



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #611

Bilingual-Bicultural Education Aids (DPI -- Categorical Aids)

[LFB 2005-07 Budget Summary: Page 404, #12]

CURRENT LAW

School districts are required to provide special classes to pupils with limited-English proficiency (LEP) at schools that enroll 10 or more LEP pupils in a language group in grades kindergarten to 3, or 20 or more in grades 4-8 or 9-12. School districts providing these classes are eligible for categorical aid. Annual base funding of \$8,291,400 GPR is currently appropriated for bilingual-bicultural education aids. Costs not reimbursed under the categorical appropriation are aided as shared costs under the equalization aid formula.

State aid payments are based on the ratio of the categorical aid appropriation to the total aidable costs of the eligible districts in the prior year. Aidable costs 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 LEP pupils. DPI is required to provide \$250,000 as a first draw from the bilingual-bicultural education aids appropriation, to be divided proportionately based on reported costs, among school districts whose enrollments in the previous school year were at least 15% LEP pupils. In the 2003-04 school year, the Wausau School District and the Sheboygan School District were the only districts eligible for the first-draw funding, and a total of 49 school districts received reimbursement.

GOVERNOR

Provide \$782,400 in 2005-06 and \$1,599,000 in 2006-07 above base level funding of \$8,291,400 for bilingual-bicultural education aid. The administration indicates that the proposed funding was intended to reimburse 12.0% of eligible costs in the 2005-07 biennium.

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 found 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 also 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 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 LEP students, the Court did hold 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. In addition, the No Child Left Behind Act of 2001 requires that all limited-English proficient students must participate in pupil assessments and achieve academic proficiency by 2013-14. LEP student test scores must be included for purposes of determining whether each school and school district has made adequate yearly progress toward the goal of 100% proficiency for all pupils.

5. The appropriation for bilingual-bicultural educational aids has been funded at \$8,291,400 since 1991-92. The following table provides information on the level of aidable bilingual-bicultural costs and state reimbursement under the categorical appropriation over the last 10 years.

Bilingual-Bicultural Program Aidable Costs and State Reimbursement

	<u>Aidable Costs (\$ in Millions)</u>		<u>Overall Proration</u>
	<u>Amount</u>	<u>Change</u>	
1995-96	\$29.6	--	28.0%
1996-97	32.7	10.5%	25.3
1997-98	36.0	10.1	23.0
1998-99	39.0	8.3	21.3
1999-00	41.7	6.9	19.9
2000-01	44.8	7.4	18.5
2001-02	48.2	7.6	17.2
2002-03	58.4	21.2	14.2
2003-04	63.1	8.0	12.7
2004-05*	70.5	11.7	11.4

*Estimated.

6. Between 1996-97 and 2003-04, aidable bilingual-bicultural costs, those which are incurred by districts that meet the statutory thresholds for state aid, increased by an average of 10.0% annually. Assuming that rate of growth continues from the 2004-05 cost estimate, projected aidable costs would be approximately \$77.5 million in 2005-06 and \$85.3 million in 2006-07.

7. Similarly, enrollment figures for LEP students have increased rapidly in recent years. In 1991-92, the last time bilingual-bicultural aid increased, statewide LEP enrollment was 13,325 students. DPI issued its most recent report on the status of bilingual-bicultural education in the state in February 2005. According to the report, a total of 35,602 LEP students were enrolled statewide in 2003-04. The state reimbursed programs in 49 school districts enrolling 22,311 LEP students in 2003-04. Another 189 school districts received no categorical aid, but enrolled 13,291 LEP students.

8. It could be argued that general school aids, funded at \$4.3 billion in 2004-05, are more important than the bilingual-bicultural categorical aid appropriation 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 proration of bilingual-bicultural aid declined in every year between the Kukor decision in 1989 and 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 11.4% in 2004-05 to 10.7% in 2005-06 and to 9.7% in 2006-07.

9. On the other hand, some have argued that providing services for LEP students might be done at the expense of the district's regular education programs. Unlike general school aids, bilingual-bicultural categorical aid is outside of revenue limits, and therefore, represents additional resources for school districts to provide services to LEP students. Given that the Court has

specifically highlighted the needs of school districts with relatively high numbers of LEP students, 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 is another lawsuit over the equity or adequacy of financing for K-12 public schools.

