

CHAPTER 395, Laws of 1975
(Vetoed in Part)

Vetoed in Part AN ACT to amend 118.01 (1), 119.04 and ~~121.10~~; and to create 20.255 (1) (bm), 115.28 (13) and subchapter VI of chapter 115 of the statutes, relating to requiring school districts to establish bilingual and bicultural education programs, granting rule-making authority and making an appropriation.

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

SECTION 1. At the appropriate place in the schedule under section 20.005 of the statutes, insert the following amounts for the purposes indicated:

20.255 Public instruction, department of	1975-76	1976-77
(1) EQUAL EDUCATIONAL OPPORTUNITIES		
(bm) Bilingual-bicultural education		
aids	GPR A	0 0

SECTION 1m. 20.255 (1) (bm) of the statutes is created to read:

20.255 (1) (bm) *Bilingual-bicultural education aids.* The amounts in the schedule for bilingual-bicultural education programs under subch. VI of ch. 115.

SECTION 2. 115.28 (13) of the statutes is created to read:

115.28 (13) BILINGUAL-BICULTURAL EDUCATION. (a) Establish, by rule, standards for the approval of the abilities of certified teachers and counselors and their aides participating in bilingual-bicultural education programs under subch. VI to read, write and speak a non-English language and to possess knowledge of the culture of limited-English speaking pupils.

(b) Establish, by rule, minimum standards for basic and optional expanded bilingual-bicultural education programs.

SECTION 3. Subchapter VI of chapter 115 of the statutes is created to read:

CHAPTER 115

SUBCHAPTER VI

BILINGUAL-BICULTURAL EDUCATION

115.95 Legislative findings and declaration of policy. (1) The legislature finds that:

(a) There are pupils in this state who enter elementary and secondary school with limited or nonexistent English speaking ability due to the use of another language in their family or in their daily, nonschool environment.

(b) Classes conducted in English do not always provide adequate instruction for children whose English language abilities are limited or nonexistent.

(c) It is beneficial to pupils from bicultural and monocultural backgrounds to participate in bilingual-bicultural programs where such programs are available in order to instill respect for non-English languages and cultures in all pupils.

(2) It is the policy of this state to provide equal educational opportunities by ensuring that necessary programs are available for limited-English speaking pupils while allowing each school district maximum flexibility in establishing programs suited to its particular needs. To this end, this subchapter creates a required minimal program and an optional expanded program for pupils in school districts with specified

concentrations of limited-English speaking pupils in the attendance areas of particular schools.

(3) It is the policy of this state to reimburse school districts, in substantial part, for the added costs of providing the basic or optional expanded programs established under this subchapter.

(4) It is the policy of this state that a limited-English speaking pupil participate in a bilingual-bicultural education program only until such time as the pupil is able to perform ordinary classwork in English.

(5) It is the policy of this state that fundamental courses may be taught in the pupil's non-English language to support the understanding of concepts, while the ultimate objective shall be to provide a proficiency in those courses in the English language in order that the pupil will be able to participate fully in a society whose language is English.

(6) Furthermore, it is the policy of this state to encourage reform, innovation and improvement in graduate education, in the structure of the academic profession and in the recruitment and retention of higher education and graduate school faculties, as related to bilingual-bicultural education, and to give special recognition to persons who possess a reading ability and speaking fluency in a non-English language and an understanding of another culture.

115.955 Definitions. In this subchapter:

(1) "Limited-English speaking pupil" means a pupil whose ability to use the English language is limited because of the use of a non-English language in his or her family or in his or her daily, nonschool surroundings, and who has difficulty, as defined by rule by the state superintendent, in performing ordinary classwork in English as a result of such limited English language ability.

(2) "Bilingual teacher" means a certified teacher approved by the state superintendent under s. 115.28 (13) (a).

(3) "Bilingual counselor" means a certified school counselor approved by the state superintendent under s. 115.28 (13) (a).

(4) "Bilingual teacher's aide" means a person who is employed to assist a teacher and who is approved by the state superintendent under s. 115.28 (13) (a).

(5) "Bilingual counselor's aide" means a person who is employed to assist a counselor and who is approved by the state superintendent under s. 115.28 (13) (a).

(6) "Bilingual-bicultural education program" means a basic program or an optional expanded program, as defined by the state superintendent by rule under s. 115.28 (13) (b), designed to improve the comprehension and the speaking, reading and writing ability of a limited-English speaking pupil in the English language, so that the pupil will be able to perform ordinary classwork in English.

(7) "Basic program" means a program which provides the following:

(a) Instruction in reading, writing and speaking the English language; and

(b) In grades K-8 through the use of the native language of the limited-English speaking pupil, instruction in the subjects necessary to permit the pupil to progress effectively through the educational system.

