



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1398/P3  
KRP:kjf

DOA:.....Kretschmann, BB0473 - English Learner Categorical Aid

**FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

***Limited-English proficient pupils; categorical aid***

This bill changes the way that state categorical aid for educating limited-English proficient pupils (LEP) is allocated.

Under current law, a school board is required to provide a bilingual-bicultural education program to LEP pupils who attend a school in the school district if the school meets any of the following thresholds:

1. Within a language group, 10 or more LEP pupils are enrolled in kindergarten to grade three.
2. Within a language group, 20 or more LEP pupils are enrolled in grades four to eight.
3. Within a language group, 20 or more LEP pupils are enrolled in grades nine to twelve.

All school boards are required to educate all LEP pupils, but only school boards that are required to provide bilingual-bicultural education programs are eligible under current law for categorical aid targeted toward educating LEP pupils.

Under current law, in each school year, DPI distributes \$250,000 among eligible school districts whose enrollments in the previous school year were at least 15

percent LEP pupils, and DPI distributes the amount remaining in the appropriation account to eligible school districts on the basis of the school districts' expenditures on the required bilingual-bicultural education programs during the prior school year.

The bill expands eligibility for categorical aid to independent charter schools and eliminates the limitation that only school boards that are required to provide bilingual-bicultural education programs are eligible for categorical aid. Under the bill, beginning in the 2022-23 school year, a school board that had at least one LEP pupil enrolled in the school district in the prior school year, and the operator of an independent charter school that had at least one LEP pupil attending the charter school in the prior school year, receives \$10,000. In addition, if the school board or operator had more than 20 LEP pupils, the school board or operator receives an additional \$500 per LEP pupil above 20.

The bill also provides a temporary hold harmless provision for a school board that would receive less categorical aid under the new funding scheme:

1. In the 2022-23 school year, a school board receives the greater of: a) the amount to which the school board is entitled under the new funding scheme; or b) an amount equal to the amount of categorical aid the school board received in the 2020-21 school year.

2. In the 2023-24 school year, a school board receives the amount to which the school board is entitled under the new funding scheme. In addition, if that amount is less than the amount the school board received in the 2020-21 school year, the school board also receives an amount equal to 50 percent of the difference between the amount to which the school board is entitled under the new funding scheme and the amount the school board received in the 2020-21 school year.

If, in any fiscal year, there are insufficient funds to provide the total categorical aid amount, DPI must prorate the payments.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

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

20.255 (2) (cc) ~~*Bilingual-bicultural education aids*~~ *English learner categorical aid*. The amounts in the schedule for ~~bilingual-bicultural education programs~~ aid under subch. VII of ch. 115 s. 115.995.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

\*\*\*NOTE: This is reconciled s. 20.255 (2) (cc). This SECTION has been affected by drafts with the following LRB numbers: -1398/p2 and -1217/p2.

**SECTION 2.** 115.95 (2) of the statutes is amended to read:

115.95 (2) It is the policy of this state to provide equal educational opportunities by ensuring that necessary programs are available for limited-English proficient pupils while allowing each school district and charter school under s. 118.40 (2r) or (2x) maximum flexibility in establishing programs suited to its particular needs. To this end, this subchapter provides support for educating limited-English proficient pupils and establishes bilingual-bicultural education programs for pupils in school districts with specified concentrations of limited-English proficient pupils in the attendance areas of particular schools.

**SECTION 3.** 115.95 (3) of the statutes is amended to read:

115.95 (3) It is the policy of this state to reimburse school districts, in substantial part, for the added costs of providing the programs established under this subchapter and to provide support to school districts and charter schools under s. 118.40 (2r) and (2x) for the added costs of educating limited-English proficient pupils.

