



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #572

### **Bilingual-Bicultural Aids (DPI -- Categorical Aids)**

[LFB 2019-21 Budget Summary: Pages 325-326 #8, #9, #10, and #11, and Page 355, #11]

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#### **CURRENT LAW**

School districts are required by state law to provide special classes to pupils who are English learners (ELs) at schools that enroll 10 or more EL pupils in a language group in grades K-3, or 20 or more in grades 4-8 or 9-12. These school districts are eligible for categorical aid under current law. Aidable costs under the program are defined as the districts' prior year costs for salaries, special books, equipment and other expenses approved by DPI that are attributable only to programs for EL pupils. Base level funding is equal to \$8,589,800 GPR annually, which funds approximately 8% of aidable costs.

#### **GOVERNOR**

Provide \$8,510,200 GPR in 2019-20 and \$26,810,200 GPR in 2020-21 above base funding of \$8,589,800 for bilingual-bicultural categorical aids. It is estimated that this funding level would provide a reimbursement rate of approximately 15% of prior year costs in 2019-20 and 30% in 2020-21 for school districts statutorily required to offer bilingual programs.

Additionally, create three new aid programs for bilingual-bicultural pupils beginning in 2020-21:

- A supplemental bilingual-bicultural aid program (\$2,400,000 GPR), which would provide a payment of up to \$100 per EL for whom the school district was not required to provide a bilingual-bicultural program in the previous year;
- Bilingual-bicultural targeted aid (\$3,400,000 GPR), which would provide up to \$100 per pupil who scored in the lowest three levels out of six on the annual English language proficiency assessment in the prior year; and

- Bilingual-bicultural education program grants (\$2,500,000 GPR), discretionary grants to support EL and bilingual-bicultural education.

Also provide \$95,500 GPR and 1.0 GPR position beginning in 2020-21 to administer programming for bilingual-bicultural pupils and ELs.

## **DISCUSSION POINTS**

1. The state's bilingual-bicultural aid program was created in 1975 to offset a portion of the cost of providing bilingual programming for districts that are required by law to do so. Under current law, bilingual programming is required at schools that enroll 10 or more EL pupils in one language group in grades K-3, or 20 or more in grades 4-8 or 9-12. Schools that do not meet this minimum threshold are not required to offer special bilingual programming, and are not eligible for bilingual-bicultural aid. Pupils are eligible for a bilingual-bicultural education program only until they are able to perform ordinary classwork in English.

2. Schools that are required to offer bilingual programming must submit a plan of services annually to DPI, as well as an annual report. The plan of services is submitted prior to the start of the school year, and includes the goals and objectives for the program, a count of eligible ELs, staffing information, an estimated budget for the program, and a description of how EL pupils will be evaluated to assess language proficiency and progress towards meeting academic goals in other subject areas. The annual report is submitted at the end of the school year, and includes final staffing information and pupil counts. School districts also submit claims for reimbursement under the bilingual-bicultural aid program at the end of the school year, and are reimbursed in the following year.

3. To be eligible for reimbursement under the bilingual-bicultural aid program, expenditures must be consistent with the plan of services approved by DPI, must be for the benefit of EL pupils, and must be directly related to bilingual instruction. Eligible expenditures include the following: (a) salaries of appropriately licensed teachers and other staff working with bilingual pupils; (b) special books and materials used in the bilingual programming, not including general supplies or textbooks used by the school for all pupils; and (c) other expenses approved by the State Superintendent, such as professional development activities or curriculum writing done by appropriately licensed staff. Bilingual classes must be taught by a certified bilingual teacher, or, if one is not available, a certified English as a Second Language teacher and a bilingual aide.

4. State and federal law require that ELs are assessed annually to measure their English language proficiency and their progress towards achieving full proficiency. Most ELs in Wisconsin are assessed using the ACCESS for ELLs assessment, except for those who have significant cognitive disabilities. ACCESS was developed by WIDA, an organization based out of UW-Madison that provides resources for educating ELs. ACCESS assesses pupils on listening, speaking, reading, and writing, and provides a proficiency level score on a scale of one to six, from beginner to advanced.

