



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #508

Bilingual-Bicultural Aids (DPI -- Categorical Aids)

[LFB 2021-23 Budget Summary: Page 468, #10, and Page 469, #11]

CURRENT LAW

School districts are required by state law to provide special classes to pupils who are English learners (ELs) at schools that enroll 10 or more EL pupils in a language group in grades K-3, or 20 or more in grades 4-8 or 9-12. These school districts are eligible for categorical aid under current law. Aidable costs under the program 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 EL pupils. Base level funding is equal to \$8,589,800 GPR annually, which funds approximately 8% of aidable costs.

DISCUSSION POINTS

1. The state's bilingual-bicultural aid program was created in 1975 to offset a portion of the cost of providing bilingual programming for districts that are required by law to do so. Under current law, bilingual programming is required at schools that enroll 10 or more EL pupils in one language group in grades K-3, or 20 or more in grades 4-8 or 9-12. Schools that do not meet this minimum threshold are not required by the state to offer special bilingual programming, and are not eligible for bilingual-bicultural aid. Pupils are eligible for the state's bilingual-bicultural education program only until they are able to perform ordinary classwork in English.

2. School districts are required to provide equal educational opportunities to EL pupils, regardless of whether they are enrolled in a state-mandated bilingual program under state and federal law. Under federal law, including the Civil Rights Act of 1964 and the Equal Educational Opportunities Act, school districts must ensure that language barriers do not prevent pupils from meaningful participation in instructional programming and services. Under the Every Student Succeeds Act (ESSA), districts are required to ensure that ELs make progress towards developing

English proficiency and meeting the same academic standards that apply to other pupils, and must include disaggregated assessment data for ELs in annual accountability reports.

3. School districts that are required to offer bilingual programming by the state must submit a plan of services annually to DPI, as well as an annual report. The plan of services is submitted prior to the start of the school year, and includes the goals and objectives for the program, a count of eligible ELs, staffing information, an estimated budget for the program, and a description of how EL pupils will be evaluated to assess language proficiency and progress towards meeting academic goals in other subject areas. The annual report is submitted at the end of the school year, and includes final staffing information and pupil counts. School districts also submit claims for reimbursement under the bilingual-bicultural aid program at the end of the school year, and are reimbursed in the following year.

4. To be eligible for reimbursement under the state bilingual-bicultural aid program, expenditures must be consistent with the plan of services approved by DPI, must be for the benefit of EL pupils, and must be directly related to bilingual instruction. Eligible expenditures include the following: (a) salaries of appropriately licensed teachers and other staff working with bilingual pupils; (b) special books and materials used in the bilingual programming, not including general supplies or textbooks used by the school for all pupils; and (c) other expenses approved by the State Superintendent, such as professional development activities or curriculum writing done by appropriately licensed staff. Bilingual classes must be taught by a certified bilingual teacher, or, if one is not available, a certified English as a Second Language teacher and a bilingual aide.

5. State and federal law require that ELs are assessed annually to measure their English language proficiency and their progress towards achieving full proficiency. Most ELs in Wisconsin are assessed using the ACCESS for ELLs assessment, except for those who have significant cognitive disabilities. ACCESS was developed by WIDA, an organization based out of UW-Madison that provides resources for educating ELs. ACCESS assesses pupils on listening, speaking, reading, and writing, and provides a proficiency level score on a scale of one to six, from beginner to advanced.

6. State law requires that \$250,000 of the total appropriated for bilingual-bicultural aid is set aside for distribution to school districts whose enrollments in the previous school year were at least 15% ELs. In 2019-20, the following school districts were eligible for this aid: Abbotsford, Beloit, Darlington, Delavan-Darien, Green Bay, Madison, Sheboygan, Walworth, Waterloo, and Whitewater. The set-aside aid is divided proportionately among eligible school districts based on their reported costs.

7. In 2018-19, 51,825 EL pupils were reported statewide. In that year, 53 school districts received aid under the program for 27,532 EL pupils who were enrolled in schools that met the statutory bilingual-bicultural education threshold; the remaining 24,293 EL pupils were enrolled in schools that did not meet the threshold, and thus no additional aid was provided for these pupils. Total eligible costs under the program equaled \$103.1 million, with an average cost of \$3,746 per EL. The proration rate was equal to 8.1%, or an average of \$303 per pupil.

8. The following table shows the total amount of bilingual-bicultural aid appropriated in each year from 2010-11 to 2019-20, as well as the proration rate and the total number of ELs reported

statewide in each year, and the number of ELs and districts served by bilingual-bicultural programs.

Bilingual-Bicultural Aid and Participation History, 2010-11 to 2019-20

	<u>Appropriation</u>	<u>Proration</u>	<u>Number of Districts Reporting ELs</u>	<u>Total ELs</u>	<u>Number of Aided Districts</u>	<u>ELs Aided by Programs</u>
2010-11	\$ 9,544,200	9.4%	352	51,944	58	28,086
2011-12	8,589,800	8.0	354	51,727	59	27,220
2012-13	8,589,800	8.6	355	50,052	52	26,426
2013-14	8,589,800	8.8	351	49,560	51	23,716
2014-15	8,589,800	8.8	356	49,309	50	24,998
2015-16	8,589,800	8.6	355	48,405	51	25,692
2016-17	8,589,800	8.6	357	49,670	52	26,721
2017-18	8,589,800	8.1	361	52,446	53	27,961
2018-19	8,589,800	7.7	365	51,825	53	27,532
2019-20	8,589,800	8.1	361	51,706	N.A.	N.A.

