



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #641

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

Bill Agency

[LFB 2007-09 Budget Summary: Page 467, #9]

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 to 8 or 9 to 12. School districts providing these classes are eligible for categorical aid. Annual base funding of \$9,890,400 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. The Department of Public Instruction (DPI) is required to provide \$250,000 as a first draw from the bilingual-bicultural 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 2005-06 school year, the Wausau School District and the Sheboygan Area School District were the only districts eligible for first draw funding, and a total of 49 school districts received reimbursement.

GOVERNOR

Provide \$1,055,800 GPR in 2007-08 and \$2,040,900 GPR in 2008-09 over annual base level funding of \$9,890,400 GPR for bilingual-bicultural categorical aids, which would represent an increase over the prior years of 10.7% in 2007-08 and 9.0% in 2008-09. It is estimated that

this funding level would maintain a reimbursement rate of approximately 12% of prior year costs for school districts statutorily required to offer bilingual-bicultural programs.

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 previously 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. The federal No Child Left Behind Act (the 2002 reauthorization of the Elementary and Secondary Education Act), 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 proficiency for all pupils. Students who have attended school in the United States for three or more consecutive school years are expected to participate in regular standardized assessments in English, regardless of their level of English proficiency. On the other hand, students who reach full English proficiency are no longer classified as LEP, and must be excluded from the LEP subgroup of students for purposes of calculating adequate yearly progress.

5. The Budget in Brief indicates that nationally, pupils with limited-English proficiency have twice the dropout rate of English-speaking students. The Budget in Brief further points out that prior to the 2005-07 state budget, funding for bilingual-bicultural aid had not increased for several years, despite a large increase in the number of LEP students attending school in the state during that time.

6. The number of LEP students enrolled in the state has increased substantially in

recent years, from 13,300 in 1991-92 to 41,200 in 2005-06. Of the total for 2005-06, approximately 25,900 pupils were enrolled in the 49 school districts that received bilingual-bicultural aid. The remaining pupils were enrolled in approximately 220 school districts that did not meet the statutory threshold to receive categorical aid. DPI estimates that by 2008-09, the state's LEP enrollment will have grown to 47,700. Of the total, it is estimated that approximately 30,000 LEP students will be enrolled in school districts that receive state bilingual-bicultural aid.

7. State categorical aid for bilingual-bicultural education was level-funded at \$8,291,400 from 1991-92 through 2004-05. The appropriation was increased under 2005 Act 25, to \$9,073,800 in 2005-06 and to \$9,890,400 in 2006-07. DPI estimates that aidable costs will continue to grow by 9% annually in the coming biennium. Based on these projections, the Governor's recommendation would reimburse approximately 12% of prior year aidable costs annually through 2007-09.

8. 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

	Aidable Costs		Prorate
	Amount	Change	
1997-98	\$35,989,900	--	23.0%
1998-99	38,984,600	8.3%	21.3
1999-00	41,714,500	7.0	19.9
2000-01	44,788,100	7.4	18.5
2001-02	48,234,000	7.7	17.2
2002-03	58,388,600	21.1	14.2
2003-04	63,122,900	8.1	13.1
2004-05	70,463,800	11.6	11.8
2005-06	76,776,400	9.0	11.8
2006-07*	83,686,300	9.0	11.8

*Estimated

9. It could be argued that general school aids, funded at \$4.72 billion in 2006-07, 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 prorate 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 approximately 12% in 2006-07 to approximately 11% in 2007-08 and 10% in 2008-09.

10. 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 were another legal challenge of the equity or adequacy of financing for K-12 public schools.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide \$1,055,800 in 2007-08 and \$2,040,900 in 2008-09 over annual base level funding of \$9,890,400 for bilingual-bicultural categorical aids. It is estimated that this funding level would maintain a reimbursement rate of approximately 12% of prior year costs for school districts statutorily required to offer bilingual-bicultural programs.

ALT 1	Change to Bill Funding	Change to Base Funding
GPR	\$0	\$3,096,700

2. Modify the Governor's recommendation to reduce funding by \$1,055,800 in 2007-08 and \$993,900 in 2008-09. Compared to the base, funding for the program would increase by \$1,047,000 in 2008-09. It is estimated that this funding level would maintain a prorate of approximately 11% in each year of the biennium.

ALT 2	Change to Bill Funding	Change to Base Funding
GPR	-\$2,049,700	\$1,047,000

3. Delete provision. Under this alternative, the estimated prorate would decrease from approximately 12% in 2006-07 to approximately 11% in 2007-08 and 10% in 2008-09.

ALT 3	Change to Bill Funding	Change to Base Funding
GPR	-\$3,096,700	\$0

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