5. State law requires that \$250,000 of the total appropriated for bilingual-bicultural aid is set aside for distribution to school districts whose enrollments in the previous school year were at

least 15% ELs. In 2017-18, the following school districts were eligible for this aid: Abbotsford, Barron, Beloit, Delavan-Darien, Green Bay, Madison, Sheboygan, Walworth, and Waterloo. The set-aside aid is divided proportionately among eligible school districts based on their reported costs.

6. In 2016-17, 49,670 EL pupils were reported statewide. In that year, 52 school districts received aid under the program for 26,721 EL pupils who were enrolled in schools that met the statutory bilingual-bicultural education threshold; the remaining 22,949 EL pupils were enrolled in schools that did not meet the threshold, and thus no additional aid was provided for these pupils. Total eligible costs under the program equaled \$102,811,100, with an average cost of \$3,848 per EL. The proration rate was equal to 8.11%, or an average of \$312 per pupil.

7. The following table shows the total amount of bilingual-bicultural aid appropriated in each year from 2008-09 to 2017-18, as well as the proration rate and the total number of ELs reported statewide in each year, and the number of ELs and districts served by bilingual-bicultural programs.

**Bilingual-Bicultural Aid and Participation History, 2008-09 to 2017-18**

	<u>Appropriation</u>	<u>Proration</u>	<u>Number of Districts Reporting ELs</u>	<u>Total ELs</u>	<u>Number of Aided Districts</u>	<u>ELs Aided by Programs</u>
2008-09	\$9,890,400	10.8%	358	51,772	56	27,663
2009-10	9,544,200	9.7	361	52,100	55	26,954
2010-11	9,544,200	9.4	352	51,944	58	28,086
2011-12	8,589,800	8.0	354	51,727	59	27,220
2012-13	8,589,800	8.6	355	50,052	52	26,426
2013-14	8,589,800	8.8	351	49,560	51	23,716
2014-15	8,589,800	8.8	356	49,309	50	24,998
2015-16	8,589,800	8.6	355	48,405	51	25,692
2016-17	8,589,800	8.6	357	49,670	52	26,721
2017-18	8,589,800	8.1	N.A.	N.A.	N.A.	

8. In addition to state bilingual-bicultural aid, school districts qualify for federal aid for ELs under Title III of the Every Student Succeeds Act (ESSA). These funds can be used to pay for personnel salaries, instructional materials, family engagement activities, and professional development related to supplemental instructional programming for ELs. In 2015-16, school districts received an average of \$145 per EL through Title III funding.

9. School districts are required to provide equal educational opportunities to EL pupils, regardless of whether they are enrolled in a state-mandated bilingual program under state and federal law. Under federal law, including the Civil Rights Act of 1964 and the Equal Educational Opportunities Act, school districts must ensure that language barriers do not prevent pupils from meaningfully participating in instructional programming and services. Under the Every Student Succeeds Act (ESSA), districts are required to ensure that ELs make progress towards developing English proficiency and meeting the same academic standards that apply to other pupils, and must include disaggregated assessment data for ELs in annual accountability reports.

10. The most recent decision by the State Supreme Court on the constitutionality of the school aid formula was issued in July, 2000, in the case of Vincent v. Voight. In that decision, the Court concluded that the state school finance system did not violate either the uniformity clause or the equal protection clause of the Wisconsin Constitution. The Court held that Wisconsin students have the right to an equal opportunity for a sound basic education that "will equip them for their roles as citizens and enable them to succeed economically and personally." The decision also noted that this standard must take into account districts with disproportionate numbers of disabled pupils, economically-disadvantaged pupils, and pupils with limited English proficiency.

11. Some have expressed concern that the state is no longer meeting the standards established in the Vincent v. Voight decision. Since 2000-01, the number of bilingual pupils in the state has increased by approximately 75%, from 29,016 pupils in 2000-01 to 50,848 pupils in 2017-18. During the same time, however, the appropriation for bilingual-bicultural aid increased by only \$298,400 or 4%, from \$8,291,400 GPR in 2000-01 to \$8,589,900 in 2018-19.

