



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #635

Special Education Aids (DPI -- Categorical Aids)

Bill Agency

[LFB 2007-09 Budget Summary: Page 464, #1]

CURRENT LAW

Both state and federal law require that local school districts provide special education and related services for children with disabilities ages 3 through 21 who reside in the district. Under state law, a child with a disability is defined as a child who, by reason of any of the following, needs special education and related services: cognitive disabilities, hearing impairments, speech or language impairments, visual impairments, emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or learning disabilities. In addition, a school district may include a child with significant developmental delay who needs special education services, if consistent with DPI rules.

Special education is provided by school districts, either on their own or through cooperative arrangements with other districts, cooperative educational service agencies (CESAs), and county children with disabilities education boards (CCDEBs). The state reimburses a portion of the costs for educating and transporting pupils enrolled in special education, including school age parent programs, through a categorical aid appropriation. Eligibility for categorical special education aid was extended to Milwaukee and Racine charter schools in 1999 Act 9.

Base funding of \$332,771,600 GPR is currently appropriated for categorical special education aid. By statute, the cost of special education for children in hospitals and convalescent homes for orthopedically disabled children is fully funded as a first draw from the special education aids appropriation. The following costs are also eligible for reimbursement from the appropriation but are subject to prorate if total eligible costs exceed the remaining funding available:

- Salary and fringe benefit costs for special education teachers, special education coordinators, school social workers, school psychologists, school counselors, school nurses, paraprofessionals and consulting teachers;
- The salary portion of any authorized contract for physical and occupational therapy services;
- The cost of transportation for pupils enrolled in special education programs;
- The cost of board, lodging, and transportation of nonresident children enrolled in a district's special education program;
- Salary and travel expenses for special education outside the school district of employment;
- Expenditures for the salaries of teachers and instructional aides, special transportation, and other expenses approved by the State Superintendent for a school age parents program; and
- Any other expenditures approved by the State Superintendent as eligible for reimbursement.

GOVERNOR

Provide \$17,420,900 GPR in 2007-08 and \$36,167,500 GPR in 2008-09 for special education categorical aid over base level funding of \$332,771,600. It is estimated that this level of funding would provide reimbursement rates of 28.8% in 2007-08 and 29.0% in 2008-09.

DISCUSSION POINTS

1. 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 current state school finance system did not violate either the uniformity clause or the equal protection clause of the Wisconsin Constitution. The Court also held that the current school aid system more effectively equalizes the tax base among districts than the system upheld as constitutional in the last school finance decision of the Court in 1989 (Kukor v. Grover).

2. In the Vincent decision, the Court indicated 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 students, economically disadvantaged students and students with limited-English proficiency.

3. In the three most recent school funding decisions, the Court recognized that the

Legislature is entitled to deference in fiscal and educational policy decisions. While the Court did not specify a particular funding level that would provide an equal opportunity for a sound basic education for disabled students, the Court stated in Vincent that "so long as the Legislature is providing sufficient resources so that school districts offer students the equal opportunity for the sound basic education as required by the Constitution, the state school finance system will pass constitutional muster."

4. The Governor's Task Force on Educational Excellence recommended a substantial increase in the state's special education categorical aid in June, 2004. Under 2005 Act 25, special education funding was increased by \$12,000,000 in 2006-07. In addition, Act 25 created a separate categorical aid for high cost special education pupils for school districts, cooperative educational service agencies, county children with disabilities education boards, and operators of independent charter schools. These entities are eligible for additional aid if the applicant incurred, in the prior school year, more than \$30,000 of non-administrative costs for providing special education and related services to an individual child, and those costs were not eligible for reimbursement under the state special education and school age parents categorical aid, the federal Individuals with Disabilities Education Act (IDEA), or the federal Medicaid program. For each such child, DPI is required to pay an eligible applicant an amount equal to 90% of the costs above \$30,000. If appropriated funds are insufficient to pay the full amounts, DPI must prorate the payments among eligible applicants. The program took effect on July 1, 2006, and \$3.5 million is appropriated in 2006-07. It is anticipated that this appropriation will be fully expended.

5. The following table provides funding amounts in the special education aids appropriation, state-aidable special education costs, and state reimbursement rates under the program since 1997-98.

**Special Education Aidable Costs, Aid Appropriations
and State Reimbursement
(\$ in Millions)**

<u>Fiscal Year</u>	<u>Aidable Costs</u>		<u>Aid Appropriation</u>		<u>State Reimbursement Rate</u>
	<u>Amount</u>	<u>Change</u>	<u>Amount</u>	<u>Change</u>	
1997-98	\$747.3	---	\$275.5	---	36.9%
1998-99	799.6	7.0%	275.5	0.0%	34.5
1999-00	839.9	5.0	288.0	4.5	34.3
2000-01	880.9	4.9	315.7	9.6	35.8
2001-02	936.8	6.3	315.7	0.0	33.7
2002-03	994.5	6.2	315.7	0.0	31.7
2003-04	1,037.6	4.3	316.5	0.3	30.5
2004-05	1,069.5	3.1	320.8	1.4	29.9
2005-06	1,110.8	3.9	320.8	0.0	28.8
2006-07*	1,162.2	4.6	332.8	3.7	28.6

*Estimated.