**SECTION 4.** 115.96 (title) of the statutes is amended to read:

**115.96** (title) **Establishment Pupil counts; establishment of programs.**

**SECTION 5.** 115.96 (1) of the statutes is amended to read:

115.96 (1) COUNT OF LIMITED-ENGLISH PROFICIENT PUPILS. Annually, on or before March 1, ~~each~~ a school board and the operator of a charter school established under s. 118.40 (2r) or (2x) shall conduct a count of the limited-English proficient pupils in the public schools of the district or in the charter school, assess the language proficiency of ~~such~~ the pupils, and classify ~~such~~ the pupils by language group, grade level, age, and English language proficiency. A school board or operator is eligible

for state aid under s. 115.995 only if the school board or operator conducts the count under this subsection.

**SECTION 6.** 115.97 (1) of the statutes is amended to read:

115.97 (1) 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 proficient pupils served from the combined schools meets the requirements under sub. (2), (3) or (4).~~ A pupil shall be eligible for a 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 proficient ability or ethnic background for a substantial portion of the school day. Pupils who are not limited-English proficient pupils may participate in a bilingual-bicultural education program, except that a school board shall give preference to limited-English proficient pupils in admitting pupils to such a program.

**SECTION 7.** 115.97 (6) of the statutes is created to read:

115.97 (6) A school board that is required to establish a bilingual-bicultural education program under sub. (2), (3), or (4) is eligible for state aid under s. 115.995 only if the state superintendent is satisfied that the school board maintained the bilingual-bicultural education program in accordance with this subchapter.

**SECTION 8.** 115.977 (2) of the statutes is amended to read:

115.977 (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.~~

**SECTION 9.** 115.993 (title) of the statutes is amended to read:

**115.993** (title) **Report Reports on bilingual-bicultural education and pupil counts.**

**SECTION 10.** 115.993 of the statutes is renumbered 115.993 (1) and amended to read:

115.993 (1) 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 proficient pupils and other pupils, instructed the previous school year in bilingual-bicultural education programs, ~~an itemized statement on oath of all disbursements on account of~~ a summary of the costs incurred to operate the bilingual-bicultural education program operated during the previous school year, and a copy of the estimated budget for ~~that~~ operating the bilingual-bicultural education program for the current school year.

**SECTION 11.** 115.993 (2) of the statutes is created to read:

115.993 (2) Annually, on or before August 15, a school board and the operator of a charter school established under s. 118.40 (2r) or (2x) shall report to the state superintendent the number of limited-English proficient pupils enrolled in the school district or attending the charter school in the previous school year and the classification of those pupils by language group.

**SECTION 12.** 115.993 (3) of the statutes is created to read:

115.993 (3) A school board or the operator of a charter school established under s. 118.40 (2r) or (2x) is eligible for state aid under s. 115.995 only if the school board or operator submits the reports required under this section.

**SECTION 13.** 115.995 (intro.) of the statutes is renumbered 115.995 (1m) (intro.) and amended to read:

115.995 (1m) (intro.) ~~Upon Subject to ss. 115.96 (1), 115.97 (6), and 115.993 (3), upon receipt of the report reports under s. 115.993, if the state superintendent is satisfied that the bilingual-bicultural education program for the previous school year was maintained in accordance with this subchapter (1) and (2), the state superintendent shall do all of, from the appropriation under s. 20.255 (2) (cc), pay the following amounts:~~

**SECTION 14.** 115.995 (1) and (2) of the statutes are renumbered 115.995 (1m) (a) 1. and 2. and amended to read:

115.995 (1m) (a) 1. ~~From the appropriation under s. 20.255 (2) (cc), divide Dividing proportionally, based upon costs reported under s. 115.993, 2019 stats., an annual payment of \$250,000 among school districts whose enrollments in the previous school year were at least 15 percent limited-English proficient pupils. Aid paid under this subsection subdivision does not reduce aid paid under sub. (2) subd. 2.~~

2. ~~Certify~~ Certifying to the department of administration in favor of the school district board a sum equal to a percentage of the amount expended on limited-English proficient pupils by the school district board 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 education programs, and other expenses

approved by the state superintendent. The percentage shall be determined by dividing the amount in the appropriation under s. 20.255 (2) (cc) in the current school year less \$250,000 by the total amount of aidable costs in the previous school year.