12. It could be argued that general school aids, funded at \$4.66 billion in 2018-19, are more important than bilingual-bicultural categorical aids in the overall context of the state's efforts to equalize the tax base between school districts and provide an equal opportunity for a sound basic education under the state school finance system. In addition, the prorate of bilingual-bicultural aid was in decline prior to the Vincent decision in 2000, yet the Court still found the overall system constitutional in Vincent. Accordingly, the Committee could choose to maintain bilingual-bicultural education aid at base funding. Under this alternative, the estimated prorate would decrease from approximately 8.1% in 2018-19 to approximately 7.7% in 2019-20 and 7.3% in 2020-21. [Alternative 1c]

13. On the other hand, some have argued that providing services for EL pupils might be done at the expense of the district's regular education programs. Unlike general school aids, categorical aids are outside of revenue limits and, therefore, represent additional resources for school districts to provide services to EL pupils. Given that the Court has specifically highlighted the needs of school districts with relatively high numbers of EL pupils, it could be argued that the state should increase resources for bilingual-bicultural education aid. Funding increases for this type of aid could strengthen the state's legal position if there were another legal challenge of the equity or adequacy of financing for K-12 public schools.

14. The bill would provide an additional \$8,510,200 GPR in 2019-20 and \$26,810,200 GPR in 2020-21 in the current appropriation for bilingual-bicultural aid, above base level funding of \$8,589,800 GPR annually. It is estimated that this additional funding would be sufficient to reimburse 15% of eligible costs in 2019-20 and 30% of eligible costs in 2020-21. These estimates assume that eligible costs will increase by approximately 4.5% annually, which is based on the average annual increase in costs over the last 10 years. [Alternative 1]

15. The Blue Ribbon Commission on School Funding recommended additional funding for EL pupils in its January, 2019, final report. The bipartisan Commission, which consisted of sixteen members, including legislators, school administrators, and other stakeholders, held public hearings and informational hearings throughout the state. Under the approach recommended by the Commission, EL pupils would be weighted as 1.2 FTE in the general school aids and revenue limit

formulas. Weighting would only apply to pupils who have not yet reached English proficiency, based on the annual assessment of English language proficiency required under state and federal law. Although the weighting formula would not have a state fiscal effect, it would have distributional effects in the general aid formula and would result in increased property tax levies for some districts. Under the three-year rolling average pupil enrollment used under revenue limits, this approach would increase revenue limit authority for school districts by an estimated \$34 million in the first year, \$68 million in the second year, and by \$102 million annually thereafter. [Alternative 1b]

16. If the Committee wishes to provide some additional state funding for bilingual-bicultural aid but at a reduced cost, the Committee could consider providing an increase in aid equal to \$8,410,200 GPR in 2019-20 and \$14,910,200 GPR in 2020-21; which would fund a reimbursement rate of 15% in 2019-20 and 20% in 2020-21. [Alternative 1c]

17. In addition to increasing funding under the existing bilingual-bicultural aid program, the Governor proposed the creation of three additional aid programs for EL pupils: (a) a supplemental bilingual-bicultural aid program, which would provide \$100 per EL to school districts with EL populations below the statutory threshold; (b) targeted aid for English learners; which would provide an additional \$100 per EL whose language proficiency is assessed to be in one of the three lowest levels; and (c) discretionary grants to support English learners and bilingual-bicultural education programs.

### **Supplemental Bilingual-Bicultural Aid**

18. Under the proposed supplemental bilingual-bicultural aid program, \$2,400,000 GPR would be provided beginning in 2020-21 to provide school districts with payments of \$100 per EL enrolled in the district in the previous school year for whom the district was not required to provide a bilingual-bicultural aid program. In DPI's agency request document, it was estimated that ELs eligible for aid would total approximately 23,700 in each year of the biennium; therefore, the funding provided in the bill would be sufficient to fully fund payments under the program.

19. It could be argued that additional resources are required to educate EL pupils, even in schools that are not required to offer specialized bilingual programming. For example, such pupils may require specialized materials, additional instructional time to ensure that they are making progress towards meeting academic standards in English and other subject areas, or additional family outreach, particularly for families recently arrived in the country or with parents or guardians who do not speak English themselves. In some cases, small numbers of ELs may be more costly to educate on a per pupil basis because schools do not experience the economies of scale that may be available when educating a group of pupils with the same native language, such as when purchasing textbooks or other materials.

