 for each low-income pupil described under s. 118.43 (6) (b)
17 11., 2019 stats., or s. 118.44 (6) (bm) 1., 2019 stats.

18 3. Subject to par. (b), beginning in the the 2022-23 school year, the department
19 shall pay to a school board that entered into a contract with the department under
20 s. 118.43, 2019 stats., or s. 118.44, 2019 stats., that has not expired or been
21 terminated \$2,250 for each low-income pupil described under s. 118.43 (6) (b) 11.,
22 2019 stats., or s. 118.44 (6) (bm) 1., 2019 stats.

23 (b) *Per pupil adjustment.* Beginning in the 2024-25 school year, the
24 department shall annually adjust the per pupil amount specified under par. (a) 1.
25 and 3. by the percentage difference between the consumer price index for the

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1 12-month period ending on December 31 of the preceding school year and the
2 consumer price index for the 12-month period ending on December 31 of the school
3 year before the preceding school year, if positive.

4 (c) *Use of payment to fulfill contract.* A school board shall use the aid received
5 under this subsection to satisfy the terms of the contract for which the aid was
6 received.

7 (d) *Limitations on payment.* The department shall cease payments under this
8 subsection to a school board if the school board withdraws from a contract entered
9 into under this section before expiration of the contract.

10 (e) *Rules.* The department shall promulgate rules to implement and
11 administer the payment of state aid under this subsection.

12 **(9) EVALUATION.** Beginning in the 2022-23 school year, the department
13 annually shall arrange for an evaluation of the program under this section. The
14 department may spend up to \$250,000 from the appropriation under s. 20.255 (2) (cu)
15 in each school year for that purpose.

16 **SECTION 9.** 118.44 of the statutes is repealed.

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

18 118.60 **(2)** (a) (intro.) Subject to pars. (ag) and (ar) and sub. (13), any pupil in
19 grades kindergarten to 12 who resides within an eligible school district may attend
20 any private school under this section and, subject to pars. (ag), (ar), (be), (bm), and
21 (bs) and sub. (13), any pupil in grades kindergarten to 12 who resides in a school
22 district, other than an eligible school district or a 1st class city school district, may
23 attend any private school under this section if all of the following apply:

24 **SECTION 11.** 118.60 (13) of the statutes is created to read:

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1 118.60 (13) (a) Beginning in the 2022-23 school year, a pupil may not attend
2 a participating private school under this section unless the pupil attended that
3 participating private school under this section in the 2021-22 school year.

4 (b) Beginning in the 2022-23 school year, a private school may not participate
5 in the program under this section unless the private school was participating in the
6 program under this section in the 2021-22 school year.

7 **SECTION 12.** 119.04 (1) of the statutes is amended to read:

8 119.04 (1) Subchapters IV, V, and VII of ch. 115, ch. 121, and ss. 66.0235 (3) (c),
9 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
10 115.345, 115.363, 115.364, 115.365 (3), 115.366, 115.367, 115.38 (2), 115.415, 115.445,
11 118.001 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125
12 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,
13 118.19, 118.196, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10),
14 118.245, 118.25, 118.255, 118.258, 118.291, 118.292, 118.293, 118.30 to ~~118.43~~
15 118.435, 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), (4m), (5),
16 and (15) to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35),
17 (37), (37m), and (38), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are applicable
18 to a 1st class city school district and board but not, unless explicitly provided in this
19 chapter or in the terms of a contract, to the commissioner or to any school transferred
20 to an opportunity schools and partnership program.

21 **SECTION 13.** 119.23 (2) (a) (intro.) of the statutes is amended to read:

22 119.23 (2) (a) (intro.) Subject to pars. (ag) and (ar) and sub. (13), any pupil in
23 grades kindergarten to 12 who resides within the city may attend any private school
24 if all of the following apply:

25 **SECTION 14.** 119.23 (13) of the statutes is created to read:

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1 119.23 (13) (a) Beginning in the 2022-23 school year, a pupil may not attend
2 a participating private school under this section unless the pupil attended that
3 participating private school under this section in the 2021-22 school year.

4 (b) Beginning in the 2022-23 school year, a private school may not participate
5 in the program under this section unless the private school was participating in the
6 program under this section in the 2021-22 school year.

7 **SECTION 15. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) The treatment of ss. 20.255 (2) (cs) and (cu) and 118.44, the repeal of s.
10 118.43 (title), (1) to (7), and (9), and the renumbering and amendment of s. 118.43 (8)
11 take effect on July 1, 2022.

12

(END)