(8) "Optional expanded program" means a program which provides the following:

(a) Instruction in reading, writing and speaking the English language; and

(b) Instruction at all grade levels, through the use of the native language of the limited-English speaking pupil, in the subjects necessary to permit the pupil to progress effectively through the educational system.

115.96 Establishment of programs. (1) **COUNT OF LIMITED-ENGLISH SPEAKING PUPILS.** (1) Annually, on or before March 1, each school board shall conduct a count of the limited-English speaking pupils in the public schools of the district, assess the language proficiency of such pupils and classify such pupils by language group, grade level, age and English language proficiency.

(2) **NOTIFICATION.** Annually, on or before April 1, a school board which may be required to offer a bilingual-bicultural education program shall send to the parent or legal custodian of every limited-English speaking pupil identified under sub. (1) who is eligible for participation in such a program, a notice which states that a bilingual-bicultural education program may be instituted, contains information on the procedures for registering a pupil in such a program, and provides notice of the consent required under sub. (3). The notice shall be in English and in the non-English language of each bilingual-bicultural education program.

(3) **PARENTAL CONSENT.** On or before May 1, any parent or legal custodian desiring that their child be placed in a bilingual-bicultural education program shall give written consent to such child's placement.

(4) **PROGRAM ESTABLISHED.** Annually, on or before July 1, the school board shall establish a bilingual-bicultural education program, if required under s. 115.97.

(5) **PLACEMENT; APPEAL.** (a) By the commencement of the school term, the school board shall place, with the parent's or legal custodian's written consent, each limited-English speaking pupil in the appropriate bilingual-bicultural education program established under this subchapter. If a limited-English speaking pupil is identified after March 1 or the parent or legal custodian of such child gives consent after May 1, the school board shall place the pupil, with the written consent of the pupil's parent or legal custodian, in an appropriate program where feasible.

(b) A parent or legal custodian may appeal the school board's failure to place the pupil in the bilingual-bicultural education program established for the pupil in the pupil's language group by filing a notice of appeal with the clerk of the school district within 10 days after the commencement of the school term. The school board shall provide for a hearing on the question of placement within 20 days after receipt of the notice of appeal and shall take a written record of the proceedings. The cost of taking the record shall be the responsibility of the school board. The parent or legal custodian may request a public or private hearing. Within 10 days after the hearing, the school board shall make a decision on the question of placement. If the parent or legal custodian is not satisfied with the decision of the school board, the parent or legal custodian may, within 10 days after the school board's decision, file a notice of appeal with the state superintendent. If the parent or legal custodian appeals, the parent or legal custodian shall assume the cost of transcribing the record. Within 10 days after receipt of the notice of appeal from the determination of the school board, the state superintendent shall issue a decision based on the hearing record. If the parent or legal custodian prevails, the school board shall reimburse the parent or legal custodian for the cost of transcribing the record.

115.97 Bilingual-bicultural education programs required. (1) If a school board is required to establish a bilingual-bicultural education program under sub. (2), (3) or (4), the school board may adopt either a basic or expanded program. A school board may combine pupils in attendance at separate schools in its bilingual-bicultural education program. The school board shall be eligible for state aids under s. 115.995 if the number of limited-English speaking pupils served from the combined schools meets the requirements under sub. (2), (3) or (4). A pupil shall be eligible for bilingual-bicultural education program only until he or she is able to perform ordinary classwork in English. The bilingual-bicultural education program shall be designed to provide intensive instruction to meet this objective. Nothing in this subchapter shall be

construed to authorize isolation of children of limited-English speaking ability or ethnic background for a substantial portion of the school day. Pupils who are not limited-English speaking pupils may participate in a bilingual-bicultural education program, except that a school board shall give preference to limited-English speaking pupils in admitting pupils to such a program.

(2) If, in a language group under s. 115.96 (1), there are 10 or more limited-English speaking pupils in kindergarten to grade 3 in attendance at a particular elementary school and whose parents or legal custodians give written consent to such pupils' placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program for such pupils during the school term. Such program shall be taught by a bilingual teacher.

(3) If, in a language group under s. 115.96 (1), there are 20 or more limited-English speaking pupils in grades 4 to 8 in attendance at a particular elementary, middle or junior high school and whose parents or legal custodians give written consent to such pupils' placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program for such pupils during the school term. Such program shall be taught by a bilingual teacher.

(4) If, in a language group under s. 115.96 (1), there are 20 or more limited-English speaking pupils in grades 9 to 12 in attendance at a particular high school and whose parents or legal custodians give written consent to the pupils' placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program. The program shall be taught by a bilingual teacher. Bilingual counselors shall be made available.