20. The proposed program could benefit smaller, rural districts in particular, since it is likely the case that school districts with smaller overall populations are less likely to meet the statutory thresholds for mandatory bilingual programming, and therefore are less likely to qualify for aid under current law. Because these districts are still required to provide equal educational options to their bilingual pupils, even though they do not receive additional aid to do so, the lack of aid for bilingual education may place additional financial burdens on these districts.

21. If the Committee wishes to create this program but at a reduced cost, it could consider reducing the per pupil payment under the program to \$50. [Alternative 2b]

### **Targeted Bilingual-Bicultural Aid**

22. Under the targeted aid program, school districts could receive an additional \$100 for each pupil instructed in a bilingual-bicultural program whose English language proficiency is in one of the first three classifications established by DPI by rule. The bill would provide \$3,400,000 GPR for the program beginning in 2020-21.

23. The program would provide funding for pupils at the following levels of English proficiency: (1) beginning preproduction, or pupils who do not understand or speak English; (2) beginning production, or pupils who understand and speak English with hesitancy or difficulty, understand parts of lessons, and are at a pre-emergent or emergent level of reading and writing in English; and (3) intermediate, or pupils who understand and speak English with decreasing hesitancy and difficulty, are developing reading comprehension and writing skills in English, and have sufficient English literacy skills to demonstrate academic knowledge in content areas with assistance. It could be argued that pupils at these levels of English proficiency require the most intensive interventions, and therefore require the most additional resources to educate.

24. The Budget in Brief document indicates that the program is intended to address EL achievement gaps. On the 2017-18 Forward exam, 12.0% of ELs scored proficient or advanced on the English language exam, compared to 44.6% of non-EL pupils. On the mathematics exam, 15.8% of ELs scored proficient or advanced compared to 45.8% of non-EL pupils. It could be the case that additional resources would help school districts address these gaps.

25. If the Committee wishes to create this program but at a reduced cost, it could consider reducing the per pupil payment under the program to \$50. [Alternative 3b]

### **Bilingual-Bicultural Education Program Grants**

26. The third new bilingual-bicultural program that would be created under the bill is a grant program under which a school board or independent charter school could apply for funds to support bilingual-bicultural education programming for ELs enrolled in the district or charter school. The bill specifies that grant funds could be used to develop, implement, and provide bilingual-bicultural education programs or other educational programming to meet the specific needs of ELs. Grants would be awarded in amounts determined by DPI. The bill provides \$2,500,000 GPR for the program beginning in 2020-21.

27. The Budget in Brief document indicates that the intent of the program is to encourage school districts and independent charter schools to expand educational programming for ELs. In its agency budget request, DPI indicated that the grant program would allow school districts and charter schools to design programs suited to the needs of the school or district and its EL population, and gave examples of activities that could be funded through the program including the following: (a) targeted staff training; (b) designing or procuring specialized curriculum; (c) providing in-class support for classroom teachers; (d) establishing early childhood bilingual education opportunities,

such as including ELs in Head Start; (e) establishing new dual language immersion programming; or (f) working in collaboration with an educator preparation program to support existing teachers and paraprofessionals in becoming certified or licensed in English as a Second Language or bilingual education.

**Bilingual-Bicultural Position Authority**

28. The bill would provide DPI with \$95,500 GPR and 1.0 GPR position beginning in 2020-21 to administer programming for bilingual-bicultural pupils and ELs. The Department's agency budget request indicates that the position would be an education consultant on the content and learning team, and that the funding would be allocated as follows: (a) \$55,800 for salary; (b) \$23,700 for fringe benefits; and (c) \$16,000 for supplies and services.

29. DPI currently receives federal funding under Title III of ESSA to support two positions related to EL and bilingual-bicultural education. These positions are responsible for administering the bilingual-bicultural aid program, consulting with schools on bilingual-bicultural education programs and other issues related to educating ELs, and gathering and reporting data to meet state and federal reporting requirements.