6. Between 2001-02 and 2005-06, aidable special education costs increased by an average of 4.35% annually. In the agency budget request, DPI estimated that costs would increase by 4.6% annually in 2006-07, 2007-08, and 2008-09. Using that estimate, projected aidable costs would total \$1,215.9 million in 2007-08 and \$1,272.2 million in 2008-09. Based on this estimate of aidable costs, the Governor's recommendation for the special education aid appropriation would provide reimbursement rates of 28.8% in 2007-08 and 29.0% in 2008-09.

7. It could be argued that general school aids, funded at \$4.72 billion in 2006-07, are a more significant resource than the special education categorical aid appropriation in the overall context of the state's efforts to equalize the tax base among school districts and provide an equal opportunity for a sound basic education under the state school finance system. SB 40 would provide an additional \$235.4 million for general school aids over the 2007-09 biennium. Also, the state reimbursement rate of special education costs declined in every year except one between the Kukor decision in 1989 and the Vincent decision in 2000, yet the Court still found the overall system constitutional in Vincent.

8. The Committee might also consider that special education costs are reimbursed under the federal Individuals with Disabilities Education Act (IDEA). For 2006-07, the state received flow-through funding of \$169 million under IDEA. Entitlement funding for preschool special education services by school districts was \$9.5 million, and IDEA discretionary grants totaled \$19.2 million.

9. Further, any special education costs not reimbursed by state or federal aids are included in shared costs under general equalization aids; on average, general school aids in 2006-07 equaled 58.2% of shared costs. An individual district's equalization aid depends upon the district's relative property wealth and costs, and how the district competes under the equalization aid formula. Any remaining costs would be paid with local funding sources, primarily from property taxes. Given these available revenues, the Committee could choose to maintain special education aid at the base level of funding. Under this alternative, the estimated state categorical reimbursement rate would decrease from 28.6% in 2006-07 to approximately 27.4% in 2007-08 and 26.2% in 2008-09.

10. However, because the Court has specifically highlighted the needs of school districts with relatively high numbers of students receiving special education and related services, it could be argued that the state should provide additional resources to school districts for special education. Although school districts currently receive substantial state aids, general school aids and the school property tax levy are subject to revenue limits. In the absence of increased categorical aids, as special education costs rise, a greater portion of funding must come from general aids and levy, meaning that less funding is available for regular instruction. Additional special education categorical aid would be outside of revenue limits, providing more resources overall to districts.

11. Alternatively, the Committee could consider increasing special education aid by the amounts recommended by DPI in its agency budget request. The Department recommended increases over base level funding of \$25.0 million in 2007-08 and \$50.0 million in 2008-09. Under this alternative, total special education aid would be \$357,771,600 in 2007-08 and \$382,771,600 in

2008-09. Reimbursement rates under this option would equal 29.4% in 2007-08 and 30.1% in 2008-09.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide \$17,420,900 in 2007-08 and \$36,167,500 in 2008-09 for special education categorical aid over base level funding of \$332,771,600. Total funding would be \$350,192,500 in 2007-08 and \$368,939,100 in 2008-09. Estimated reimbursement rates would be 28.8% in 2007-08 and 29.0% in 2008-09.

ALT 1	Change to Bill Funding	Change to Base Funding
GPR	\$0	\$53,588,400

2. Modify the Governor's recommendations to delete \$2,431,900 in 2007-08 and \$5,088,800 in 2008-09. This alternative would provide \$14,989,000 in 2007-08 and \$31,078,700 in 2008-09 above the base for special education aid, in order to maintain the reimbursement rate at 28.6% in each year. Under this alternative, total funding would be \$347,760,600 in 2007-08 and \$363,850,300 in 2008-09.

ALT 2	Change to Bill Funding	Change to Base Funding
GPR	-\$7,520,700	\$46,067,700

3. Modify the Governor's recommendation to provide an additional \$7,579,100 in 2007-08 and \$13,832,500 in 2008-09. This alternative would provide \$25,000,000 in 2007-08 and \$50,000,000 in 2008-09 above the base for special education aid, which are the amounts requested by DPI in its agency budget request. Under this alternative, estimated reimbursement rates would equal 29.4% in 2007-08 and 30.1% in 2008-09, and total funding would be \$357,771,600 in 2007-08 and \$382,771,600 in 2008-09.

ALT 3	Change to Bill Funding	Change to Base Funding
GPR	\$21,411,600	\$75,000,000

4. Delete provision. Under this alternative, base funding would be unchanged, and the estimated state categorical reimbursement rate would decrease from 28.6% in 2006-07 to 27.4% in 2007-08 and 26.2% in 2008-09.

ALT 4	Change to Bill Funding	Change to Base Funding
GPR	- \$53,588,400	\$0

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