**SECTION 15.** 115.995 (1m) (a) (intro.) of the statutes is created to read:

115.995 (1m) (a) (intro.) In the 2021-22 school year, to a school board that was required to establish a bilingual-bicultural education program under s. 115.97 for the previous school year, the amounts determined by doing all of the following:

**SECTION 16.** 115.995 (1m) (b) of the statutes is created to read:

115.995 (1m) (b) Subject to sub. (3), beginning in the 2022-23 school year, to a school board or the operator of a charter school established under s. 118.40 (2r) or (2x), an amount calculated as follows:

1. If, in the previous school year, there was at least one limited-English proficient pupil enrolled in the school district or attending the charter school, \$10,000.

2. If, in the previous school year, there were more than 20 limited-English proficient pupils enrolled in the school district or attending the charter school, subtract 20 from the total number of limited-English proficient pupils enrolled in the school district or attending the charter school.

3. Multiply the difference determined under subd. 2. by \$500.

4. Add the product determined under subd. 3. to the amount under subd. 1.

**SECTION 17.** 115.995 (2m) of the statutes is created to read:

115.995 (2m) Notwithstanding sub. (1m) (b), if a school board received a payment under sub. (1m) (a) in the 2021-22 school year, the state superintendent shall, subject to ss. 115.96 (1), 115.97 (6), and 115.993 (3) and upon receipt of the

reports under s. 115.993 (1) and (2), from the appropriation under s. 20.255 (2) (cc), pay to the school board the following amounts:

(a) Subject to sub. (3), in the 2022-23 school year, the greater of the following amounts:

1. The sum determined under sub. (1m) (b) 4. for the 2022-23 school year.

2. An amount equal to the payment the school board received under sub. (1m)

(a) in the 2020-21 school year.

(b) Subject to sub. (3), in the 2023-24 school year, the greater of the following amounts:

1. The sum determined under sub. (1m) (b) 4. for the 2023-24 school year.

2. An amount calculated as follows:

a. Subtract the amount determined under subd. 1. from the amount the school board received under sub. (1m) (a) in the 2020-21 school year.

b. Multiply the difference determined under subd. 2. a. by 0.5.

c. Add the product determined under subd. 2. b. to the amount determined under subd. 1.

**SECTION 18.** 115.995 (3) of the statutes is created to read:

115.995 (3) If the appropriation under s. 20.255 (2) (cc) in any fiscal year is insufficient to pay the full amount of aid under sub. (1m) (b) or (2m), the state superintendent shall prorate the payments among the school boards and operators of charter schools established under s. 118.40 (2r) and (2x) entitled to receive the aid.

**SECTION 19.** 115.996 of the statutes is renumbered 115.996 (intro.) and amended to read:

**115.996 Report to the legislature.** (intro.) Annually, on or before December 31, the state superintendent shall submit a report to the chief clerk of each house of



the legislature, for distribution to the legislature under s. 13.172 (2), on the status of bilingual-bicultural education programs established under this subchapter. The report shall include all of the following information:

(1) ~~The number of pupils served in bilingual-bicultural education 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.~~

(2) ~~The department shall also provide the number of pupils in each school district and language group who as a result of participation in a bilingual-bicultural education program improved their English language ability to such an extent that the program is no longer necessary for such pupils.~~

**SECTION 20.** 115.996 (3) of the statutes is created to read:

115.996 (3) The number of limited-English proficient pupils in each language group enrolled in each school district and attending each charter school established under s. 118.40 (2r) and (2x).

**SECTION 9334. Initial applicability; Public Instruction.**

(1) ENGLISH LEARNER CATEGORICAL AID. The treatment of ss. 115.96 (1), 115.97 (1) and (6), and 115.977 (2), the renumbering and amendment of ss. 115.993 and 115.996, and the creation of ss. 115.993 (2) and (3) and 115.996 (3) first apply to aid paid under s. 115.995 in the 2022-23 school year.

(END)