~~115.977 Personnel; contracting; continued eligibility. The school board shall make a good faith effort to employ bilingual teachers and bilingual counselors for its bilingual-bicultural education programs. If a bilingual teacher is not available at the time the school board is hiring teachers for a program established under this subchapter, the program shall be taught by a certified teacher with the assistance of a bilingual teacher's aide. If a bilingual counselor is not available at the time the school board is hiring a counselor for a program established under this subchapter, counseling services shall be performed by a certified counselor with the assistance of a bilingual counselor's aide.~~

Vetoed
in Part

(2) A school district may establish bilingual-bicultural education programs by contracting with other school districts or with a cooperative educational service agency. If 10 or more pupils in kindergarten to grade 3, 20 or more in grades 4 to 8 or 20 or more in a high school program are enrolled in a program under a contract pursuant to this subsection, the school district offering the program is eligible for reimbursement under s. 115.995.

(3) The school board shall give any limited-English speaking pupil who has begun a bilingual-bicultural education program in the 3rd grade the opportunity to continue his or her bilingual-bicultural education program in the 4th grade regardless of the number of limited-English speaking pupils in grades 4 to 8. However, if there are not a sufficient number of limited-English speaking pupils in grades 4 to 8 to require a bilingual-bicultural education program under sub. (2), the school board may offer such pupil the opportunity to continue a bilingual-bicultural education program with a program established for limited-English speaking pupils in kindergarten to grade 3. A 4th grade pupil so enrolled may be counted for purposes of determining if there are a sufficient number of pupils for a kindergarten to grade 3 bilingual-bicultural education program.

115.98 Bilingual-bicultural advisory committee. In each school district which establishes a bilingual-bicultural education program under this subchapter, the school

board may appoint a bilingual-bicultural advisory committee to afford parents and educators of limited-English speaking pupils the opportunity to advise the school board of their views and to ensure that a program is planned, operated and evaluated with their involvement and consultation. The committee shall assist the school board in informing educators, parents and legal custodians of limited-English speaking pupils that a program exists. The committee shall be composed of parents of limited-English speaking pupils enrolled in the bilingual-bicultural education program, bilingual and other teachers, bilingual teacher's aides, bilingual and other counselors and bilingual counselor's aides in the district, at least one representative from the community and a representative of the school district administration.

115.99 Preschool and summer school programs. A school board may establish a full-time or part-time preschool or summer bilingual-bicultural education program according to rules established by the state superintendent.

115.991 Training programs. The school board may institute preservice or in-service programs designed to improve the skills of bilingual teachers, bilingual teacher's aides, bilingual counselors, bilingual counselor's aides or other personnel participating in, or preparing to participate in, a bilingual-bicultural education program:

115.993 Report on bilingual-bicultural education. Annually, on or before August 15, the school board of a district operating a bilingual-bicultural education program under this subchapter shall report to the state superintendent the number of pupils, including both limited-English speaking pupils and other pupils, instructed the previous school year in bilingual-bicultural education programs, an itemized statement on oath of all ~~receipts and~~ disbursements on account of the bilingual-bicultural education program operated during the previous school year and a copy of the estimated budget for that program for the current school year.

Vetoed
in Part

115.995 State aids. (1) Any school district operating a bilingual-bicultural education program during the school year under this subchapter is eligible to receive state aid equal to 70%, ~~except that districts covered by s. 121.08 (3) shall receive 100%~~ of the amount expended on limited-English speaking pupils by the district during the preceding year for salaries of personnel participating in and attributable to bilingual-bicultural education programs under this subchapter, special books and equipment used in the bilingual-bicultural programs and other expenses approved by the state superintendent.

Vetoed
in Part

(2) If, upon receipt of the report under s. 115.993, the state superintendent is satisfied that the bilingual-bicultural education program for the previous school year was maintained in accordance with this subchapter, the state superintendent shall certify to the department of administration in favor of the school district a sum equal to the state aids for which the school district is eligible under sub. (1).

115.996 Report to the legislature. Annually, on or before December 31, the state superintendent shall report to the legislature on the status of bilingual-bicultural education programs established under this subchapter. The report shall include the number of pupils served in basic and optional expanded programs for each language group in each school district in which such programs are offered and the cost of the program per pupil for each school district, language group and program type. The department shall also provide the number of pupils in each school district and language group who as a result of bilingual-bicultural education program improved their English language ability to such an extent that the program is no longer necessary for such pupils.