30. DPI indicates that the new position would be responsible for providing support to the new programs created under the bill. In particular, the position would support the discretionary grant program with activities including the following: (a) establishing grant program parameters; (b) developing grant application materials and scoring rubrics; (c) communicating with school districts and independent charter schools who are applying for the grant; (d) providing technical assistance to applicants; (e) reviewing and scoring application materials; (f) determining grant award amounts; (g) reviewing claims; and (h) making grant payments.

**ALTERNATIVES**

**1. Bilingual-Bicultural Aid**

a. Approve the Governor's recommendation to provide \$8,510,200 in 2019-20 and \$26,810,200 in 2020-21 above base funding of \$8,589,800 for bilingual-bicultural categorical aids.

ALT 1a	Change to	
	Base	Bill
GPR	\$35,320,400	\$0

b. Delete the additional funding in the bill. Instead, weight EL pupils as 1.2 FTE in the general school aids and revenue limit formulas, beginning in the 2020-21 school year, as recommended in the Blue Ribbon Commission on School Funding's January, 2019, report. (The weighting formula would not have a state fiscal effect, but could increase revenue limit authority for school districts by an estimated \$34 million in the first year, \$68 million in the second year, and by \$102 million annually thereafter.)

ALT 1b	Change to	
	Base	Bill
GPR	\$0	- \$35,320,400

c. Provide \$8,410,200 in 2019-20 and \$14,910,200 in 2020-21, which would result in an estimated reimbursement rate of 15% in 2019-20 and 20% in 2020-21.

ALT 1c	Change to	
	Base	Bill
GPR	\$23,320,400	- \$12,000,000

d. Take no action.

ALT 1d	Change to	
	Base	Bill
GPR	\$0	- \$35,320,400

## 2. Supplemental Bilingual-Bicultural Aid

a. Approve the Governor's recommendation to create a supplemental bilingual-bicultural aid program, which would provide a payment of up to \$100 per EL for whom the school district was not required to provide a bilingual-bicultural program in the previous year, and provide \$2,400,000 beginning in 2020-21.

ALT 2a	Change to	
	Base	Bill
GPR	\$2,400,000	\$0

b. Reduce the per pupil payment to \$50, and provide \$1,200,000 for the program beginning in 2020-21.

ALT 2b	Change to	
	Base	Bill
GPR	\$1,200,000	- \$1,200,000

c. Take no action.



ALT 2c	Change to	
	Base	Bill
GPR	\$0	-\$2,400,000

### 3. Targeted Aid for English Learners

a. Approve the Governor's recommendation to create a program providing targeted aid for English learners, equal to \$100 per pupil scoring in the three lowest English proficiency levels, and provide \$3,400,000 beginning in 2020-21.

ALT 3a	Change to	
	Base	Bill
GPR	\$3,400,000	\$0

b. Reduce the per pupil payment to \$50, and provide \$1,700,000 for the program beginning in 2020-21.

ALT 3b	Change to	
	Base	Bill
GPR	\$1,700,000	-\$1,700,000

c. Take no action.

ALT 3c	Change to	
	Base	Bill
GPR	\$0	-\$3,400,000

### 4. Grants to Support English Learners and Bilingual-Bicultural Education Programs

a. Approve the Governor's recommendation to create a discretionary grant program to support EL and bilingual-bicultural education and provide \$2,500,000 beginning in 2020-21.

ALT 4a	Change to	
	Base	Bill
GPR	\$2,500,000	\$0

b. Take no action.

<b>ALT 4b</b>	<b>Change to Base Bill</b>	
GPR	\$0	- \$2,500,000

**5. Bilingual-Bicultural Position**

a. Approve the Governor's recommendation to provide 1.0 position and \$95,500 beginning in 2020-21 to coordinate state EL and bilingual-bicultural programs.

<b>ALT 5a</b>	<b>Change to Base</b>		<b>Change to Bill</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$95,500	1.00	\$0	0.00

b. Take no action.

<b>ALT 5b</b>	<b>Change to Base</b>		<b>Change to Bill</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$0	0.00	- \$95,500	- 1.00

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