10. The Governor's recommended increase of \$782,400 in 2005-06 and \$1,599,000 in 2006-07 was intended to fund a 12% prorate, which was the preliminary estimate for 2004-05. However, bilingual aidable costs were reestimated by DPI after AB 100 was introduced. Based on the more recent estimates, the Governor's recommendation would provide a rate of 11.7% in 2005-06 and 11.6% in 2006-07.

11. The Governor's Education Finance Task Force report, issued in June 2004, recommended substantial increases in funding for the state bilingual-bicultural categorical aid program. No specific funding target was selected, but the Task Force suggested that an increase of 25 percentage points in the state's reimbursement rate would be the most desirable. Under a proposal that would achieve a reimbursement rate of 36.4%, the state would need to provide an additional \$19,927,500 in 2005-06 and \$22,749,400 in 2006-07 above base level funding, based on projected aidable costs. Because of the substantial cost of the option, a lesser funding increase to achieve an approximate annual increase of 20% in the appropriation could be considered. Under this alternative, which would provide an additional \$926,200 in 2005-06 and \$2,109,600 in 2006-07, the estimated prorate for bilingual-bicultural aid would be 12.9% in 2005-06 and 14.1% in 2006-07.

12. The Committee could consider also eliminating the current law provision that limits access to bilingual-bicultural education aid. Statewide, 37.3% of LEP students are enrolled in 189 school districts that receive no bilingual aid from the state. Of the student populations mentioned in the Vincent decision, LEP students are the only ones for whom pupil concentration is a criterion for aid. Districts need only incur costs related to special education, for example, in order to receive state aid. Additionally, while aid for low-income pupils under the student achievement guarantee in education (SAGE) program was originally targeted only to schools with concentrations of poverty, that limitation was dropped for the third and largest round of SAGE contracts in 2000-01.

13. If the Committee would choose to increase funding for bilingual aid, it might also be desirable to increase the scope of the program by expanding eligibility to any school district that incurs costs related to the education of LEP students. If no additional funding were provided, the aid prorate would likely decrease substantially under this alternative. Because no cost data is available for districts not currently reimbursed under the program, it is not possible to estimate what percentage of costs would be reimbursed at a particular funding level under this alternative. Also, because nonaided districts have relatively low concentrations of LEP pupils and are not required to offer special classes, it could be difficult for these districts to identify costs directly related to LEP pupils. The Committee could consider a per pupil payment for these pupils in lieu of a cost reimbursement. For example, if a per pupil payment of \$100 had been provided in 2003-04 for LEP pupils in nonaided districts, the total cost would have been \$1,329,100. Assuming an annual growth rate of 4.0%, a per pupil payment of \$100 would total approximately \$1,437,500 in 2005-06 and

\$1,495,000 in 2006-07.

ALTERNATIVES

A. Funding Level

1. Approve the Governor's recommendation to provide \$782,400 in 2005-06 and \$1,599,000 in 2006-07 above base level funding of \$8,291,400. Under this alternative, the estimated prorate for bilingual-bicultural aid would be 11.7% in 2005-06 and 11.6% in 2006-07.

2. Provide \$926,200 in 2005-06 and \$2,109,600 in 2006-07, which would result in an approximate 20% annual increase in funding for bilingual-bicultural education aid. Under this alternative, the estimated prorate for bilingual-bicultural aid would be 12.9% in 2005-06 and 14.1% in 2006-07.

<u>Alternative A2</u>	<u>GPR</u>
2005-07 FUNDING (Change to Bill)	\$3,035,800

3. Delete the provision. Under this alternative, the estimated prorate for bilingual-bicultural aid would be 10.7% in 2005-06 and 9.7% in 2006-07.

<u>Alternative A3</u>	<u>GPR</u>
2005-07 FUNDING (Change to Bill)	-\$2,381,400

B. Aid Eligibility

1. Provide \$1,437,500 in 2005-06 and \$1,495,000 in 2006-07 in a new annual appropriation for categorical aid to currently ineligible limited-English proficient pupils. Provide that school districts with LEP enrollments that fall below the statutory thresholds for cost reimbursement under the current law bilingual-bicultural aid program would receive aid from this appropriation equal to \$100 per pupil. If funding in any year would be insufficient to fund the entire amount, require DPI to prorate payments.

<u>Alternative B1</u>	<u>GPR</u>
2005-07 FUNDING (Change to Bill)	\$2,932,500

2. Maintain current law.

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