SECTION 4. 118.01 (1) of the statutes is amended to read:

118.01 (1) FUNDAMENTAL COURSE. Reading, writing, spelling, English grammar and composition, geography, arithmetic, elements of agriculture and conservation of natural resources, history and civil government of the United States and of Wisconsin, citizenship and such other subjects as the school board determines shall be taught in every elementary school. All instruction shall be in the English language, except in those programs established under subch. VI of ch. 115 where instruction shall be in the English language and in the non-English language of the bilingual-bicultural education program, and except that the school board may cause any foreign language to be taught to such pupils as desire it.

SECTION 5. 119.04 of the statutes, as affected by chapters 39, 41 and 95, laws of 1975, is amended to read:

119.04 Public instruction laws applicable. Subchapter VI of ch. 115, subch. I of ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (13), 115.345, 115.76, 115.77, 115.79 to 115.94, 118.03, 118.04, 118.06, 118.07, 118.10, 118.12 (1), 118.125, 118.14, 118.15, 118.16 (1), (2) and (4) to (6), 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) to (5), 118.255, 120.13 (1) and (19), 120.16 (6), 120.49 (6), 120.61, 121.52, 121.53, 121.54 (1), (3) and (4), 121.55, 121.58 (2) (b), (4) and (6), 121.77 (1), 121.79, 121.80, 121.81 (2), 121.82 (1), 121.83, 121.84 (1) and 121.90 to 121.93 are applicable to the board of school directors and to schools in cities of the 1st class. The board shall exercise the powers, perform the functions and be entitled to all school aid therein provided insofar as the same are relevant to cities of the 1st class. The board and the schools in cities of the 1st class shall be governed in all matters by the general laws of the state, except as altered or modified by express amendments.

~~SECTION 5m. 121.19 of the statutes is amended to read:~~

~~121.19 Advance payment of state aid. (1) Upon the request of a school board filed on or after July 15 and if the annual report of the school district for the previous school year has been filed, the state superintendent upon his determination of need may grant advance payment of the state aid payable to the school district in an amount not to exceed 75% of its total state aid for the school year.~~

~~(2) For school districts providing new programs under s. 115.97, the state superintendent, upon a finding of need, may, until July 1, 1982, grant an advance payment of the state aid in an amount exceeding 75% of its total state aid for the school year.~~

Vetoed
in Part

SECTION 6. All cost incurred by school districts under subchapter VI of chapter 115 of the statutes, as created by this act, shall be excluded from the provisions of section 121.91 of the statutes, as created by chapter 39, laws of 1975.

SECTION 7. Aids. Aids shall first be paid under section 115.995 (1) and (2) of the statutes, as created by this act, in 1978-79 for bilingual-bicultural education programs established under this act and operated during the 1977-78 school year.

SECTION 9. Appropriation increases. (1) The appropriation to the university of Wisconsin system under section 20.285 (1) (a) of the statutes, as affected by the laws of 1975, is increased by \$40,900 for 1976-77 to provide funds for teacher and counselor bilingual-bicultural certification programs.

(2) The appropriation to the university of Wisconsin system under section 20.285 (1) (m) of the statutes, as affected by the laws of 1975, is increased by \$15,100 for 1976-77 to provide funds for teacher and counselor bilingual-bicultural certification programs.

Vetoed
in Part

(3) The appropriation to the department of public instruction under section 20.255 (1) (a) of the statutes, as affected by the laws of 1975, is increased by \$24,400

for 1976-77 to provide funds for a departmental consultant in bilingual-bicultural education programs.

Vetoed
in Part

~~SECTION 10. **Prior legislative approval of administrative rules.** Before the state superintendent promulgates rules under this act, such rules shall first be approved by a majority of the membership of the assembly education committee and a majority of the membership of the senate education committee. The rules proposed under this act shall be submitted to the committee for approval after the rules have been adopted by the agency and before they are filed in the office of the secretary of state and in the office of the revisor of statutes, under section 237.023 (1) of the statutes.~~

SECTION 11. Effective date; applicability. (1) A school district shall not be required to institute bilingual-bicultural education programs for pupils in kindergarten to grade 3 prior to July 1, 1977.

(2) A school district shall not be required to institute bilingual-bicultural education programs for pupils in grades 4 to 8 prior to July 1, 1979, except that a school district shall give those pupils for whom bilingual-bicultural education programs have been required between July 1, 1977, and July 1, 1979, the opportunity to continue in bilingual-bicultural education programs until July 1, 1979. Such opportunity may be provided by permitting the pupil to attend a bilingual-bicultural education program established for pupils in kindergarten to grade 3.

(3) A school district shall not be required to institute bilingual-bicultural education programs for pupils in high school prior to July 1, 1981.