9. In addition to state bilingual-bicultural aid, school districts qualify for federal aid for ELs under Title III of the Every Student Succeeds Act (ESSA). These funds can be used to pay for personnel salaries, instructional materials, family engagement activities, and professional development related to supplemental instructional programming for ELs. In 2018-19, the average Title III funding per EL in the state was approximately \$135.

10. 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 state school finance system did not violate either the uniformity clause or the equal protection clause of the Wisconsin Constitution. The Court held that Wisconsin pupils 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 pupils, economically-disadvantaged pupils, and pupils with limited English proficiency.

11. Some have expressed concern that the state is no longer meeting the standards established in the Vincent v. Voight decision. Since 2000-01, the number of bilingual pupils in the state has increased by approximately 78%, from 29,016 pupils in 2000-01 to 51,706 pupils in 2019-20. During the same time, however, the appropriation for bilingual-bicultural aid increased by only \$298,400 or 4%, from \$8,291,400 GPR in 2000-01 to \$8,589,900 in 2019-20.

12. It could be argued that general school aids, funded at \$4.90 billion in 2020-21, are more important than bilingual-bicultural categorical aids 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 was in decline prior to 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. [Alternative 4]

13. On the other hand, some have argued that providing services for EL pupils might be done at the expense of the district's regular education programs. Unlike general school aids, categorical aids are outside of revenue limits and, therefore, represent additional resources for school districts to provide services to EL pupils. Given that the Court has specifically highlighted the needs of school districts with relatively high numbers of EL pupils, 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.

14. Under Assembly Bill 68/Senate Bill 111, the program would be modified so that an eligible school district or independent charter school would receive aid in the following amounts, beginning in the 2022-23 school year: (a) \$10,000, if there was at least one EL pupil enrolled in the school district or attending the charter school in the previous school year; (b) an additional \$500 for each EL pupil over 20 pupils enrolled in the school district or attending the charter school in the previous school year. Current law specifying that districts are only eligible for aid if they enroll 10 or more EL pupils in a language group in grades K-3, or 20 or more in grades 4-8 or 9-12, would be deleted, and aid eligibility would be expanded to include independent charter schools. The Governor's budget proposal would provide an additional \$9,745,500 GPR in 2021-22 and \$18,287,200 GPR in 2022-23 to fully fund this change. [Alternative A1]

15. The modification to the bilingual-bicultural education aid program proposed in the bill could particularly benefit smaller districts that do not have the concentration of EL pupils required to qualify for aid. Under current law, these districts do not receive any funding to cover the additional cost of educating an EL pupil.

16. If the Committee wishes to provide some additional state funding for bilingual-bicultural aid but at a reduced cost, the Committee could consider providing an increase in aid of \$2,200,000 GPR in 2021-22 and \$7,800,000 GPR in 2022-23. These increases would fund an estimated reimbursement rate of 10% in 2021-22 and 15% in 2022-23, assuming a 1% annual growth rate in eligible expenditures under the program. [Alternative A2] To fund a 10% reimbursement rate in each year would require an increase of \$2,200,000 GPR in 2021-22 and \$2,300,000 GPR in 2022-23. [Alternative A3]

17. In its agency budget request, DPI proposed the creation of a new grant program with \$750,000 GPR beginning in 2022-23 to provide funding for a school board or independent charter school operator to provide support and financial assistance to its staff and teachers in obtaining licensure or certification as bilingual teachers and teachers of English as a second language (ESL). DPI indicated that this grant program would allow school districts and independent charter schools to support current staff becoming certified and filling needs for bilingual and ESL educators, which is a current area of teacher shortage in Wisconsin. The Governor included funding for this program in his budget recommendations. [Alternative B1]

ALTERNATIVES

A. EL Categorical Aid

1. Provide \$9,745,500 in 2021-22 and \$18,287,200 in 2022-23, and modify the bilingual-bicultural aid program to provide aid to eligible school districts and independent charter schools as follows: (a) \$10,000, if there was at least one EL pupil enrolled in the school district or attending the charter school in the previous school year; and (b) an additional \$500 for each EL pupil over 20 pupils enrolled in the school district or attending the charter school in the previous school year.

ALT A1	Change to Base
GPR	\$28,032,700

2. Provide \$2,200,000 in 2021-22 and \$7,800,000 in 2022-23, which would result in an estimated reimbursement rate of 10% in 2021-22 and 15% in 2022-23 under the current law program.

ALT A2	Change to Base
GPR	\$10,000,000

3. Provide \$2,200,000 in 2021-22 and \$2,300,000 in 2022-23, which would result in an estimated reimbursement rate of 10% in each year under the current law program.

ALT A3	Change to Base
GPR	\$4,500,000

4. Take no action.

B. Bilingual Teacher Licensure

1. Provide \$750,000 in 2022-23 for a new grant program for a school board or independent charter school operator to provide support and financial assistance to its staff and teachers in obtaining licensure or certification as bilingual teachers and teachers of English as a second language

ALT B1	Change to Base
GPR	\$750,000

2. Take no action.

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